

**SEPTEMBER 12, 2017  
REGULAR MEETING**

RECORD OF THE PROCEEDINGS OF THE REGULAR BOYNE CITY COMMISSION MEETING DULY CALLED AND HELD AT BOYNE CITY HALL, 319 NORTH LAKE STREET, ON TUESDAY SEPTEMBER 12, 2017

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**CALL TO ORDER**

Mayor Neidhamer called the meeting to order at 7:00 p.m. followed by the Pledge of Allegiance.

Present: Mayor Tom Neidhamer, Mayor Pro-Tem Gene Towne, Commissioners Hugh Conklin, Ron Grunch and Laura Sansom

Absent: None

Staff: Cindy Grice, Michael Cain, Scott McPherson, Barb Brooks, Kelsie King-Duff, Jeff Gaither, John McLeod, Craig Remsberg, Christi Hoenicke, Dan Mercer

Others: There were 14 citizens in attendance including a representative from the Petoskey News Review.

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**CONSENT AGENDA  
MOTION**

2017-09-076  
Moved by Conklin  
Second by Grunch

2017-09-076A  
Approval of the August 29, 2017 City Commission regular meeting minutes as presented  
2017-09-076B  
Approval of the Michigan Department of Transportation Performance Resolution for Governmental Agencies as presented

Ayes: 5  
Nays: 0  
Absent: 0  
Motion carried

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**CITIZENS COMMENTS**

Ron Crozier stated that he spoke with City Manager Cain regarding trash cans that haven't been emptied in the parks and in Old City Park. He said they haven't been emptied in two weeks. He also added that the City Manager called him a liar and said he is here to verify that.

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**CORRESPONDENCE**

Correspondence from the Great Lakes Fisheries Trust Fund was received and filed.

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**CITY MANAGERS  
REPORT**

City Manager Cain reported:

- We are all here in our new facilities. The MSU office moved in late last week.
- The drag race went very well
- Progress is continuing on Anderson Road, we are close to paving.
- During the recent heavy rains, it was noticed that drains weren't working as quickly. With lake levels up, pipes are backing up. We are looking into what we can do about it.
- The Charlevoix County Household Hazardous Waste collection is this weekend.
- The Pavilion reconstruction project has begun.

- Dan Talboys recently brought framed directions to care of a clock tower from his father, the late John Talboys, estate. He has donated this item to the City.

Police Chief Jeff Gaither received a check in the amount of \$10,000 from John McLeod of Classic Instruments. John, also a part time police officer of the City said this year, at their annual car show, Classic Instruments wanted to do something big to celebrate their 40<sup>th</sup> Anniversary. At their previous car shows, funds were raised to purchase bikes for the bike patrol program. This year, raffle proceeds are going to fund training and equipment for the police officers. Chief Gaither added that it is impressive to see the impact that Classic Instruments has on the community and the industry. It is also an honor to have John back with the department. City Manager Cain added that we can't say enough thanks to John. Our whole police force works together, it is a great citizen partnership with the community.

## **REPORTS OF OFFICERS, BOARDS AND STANDING COMMITTEES**

### **West Michigan Water Extension Special Assessment**

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Draft Minutes of the August 03, 2017 Parks & Recreation Board Meeting; the August 21, 2017 Planning Commission Meeting; the August 24, 2017 Airport Board Meeting and the August 28, 2017 EDC Board Meeting were received and filed.

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Review of materials provided and authorize City staff on appropriate next steps in the Special Assessment process.

City Manager Cain provided an update on the request from residents to extend water service on West Michigan / Woodlawn via special assessment. Additional signatures have been presented keeping with the City's ordinance requirements. The total number of signatures have been reviewed by our Assessor who determined that enough have been received in order to proceed. 52% of the property owners are in favor of moving forward. We are proposing to prepare a report to move on to holding a public hearing regarding this subject on October 10<sup>th</sup>. Larry Fox from C2AE has been contacted and feels that his project estimate of around \$262,000 is still realistic. If this moves forwards, construction would take place in the Spring of 2018.

Citizens Comments: George Ellwanger said he is in favor of the project. His concern is that this tax increase is going to be hard on some people. Are there possible grants out there to assist?

Staff Comment: None

Board Discussion: All are in agreement to have staff move forward with the special assessment procedure.

### **Medical Marijuana Facilities**

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Review of policy implications of PA 281-283 and make a determination to allow or not allow medical marijuana facilities in the City of Boyne City.

Planning Director Scott McPherson stated that In September of 2016 Governor Snyder signed Public Acts 281-283 which identified specific types of medical marijuana facilities that could be permitted by municipalities and established a licensing process for the facilities. When the Michigan Medical Marijuana Act (MMMA) was passed by voters in 2008 the Act legalized, at the state level, marijuana use for qualified medical marijuana patients and for the growing and distribution of medical marijuana by primary caregivers. What the Act did not

anticipate was the concept of provisioning centers or dispensaries. In the absence of specific regulations, dispensaries began to establish in various locations across the state with mixed reactions from the municipalities. Some communities took actions to shut down or disallow the dispensaries while others said yes and provided a framework for their operation or simply did nothing. Not surprisingly this legislative ambiguity led to confusion and litigation. Two cases decided by the Michigan Supreme Court, *TerBeek v Wyoming* and *Michigan v McQueen*, provided some clarity to municipalities in regards to the specific uses that are allowed by the MMMA and how municipalities may deal with this issue through zoning. In *TerBeek* the court ruled that the growing and use of medical marijuana in accordance with the provisions of the MMMA could not be prohibited by local zoning. In the *McQueen* decision the court confirmed that dispensaries that engaged in patient to patient sales were not provided for by the MMMA and could be prohibited.

