

**MAY 26, 2020  
REGULAR MEETING**

RECORD OF THE PROCEEDINGS OF THE REGULAR BOYNE CITY COMMISSION MEETING DULY CALLED AND HELD VIA ZOOM MEETING, ON TUESDAY MAY 26, 2020

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**CALL TO ORDER**

Mayor Neidhamer called the meeting to order at noon followed by the Pledge of Allegiance. Mayor Neidhamer also discussed the rules of the Zoom meeting.

Present: Mayor Tom Neidhamer, Mayor Pro-Tem Ron Grunch, Commissioners Hugh Conklin, Sally Page and Dean Solomon

Absent: None

Staff: Michael Cain, Cindy Grice, Patrick Kilkenny, Barb Brooks, Scott McPherson, Tim Faas, Kevin Spate and Mark Fowler

Others: There were three citizens in attendance via the Zoom meeting platform

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**CONSENT AGENDA  
MOTION**

2020-05-054  
Moved by Conklin  
Second by Page

Approval of the May 12, 2020 City Commission regular meeting minutes as presented

Approval to award a Purchase Order contract with Northern Michigan Dust Control for the 2020 Gravel Road Dust Control Program in an amount not-to-exceed \$25,515 and authorize the City Manager to execute the documents

Approval to award a purchase order contract with All Aspects Forestry for the 2020/2021 Street Removal and Trimming work in an amount not-to-exceed \$25,000 and authorize the City Manager to execute the documents

Ayes: 5  
Nays: 0  
Absent: 0  
Motion carried

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**CITIZENS COMMENTS**

None

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**CORRESPONDENCE**

Correspondence from Barry & Lisa Maginity regarding reopening Boyne City was received and filed.

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**CITY MANAGERS  
REPORT**

City Manager Cain reported:

- Last week was National Public Works week and our crews again showed their stuff getting the City to look good in a short amount of time for the Memorial Day Weekend.
- The final paving on Terrace has been completed. The vast majority of the paving on the Boyne Valley Trail has been completed and they will now be working on the ramps where the trail meets other roads. The North Lake Street / West Michigan Avenue continues to move forward with paving scheduled to begin next week.
- The Marina opened on schedule.

- The Farmers market has resumed its every Wednesday and Saturday operations from 8 – noon in Veterans Park and everything is going well.
- The Community Garden has been tilled and is being further prepared for operations this season

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

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None

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**Business Assistance  
Measures**

Consideration to authorize the City Manager and his designees to work with existing Boyne City businesses, primarily in the downtown area, to use public spaces including streets, alleys, sidewalks, parking lots and parks as identified to enhance the conducting of their lawful businesses at no additional charge through Labor Day 2020. The City Manager shall further be authorized to make necessary modifications in keeping with the spirit and intent of this action subject to notification of the City Commission

City Manager Cain said that at our last meeting, the Commission was approached by Kirt Ploe of Sunnyside Bistro and other downtown businesses about possibilities the City could take to help them compensate for some of the space use restrictions they are under as part of the COVID-19 response time. The original plan was to have this discussion and possibly act on this matter today. It became apparent that that timetable needed to change once the Governor modified her Executive Orders to allow the partial reopening of retail, restaurants and bars in our part of the state effective early last Friday morning.

With the concurrence of the City Commission and working with our Main Street program, the Boyne Area Chamber of Commerce and after seeking the input of our business community with limited success we moved forward with a plan to provide existing downtown businesses access to public property adjacent or near to their properties. More specifically this includes: public sidewalks, parking lots, streets, Sunset and Old City Parks. Initially we looked into possibility of closing the 100 and 200 blocks of Water and South Park Streets to traffic, similar to what Traverse City is looking to do with Front Street. Based on the mix of our businesses and the impacts a street closure could have on some of them by limiting customer access and curbside service we felt a full closure was not the best option. Also, on South Park Street we were concerned about having to reroute the north/south truck route in that area. We have allowed Café Sante to both use far West end of Water Street and portion of Sunset Park for additional seating. That should not significantly affect other businesses. We have also allowed both food service and retail to use sidewalks adjacent to their businesses for seating and merchandise sales while maintaining the 4' clear space side requirement for pedestrians and handicapper access. We did look to moving pedestrians to the on-street parking areas on one or more sides of the streets to allow the entire sidewalk area to be used for seating or merchandise but backed away from that due to safety concerns from adjacent street side vehicle traffic and difficulty getting people with handicaps over the curb if they wanted to visit a particular business.

