

**OCTOBER 9, 2012
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 OCTOBER 9, 2012 AT 7:00 P.M.

CALL TO ORDER

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

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

Staff: Andy Kovolski, Scott McPherson, Michael Cain, Hugh Conklin, Dennis Amesbury, Jeff Gaither, Michele Hewitt, John LaMont, Barb Brooks and Cindy Grice

Others: There were 12 citizens in attendance, including representatives from the Petoskey News Review, Boyne Gazette, and the Charlevoix County News

**CONSENT AGENDA
MOTION**

2012-10-128
Moved by Neidhamer
Second by Towne

2012-10-128A
Approval of the September 11, 2012 regular City Commission meeting minutes as presented

2012-10-128B
Approval to appoint Jerry Schmidt to the Airport Advisory Board for a term expiring on August 24, 2015

2012-10-128C
Approval to appoint Oral Sutliff to the Airport Advisory Board for a term expiring on August 24, 2015

2012-10-128D
Approval to appoint Rod Cortright to the Airport Advisory Board for a term expiring on August 24, 2015

Ayes: 5
Nays: 0
Absent: 0
Motion carried

CITIZENS COMMENTS

John McCahan stated he celebrated the 3 year anniversary of when the Boyne City noise ordinance was declared vague and overbroad. The City was to come up with a new noise ordinance. He added that he started gathering other cities noise ordinances hoping the research would lead to action. He then hired a consulting firm to do a noise study, gave the study to the City Manager in January. The sample ordinance has objective standards. It is now three years with nothing. Citizens should ask why the City doesn't want a noise ordinance. He will continue to count the days. Every other town has a noise ordinance.

Jim Baumann commented that a recent observation of the leadership program group is that the current Commission Chambers at City hall is not citizen friendly. We should just move over to the auditorium. Tim Petroskey of Consumers Energy commented on his perspective of Proposal 3 on the upcoming ballot stating that Consumers supports

renewable energy, but can't support this proposal. 3100 wind turbines would be needed to meet this requirement at a cost of 12 billion dollars. A wind park is hard to sell to communities. He urges everyone to vote against Proposal 3.

Mark Kowalske said a week ago he showed (in Realtor terms) a really nice condo off of Hawkridge. As they drove up gravel Court Street, the potential buyer asked how long Court Street would be gravel. He added that he would like to see that get on the list.

Ron Crozier commented on the issue of dogs in the Park. He asked why do they bring things to the City Commission if they don't want to make decisions.

Correspondence from Louhon Tucker of Colson Associates, Inc. was received and filed.

CORRESPONDENCE

City Manager Michael Cain reported:

CITY MANAGERS REPORT

- Good progress is being made on the Hannah and South Park Street projects. Paving should take place by the end of next week. Both projects are about 1 to 2 days behind schedule.
- The City has completed the first phase of EVIP. This guarantees acceptance of 1 of 3 requirements.
- Water levels are dropping quickly on Lake Charlevoix.
- The Marina closes this weekend for the season.
- 114 applications for the Police Officer position have been received.
- 23 applications for the Assistant Planner position have been received.

Commissioner Gaylord asked if the Assistant Planner position is an automatic renewal.

The August, 2012 Financial Statement; Draft Minutes of the September 6, 2012 Main Street Board Meeting; Draft Minutes of the September 10, 2012 Economic Development Corporation Meeting; Draft Minutes of the September 10, 2012 Local Development Finance Authority Meeting; Draft Minutes of the September 12, 2012 special Main Street Board Meeting; Draft Minutes of the September 17, 2012 Economic Development Corporation Meeting; Draft Minutes of the September 17, 2012 Planning Commission Meeting were received and filed.

REPORTS OF OFFICERS, BOARDS AND STANDING COMMITTEES

Leon Tupper of Kirtland Products provided an update. Still working with the Kodiak Group to optimize the airflow system within the facility which they believe will have an impact on noise. The last piece of equipment was installed, data has been collected and additional recommendations will be provided to optimize the changes they had proposed. In addition to that, they have considered recommendations from a number of noise expert firms within the area to do an additional evaluation of sound mitigation.

Kirtland Update

Mayor Pro-Tem Towne said he has heard that the noise is better. He would like to see Kirtland re-evaluated after Kodiak's recommendations are done. Commissioner Neidhamer inquired about

the stack test results and was informed by Mr. Tupper that the testing has been done but the company is unable to pay the \$30,000 it will take to release that report. They cannot gain access to that document at this time. As quickly as they are financially able to do so, they will. Commissioner Sansom asked if they are still planning to operate for 3 days and was informed yes, and the City Manager is notified of the intent at the beginning of each week.

Fireworks Discussion

Consideration and discussion of options regarding the recent Firework legislation changes.

Police Chief Jeff Gaither discussed the legislation from the State that provided an opportunity for certain fireworks in Michigan that had never been allowed before. This has brought about concerns of others that the use of fireworks creates a disturbance in the normal tranquility of their neighborhoods. The Police Department fielded more complaints about fireworks this year than in the past. The callers seemed to be more frustrated because we couldn't do anything to stop the fireworks. Most of the call reported what is now the legal use of fireworks. A few calls were received about the use of fireworks after midnight. Chief Gaither added from the Police Department perspective, it is not something terrible but he understands Citizens concerns. Options were provided to the Commissioners.

City Manager Michael Cain added there is a wide range of options communities are facing. Some are banning completely, others are not doing anything with it. We did look to see what type of feedback we got from Citizens and what if anything the state was going to do with this.

Staff Comments: None

Citizens Comments: Jim Baumann said he did a survey and would like to see usage days hit the middle point. He never called the Police Department because it was legal.