The passage of the MMMA and subsequent court decisions created something of a legislative void. The passage of the MMMA made the use of medical marijuana legal and protected from exclusionary zoning but the act provided little or no provisions for the growing, testing, transport and distribution of medical marijuana. The development and adoption of PA 281-283 attempts to fill the legislative gaps. Specifically the new law identifies the land uses of marijuana growing facilities, marijuana processing facilities, marijuana testing facilities, marijuana transport facilities and marijuana provisioning centers and provides parameters on how these land uses can be regulated and licensed. A key aspect of the new law is that the municipality has complete discretion in regards to determining if any of the facilities should be allowed and if so what facilities in what number and where. This provision is contained section 205 of PA 281 which is as follows:

*“A marihuana facility shall not operate in a municipality unless the municipality has adopted an ordinance that authorizes that type of facility. A municipality may adopt an ordinance to authorize 1 or more types of marihuana facilities within its boundaries and to limit the number of each type of marihuana facility. A municipality may adopt other ordinances relating to marihuana facilities within its jurisdiction, including zoning regulations, but shall not impose regulations regarding the purity or pricing of marihuana or interfering or conflicting with statutory regulations for licensing marihuana facilities.”*

The Acts, which become effective in December of 2017, provides time for municipalities to review the issue and make an informed decision on medical marijuana facilities. If the Commission decides to not allow marijuana facilities, the Commission is not prevented from reexamining and changing its position at a future date. However, it should be noted that if a zoning change is made to allow some form of marijuana facilities, those uses would be protected by the grandfathering clause of zoning and would become legal nonconforming uses if the zoning regulations are rescinded at some future date.

While it is difficult to forecast the cost to the municipality to administer and enforce an ordinance permitting medical marijuana facilities, PA 281-283 does provide a mechanism for the municipality to receive revenue to defray these costs if an ordinance is adopted. The Act provides the municipality the authority to establish annual fee of not more than \$5,000 on a license for each type of facility and a portion of a 3% tax on retail receipts for provisioning centers. With over 218,000 medical marijuana patients, approximately 2.2% of the State

population, there is a significant market demand for medical marijuana. Based on buying patterns of medical marijuana patients in other states, the medical marijuana sales in the State of Michigan would be about \$760 million. In response to that demand, investor groups are actively researching community's positions on this issue and looking for potential locations where various types of facilities could be located.

While the City Commission is not required to take any action it is advised that Commission discuss the issue. It is recommendation of staff that the Commission review the policy implications of PA 281-283 and make a determination to allow or not allow medical marijuana facilities in the City of Boyne City. For your review and consideration I have attached a model resolution that could be passed if the Commission chooses not to allow marijuana facilities and also a sample ordinance that could be adopted if the Commission decides to allow marijuana facilities.

Citizens Comments: Tom Looze said he is all for the program. It needs to be accessible, you get a card and there is no access to your medicine. It is the same as a regular pharmacy. It's not cheap to get the card. This has been voted into law. To deny people that choice when opioids are available thru a prescription is not right. This is used by all ages and it doesn't seem right to not have access to it. There needs to be a safe place just like any other business. Sally Page said her sister needed it 40 years ago while suffering from cancer and it helped her. She thinks if it is regulated and done properly there are a lot of people who can be helped by this.

Staff Comments: Chief Gaither said the Commission is not denying it if you don't pass anything. The Medical Licensing Board is charged with regulations for growing and dispensaries and as of yesterday, they had no rules. Chemical rules, daily purchase limits, marketing rules are among those rules that have not yet been established. It is his position to wait and see how regulations develop.

John McLeod asked the Commission to look at the statistics and facts since this has been introduced.

City Manager Cain said societal norms are changing. He doesn't think this process has ended. We are not here to talk about choice. Under state laws, medical marijuana is now legal. This is a moving target. State government has chosen to put this on local government. They have not fulfilled their responsibilities. He added that his point is that its unsettled law. Local governments, in his opinion, are not equipped to address this. Based on the unsettled nature, to not be one of the lead agencies to learn this issue, he thinks we should sit this out for a while. It is an imperfect process, the stakes are too great to get this right. He doesn't think we have enough information at this point to make this decision and thinks we need to learn more about this.