With regards to food trucks we have allowed the one owned by Sunnyside to go in the traffic place in front on their business. I would think we should consider allowing others to do the same or go into one of the other designated areas shown on the attached map on a case by case basis. Depending on the need and interest received, we propose that City staff be authorized to work with businesses on using the public spaces identified on the attached map in and adjacent to, Old City Park, Sunset Park, the parking lots south of Stiggs and the Main Street and Chamber offices, along with the enhanced sidewalk, street and alley (like the one behind Sunnyside, Red Mesa, and Provisions on a case by case basis through Labor Day 2020. In addition to using space directly next to their businesses we should also be able to allow them to use adjacent space that might be available and going unused by the other business, with their approval. All businesses would still need to follow the requirements of the State (including Governor and LCC), Health Department and others.

I think this will be an evolving process throughout the summer with possible changes necessary depending on legal requirements, health requirements, and what we learn from experience. Hopefully we will have gained some experience over the Memorial Day weekend to help begin to further guide us as we consider this matter tonight. In many respects I believe the response we provided just before the holiday may need to continue to be the model we follow thru the rest of the year as the situation changes.

Since the purpose of this is to help our existing City taxpaying businesses survive and provide jobs and resources for our citizens in these extraordinary times I think we should waive all City fees for these services at least thru the end of 2020. We will develop any necessary paperwork for the businesses to complete and return.

Staff Comments: Main Street Director Kelsie King Duff said that overall, the weekend went really smooth. With this flexibility, it worked.

Citizens Comments: Boyne Area Chamber Director Kim Aiken thanked Mike and Kelsie and all at the City for being so responsive.

Board Discussion: All Commissioners agreed. Commissioner Solomon asked if there was a way to communicate to our visitors what the City is doing to be safe.

## **MOTION**

2020-05-055  
 Moved by Page  
 Second by Conklin

To authorize the City Manager and his designees to continue on as we did this past weekend with staff and businesses working together, while using Labor Day 2020 as a checkpoint.

Ayes: 5  
 Nays: 0  
 Absent: 0  
 Motion carried

### **MDOT Category B Grant Application**

Consideration to approve the model resolution to establish a request for \$181,500 of funding, designate an agent, attest to the existence of funds and commit to implementing a maintenance program for the streets included and as funded by the State Transportation Economic Development Fund (TEDF) – Category B Program for FY 2021 and authorize the City Manager to execute the documents.

Director of Public Works Tim Faas stated that MDOT announced another round of State Category B grants for cities and villages with populations of less than 10,000 for road improvements. The city staff, together with our design consultant C2AE, has reviewed the applicability of the grant for the above noted road and bridge maintenance projects currently under design and found these could make for a worthy submission. It would mean delaying construction of the following three (3) projects until the next fiscal year, which is not a major concern:

The grant applications are due on/or before June 1, 2020 for the State fiscal year 2021. Soft costs such as engineering are not eligible for the grant. A resolution by the City Commission, in support of the application, is required to be submitted along with the application

MDOT indicated it intends to make notification of the successful applicants in mid-July of this year. The funds would be available as of October 1, 2020 which means a tight window for construction during the current calendar year and most likely, construction next spring. The maximum grant request is \$250,000 with a 50% match allowing for total project costs of up to \$500,000. The net cost to the City of Boyne City for these projects with a grant would be \$181,250. We have presently budgeted \$265,200 for these projects in the current fiscal year which would be deferred to next year if successful with the grant application.

Staff Comments: None

Citizens Comments: None

Board Discussion: All are agreement with the request.

### **MOTION**

2020-05-056  
 Moved by Solomon  
 Second by Grunch

Approval to approve the model resolution to establish a request for \$181,500 of funding, designate an agent, attest to the existence of funds and commit to implementing a maintenance program for the streets included and as funded by the State Transportation Economic Development Fund (TEDF) – Category B Program for FY 2021 and authorize the City Manager to execute the documents.

Ayes: 5  
 Nays: 0  
 Absent: 0  
 Motion carried

**W. Michigan Avenue  
 Reconstruction Change  
 order**

Consideration to approve Contract Modification 1 to MDOT Contract No. 19-5469 for the shoulder widening work along W Michigan Avenue for an amount not-to-exceed \$6,596.35. Further, I would recommend the Director of Public Works approve payment through the ProjectWise software.

Director of Public Works Tim Faas stated that in October 2019, the City Commission approved a contract with MDOT for the resurfacing of N Lake Street and W Michigan Avenue from the City boat launch to the intersection of W Michigan at Boyne City-Charlevoix Road. This is an MDOT managed project of which about two-thirds of the cost is being paid from State & Federal funds.

Concurrently with this work, the City of Boyne City has been planning a non-motorized pathway along this route to safely allow cyclists to get from the Boyne City - Charlevoix trail to the downtown area. At the last public meeting held on the non-motorized pathway a suggestion was made to consider widening the shoulders along N Lake Street and W Michigan Avenue to provide a safer route until the pathway can be constructed in the future.

Payne & Dolan, C2AE and I have walked the site to assess where the widening can occur and the segment between Charlevoix Street to the intersection of W Michigan at Boyne City-Charlevoix Road can be widened by one foot on each side. Payne & Dolan have priced that widening to MDOT in the form of a contract modification which is attached. The total cost is estimated to be \$6,596.35 and would be funded 100% by the City of Boyne City.

An amount of \$34,668 was budgeted in 2020/2021 for any extra work on this project. Payments to the Contractor (Payne & Dolan) are managed through a secure software system that MDOT uses called ProjectWise. Any modifications would be approved and paid through that system. I am the project representative authorized to approve modifications and payments on behalf of the City of Boyne City. If the City Commission approves the request, it will be handled electronically.

Staff Comments: None

Citizens Comments: None

Board Discussion: All are in agreement with the recommendation

**MOTION**

2020-05-057  
 Moved by Conklin  
 Second by Solomon

To approve Contract Modification 1 to MDOT Contract No. 19-5469 for the shoulder widening work along W Michigan Avenue for an amount not-to-exceed \$6,596.35. Further, I would recommend the Director of Public Works approve payment through the ProjectWise software

Ayes: 5  
Nays: 0  
Absent: 0  
Motion carried

**Shoreline Erosion  
Control Design Services  
Contract**

Consideration to approve retaining the services of C2AE Consulting Engineers for an amount not-to-exceed \$5,000 and Armstrong Environmental LLC for an amount not-to-exceed \$10,000 to assist the City with field survey, design, permitting, bidding and construction engineering services for the shoreline erosion control projects and authorize the City Manager to execute the documents.

Director of Public Works Tim Faas reported that on April 13, 2020 the high lake levels, combined with high winds off Lake Charlevoix, caused significant shoreline erosion at a number of city-owned and private properties within the City of Boyne City. A preliminary damage assessment was conducted the following day to initially assess the damage and quickly prioritize locations for repair.

The areas that are the most severely damaged (i.e. the highest priorities) were:

1. John Street Road End Park (note, it had damage from late 2019 that was exacerbated)
2. Veterans Park peninsula
3. Lakeshore Drive between Marshall Road and the city limits
4. F Grant Moore Municipal Marina

Other city-owned properties were also damaged and will be dealt with in the near future.
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Temporary measures to stabilize a) the failed concrete seawall in Veterans Park; and b) the failed stone rip-rap revetment along Lakeshore Drive were performed to protect the city assets. Discussions with the State of Michigan Department of Environment Great Lakes & Energy (EGLE) officials commenced on May 7, 2020 regarding our strategy and actions taken to date.