Board Discussion: Commissioner Sansom said she has sympathy for people in pain and understands it does a lot of good for a lot of people. There are 250 dispensaries in Michigan and she read that if you have a card you can grow 12 plants of your own. Commissioner Conklin said he agrees with the City Manager about not taking the lead. He thinks we should have an informational meeting. There are so many considerations and this could be a great opportunity to educate people as to what is going on. Commissioner Grunch said he doesn't think that we have the right tools no to create an

ordinance. It's open to more investigation. Mayor Pro-Tem Towne said he spent a lot of time online researching this. He found several pros and cons of the use. There are way too many unanswered questions. Mayor Neidhamer said he is sympathetic to those who have a medical card and can't get it. He recognizes the need and gets society's stigma of it. He heeds the advice to wait before jumping in. Maybe we should wait for other communities for more information. See what other communities do. He is in favor of taking no action at this time.

## Hazard Mitigation Plan

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Consideration to approve a resolution and adopt the 2016 Hazard Mitigation Plan as an official plan for the City of Boyne City

City Manager Cain discussed the proposed Hazard Mitigation Plan developed by the Charlevoix, Cheboygan and Emmet County office of Emergency Management. This plan provides information covering the three county area which includes Boyne City. This information includes risks, resources, goals and objectives. We are being asked to adopt the plan as an official plan for the City of Boyne City. Adoption of the plan does not require us to do anything but does allow the Office of Emergency Management to apply for grant funds to support the objectives of the plan.

Staff Comments: None

Citizens Comments: None

Board Discussion: All are in agreement.

## MOTION

2017-09-077

Moved by Grunch

Second by Towne

To approve the resolution and adopt the 2016 Hazard Mitigation Plan as an official plan for the City of Boyne City

Ayes: 5

Nays: 0

Absent: 0

Motion carried

## Airport Large Hangar Rates Establishment

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Consideration to create a new "Large" airport hangar lease rate category at \$500 per month without utilities subject to the same other practices and policies that exist for other airport hangars.

City Manager Cain said the largest hangar at the Boyne City Airport is coming off its contract in February of 2018 and will become available for the City to rent out. It is the tan colored hangar just south of the airport terminal. That means that it will become available for the City to lease directly to a tenant. The Airport's practice has been to make hangars as they become available for City lease available to the current building's user first. Since this is currently the only hangar of its size and it has not been available for City leasing prior to this, we have not had a rate for it. The hangar is more than twice the size of the traditional "T" hangars that the City rents which currently rent for \$200 per month. After considering its size, the general lack of other comparable offerings at nearby airports and other factors, the Airport Advisory board made and unanimously approved a recommendation to the

City Commission to set the rate for this hangar at \$500 per month without utilities, following the current rate schedule which allows for two months free if this lease is paid in full for one year. This arrangement has been discussed with the current tenant who found it acceptable.

Staff Comments: None

Citizens Comments: None

Board Discussion: All commissioner are in agreement with the recommendation.

**MOTION**

2017-09-078

Moved by Towne

Second by Sansom

To create a new "Large" airport hangar lease rate category at \$500 per month without utilities subject to the same other practices and policies that exist for other airport hangars

Ayes: 5

Nays: 0

Absent: 0

Motion carried

**Wolverine Sculpture  
Donation**

Consideration to accept the donation of the Wolverine Sculpture from Michigan artist Douglas Radcliffe North to be placed in Old City Park.

Main Street Executive Director Kelsie King-Duff said the Main Street board voted to recommend to the City Commission the acceptance of a Wolverine sculpture from Michigan artist Douglas Radcliffe North. The Main Street Design Committee has been in discussion with the artist for some time and feels this is a great opportunity to add yet another piece of public art to our downtown. The artist has already donated the same sculpture to the Ford Museum in Grand Rapids. It is proposed to be place in Old City Park and mounted to a boulder.

Staff Comments: None

Citizens Comments: None

Board Discussion: All commissioner are in agreement with the recommendation.

**MOTION**

2017-09-079

Moved by Sansom

Second by Conklin

To accept the donation of the Wolverine Sculpture from Michigan artist Douglas Radcliffe North to be placed in Old City Park

Ayes: 5

Nays: 0

Absent: 0

Motion carried

**Closed Session  
MOTION**

2017-09-080  
Moved by Neidhamer  
Second by Towne

To approve the request of the City Manager to go into closed session to 1) consider the purchase of real property as provided in MCL 15.268 (d) of the Michigan Open Meetings Act (PA 267 of 1976) and 2) meet with our attorney regarding Attorney/Client Privilege document as provided in MCL 15.268 (h) of the Michigan Open Meetings Act (PA 267 of 1976) at 8:58 p.m.

Ayes: 5  
Nays: 0  
Absent: 0  
Motion carried

**Return to Open Session  
MOTION**

2017-09-081  
Moved by Neidhamer  
Second by Towne

To return to Open Session at at 9:58 p.m.

Ayes: 5  
Nays: 0  
Absent: 0  
Motion carried

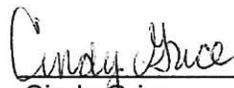
**Good of the Order**

None

**ADJOURNMENT**

Motion by Mayor Neidhamer seconded by Commissioner Grunch to adjourn the Regular City Commission meeting of Tuesday, September 12, 2017 at 9:58 p.m.

  
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Tom Neidhamer  
Mayor

  
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Cindy Grice  
Clerk / Treasurer