A meeting was held on May 11, 2020 in the field with representatives from C2AE Consulting Engineers (our City Engineering firm) and Armstrong Environmental LLC to further assess the damages and determine the scope of the repair options. I am comfortable using a team approach between these two firms that have worked together before, and the city staff.

The services to be performed would include field survey work, design, bid specifications and construction inspection. Exactly which firm or team member will perform these will be worked out as we

proceed. A proposal from Armstrong Environmental Services LLC was received and reviewed. The cost of those services is estimated to be \$12,800. The costs for our Engineering Consultant can be billed as needed based on the agreed-to hourly rates for a not-to-exceed amount of \$5,000.

An effort to coordinate with the private property owners along Lakeshore Drive has also commenced as the shoreline requiring repair is located on private property. I have been discussing how to handle that moving forward with the City Attorney. Some legal costs are anticipated to ensure the work is conducted in accordance with State law.

I am optimistic that we can begin the repairs by July, subject to permit approvals by the EGLE and US Army Corps of Engineers (ACE) and not needing a lengthy public notice period. A total of \$100,000 was budgeted for shoreline erosion in the current Parks & Recreation capital budget. I do anticipate the costs to well exceed that amount, so a long term strategy will be needed to address all the areas impacted by these high water levels. A grant to cover 50% of the emergency sidewalk repairs at the City Marina was submitted last week to State MDNR.

Staff Comments: None

Citizens Comments: None

Board Discussion: Commissioner Solomon inquired about Tannery Park and was informed that park would be sandbagged and once we will probably have information regarding solutions at the second meeting in June. All Commissioners are in agreement with the recommendation.

## **MOTION**

2020-05-058  
Moved by Conklin  
Second by Grunch

To approve retaining the services of C2AE Consulting Engineers for an amount not-to-exceed \$5,000 and Armstrong Environmental LLC for an amount not-to-exceed \$12,800 to assist the City with field survey, design, permitting, bidding and construction engineering services for the shoreline erosion control projects. Further, I would recommend the City Manager execute the documents

Ayes: 5  
Nays: 0  
Absent: 0  
Motion carried

## **Charlevoix County Parks Millage Agreement for Boyne Forest Trail Project**

Consideration to authorize the City Manager to execute the agreements with Charlevoix County for the Boyne Forest Trail parking lot and trailhead project.

Director of Public Works Tim Faas reported said that in January 2020, the City made two (2) applications, jointly with Evangeline Township, for an allocation from the current fiscal year County Parks

Millage to fund a portion of the above projects as part of the Boyne Forest Trail system. Part A of the joint application was for a 30-parking space gravel lot along the road frontage on Old Horton Bay Road. Part B of the application was for the trailhead area and a 1,500-foot-long gravel pathway from the parking lot to the Boyne Forest Trails located in the woods at the northeast end of the property. The cost of the two parts is estimated to be \$58,020 of which the City proposed to contribute \$12,847 in the way of in-kind labor and equipment costs. As such the grant amount requested was \$45,173.

Following the review of the proposals made to the County, our application scored the highest; however, the County decided to only fund \$10,000 for each of the City and Evangeline Township requests (note, all of the \$20,000 total would be granted to the City as the property owner). The City appealed to the County to reconsider the amount funded, but the request did not get the majority support of the County Commissioners required for reconsideration. Accordingly, the project has a \$25,173 gap in funding.

The grant agreements were received from Charlevoix County on May 7, 2020 and the City has 30 calendar days to execute the agreements. The situation was discussed with the Parks & Recreation Commission last week and the majority of the members supported moving forward understanding the City (or possibly other partners) would need to make up the \$25,173 funding gap. The Top of Michigan Mountain Bike Association (TOMMBA) is meeting on May 26 to discuss a fund raising effort to help bridge the gap.

There are several capital projects planned for 2020 in the approved budget; however, given the funding impacts of the COVID-19 pandemic we are carefully considering which projects should proceed, or possibly be deferred to future years. This project is one of few planned that has a non-city revenue source, albeit less than we had hoped. Also during the Parks and Recreation Master Plan update late last year, some of the top priorities identified in the Community Survey were additional multi-use trails, mountain bike trails and more natural areas. This project clearly meets those needs. As such, I would recommend we proceed.

Staff Comments: None

Citizens Comments: Michele Cortright spoke in favor of this recommendation. Outdoor recreation is critical to recovery of Covid 19. Steve Schnell said that he is in favor of this going forward and in place this year.

Board Discussion: Commissioner Solomon said he is not sure if we should move ahead right now based on the original agreement with TOMMBA doing their fundraising. Could we negotiate with the County to get more time to raise the match amount? Commissioner Conklin likes the direction of Commissioner Solomon. Maybe it could be contingent on receiving donated funds to match. All other Commissioners support the recommendation to move forward.

**MOTION**

2020-05-059  
 Moved by Conklin  
 Second by Page

To authorize the City Manager to proceed with Charlevoix County for the Boyne Forest Trail parking lot and trailhead project grant and return this project to the City Commissioner prior to construction

Ayes: 5  
 Nays: 0  
 Absent: 0  
 Motion carried

**MDNR Grant Application**

Approval to file a grant application for the Michigan DNR Waterways Grant Application in the amount of \$15,250 with a 50% local match resulting in a total project cost of \$30,250 and authorize the City Manager to execute the documents

Director of Public Works Tim Faas said that on May 15, 2020 we made application to the State of Michigan DNR for a grant to help fund the emergency repairs to roughly 200 lineal feet of the City Marina walkways that were damaged due to the recent high water levels. The MDNR indicated it intends to make notification of the successful applicants soon. The grant request was for \$15,125 of Waterways funds with a 50% local match resulting in a total project cost of \$30,250. We are recommending to go forward with this grant application.

Staff Comments: None

Citizens Comments: None

Board Discussion: Commissioner Conklin asked if the work can be done now and wait for the grant. Tim said the deadline has been extended and usually you cannot start work until the grant is awarded.

**MOTION**

2020-05-060  
 Moved by Conklin  
 Second by Grunch

Approval to file a grant application for the Michigan DNR Waterways Grant Application in the amount of \$15,250 with a 50% local match resulting in a total project cost of \$30,250 and authorize the City Manager to execute the documents

Ayes: 5  
 Nays: 0  
 Absent: 0  
 Motion carried

**Closed Session  
MOTION**

2020-05-061  
 Moved by Neidhamer  
 Second by Grunch

To approve the request of the City Manager to go into closed session to consider the purchase of real property as provided in MCL 15.268 (d) of the Michigan Open Meetings Act (PA 267 of 1976 at 1:40 p.m.

Ayes: 5  
Nays: 0  
Absent: 0  
Motion carried

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**Return to Open Session**  
**MOTION**

2020-05-062  
Moved by Neidhamer  
Second by Page

To return to Open Session at 2:41 p.m.

Ayes: 5  
Nays: 0  
Absent: 0  
Motion carried

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**MOTION**

2020-05-063  
Moved by Grunch  
Second by Page

To authorize the City Manager and City Clerk / Treasurer to execute the necessary documents for the purchase of property

Ayes: 4  
Nays: 1, Commissioner Conklin  
Absent: 0  
Motion carried

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**Good of The Order**

None

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**ADJOURNMENT**

Motion by Mayor Neidhamer, second by Mayor Pro-tem Grunch to adjourn the Regular City Commission meeting of Tuesday, May 26, 2020 at 2:43 p.m.

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Tom Neidhamer  
Mayor

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Cindy Grice  
Clerk / Treasurer

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