Board Deliberation: Commissioner Sansom had a number of incidents night after night of fireworks that she didn't call and report. It is very disturbing and would be in favor of the 10 holidays, day before and day after, designating a time frame and add something that fireworks should not be set off by a minor. They aren't allowed to purchase them in the first place. Also, during high fire season, we could request caution; other communities require a permit from the City for anything outside of holidays for people to use. Commissioner Gaylord asked Chief Gaither if he had the statistics for this year and the previous year and was provided with them. In 2011, there were 12 complaints, in 2012, there were 27 fireworks related complaints. Commissioner Gaylord added that a few other townships, referred to in an article from the Record Eagle provided by the City Manager, are doing an outright ban, the largest township in Grand Traverse County is leaving it like it is. Mayor Pro-Tem Towne agreed we should consider option two. Commissioner Neidhamer agrees with option two that was presented and it would be a good compromise and makes good sense. The fire ban is handled in other ways. Mayor Grunch said the legislators probably won't deal with this until next year. We should control our own turf and look at option two. Commissioner Gaylord said it is interesting, no complaints up until June, one in March, three in August, none in September or to date October. Fire's a personal

responsibility. If there is a burn ban and you cause a fire you are responsible for it. Regarding minors, parental responsibility is pretty simple. Permits and fees are exactly what we don't need in this economy right now. Commissioner Gaylord said he finds it interesting when finally some regulations are loosened, there are some folks who can't wait to put the strangle back on some citizens. It was a crime to light those kinds of fireworks off until this and every other state around us allowed this. If they are lighting them off after midnight, then you write them a ticket. History shows that the numbers will decrease over time, not discounting the folks that called in. Commissioner Gaylord added at this time he cannot support any restriction other than what the state allowed us. This further handcuffs law abiding citizens that wish to take advantage of an opportunity that is now legal in the State of Michigan. He has no problem with a time constraint, after midnight, the police can address it. Mayor Grunch said that if everyone called in, we might have different statistics. He agreed that history does show it will decrease.

MOTION

2012-10-129
 Moved by Sansom
 Second by Towne

To pass an ordinance similar to what several other communities have done prohibiting the use of fireworks at any time other than the State law mandated periods of the day before a holiday, the holiday and the day after a holiday.

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

Fire Siren Usage

Consideration to restore fire siren to its previous usage.

City Manager Cain discussed the six month fire siren testing that was tried. To simplify usage of the siren, it has only been used for the daily 10:30 p.m. curfew and for monthly severe weather tests held in conjunction with the Cities of East Jordan and Charlevoix. While there have been no accidents from not using the siren for fire calls, the Fire and Police Departments would prefer that it be returned to its previous use pattern.

Staff Comments: Fire Chief Dennis Amesbury added that the department feels strongly to reinstate the siren for safety issues. The siren is an asset that creates awareness. Police Chief Gaither agrees and is in full support to reinstate the siren. Firefighter Chuck Witte said the radios are not always functional, but you can hear the whistle.

Citizens Comments: John McCahan said the last six months showed no issues, but we don't need the noise to get people to the firehouse. The truck has it's own siren. It seems excessive. Chris Christensen agrees that it should be reinstated.

Board Deliberation: Mayor Pro-Tem Town said he supports the reinstatement. Commissioner Gaylord said he has heard from citizens that it is a tradition in Boyne City, people like it and had questions to Mr. Witte about the possible radio problems. It was clarified, that in some

buildings, the reception is not that great. Chief Amesbury added that someone near a firefighter could hear the siren and notify the firefighter. Commissioner Sansom said she is not in favor of unnecessarily creating noise, but in this case, she supports the reinstatement. Commissioner Neidhamer and Mayor Grunch are also in favor of reinstatement.

MOTION

2012-10-130
Moved by Towne
Second by Gaylord

That the previous usage of the Fire Siren be restored for Fire Department runs.

Ayes: 5
Nays: 0
Absent: 0
Motion carried

Audit Presentation

Presentation of FYE April 30, 2012 Financial Statement by Rebecca Remondini with Anderson, Tackman & Company, PLC. The audit was presented with a brief overview of the highlights. An explanation of how the audit was conducted was provided. Graphs were provided with the audit highlighting such items as assets, liabilities, cash and debt, and capital assets such as road, water, land and land improvements. Discussion of fiscal year end fund balances took place. Mayor Grunch discussed how we are insured based on the assets value and also assets vs liabilities being summarized. Discussion of simplifying the presentation of the audit for those without an accounting background to show that we are in good shape and fairly stated, to simplify in laymen's terms. Fund balances were also discussed and how we much we should have to be fiscally conservative and responsible. While the Other Post Employment Liabilities were not shown separately in the fund balance, they are shown in the footnotes of the audit. There was discussion of those liabilities and suggestions of how the funds that the City has already set aside for future costs be shown. There was also discussion regarding insured cash and FDIC rules. No difficulties were found in performing the audit. The City is doing very well.

Liquor License Transfer

Consideration to approve the transfer of ownership of Class C Resort, SDM liquor license issued under MCL 436-1531(3) located at 5 W. Main Street, Unit 1, Boyne City, Michigan, Charlevoix County, from Y & T Properties LLC to DML Property Management LLC as requested, and subject to background checks.

Main Street Program Manager Hugh Conklin discussed the liquor license transfer application. This transfer is related to action taken by the City Commission at its June 12, 2012 meeting. At that time, the Commission approved a resolution supporting the transfer of the liquor license at 5 W Main St. to Y & T Properties, owner of the building. As was originally outlined, there is now a request to transfer the license to the new restaurant owner from the building owner.

Citizens Comments: Jim Baumann said he is support of this. This will give us another good restaurant. All other issues will be ironed out.

Commissioner Neidhamer said he is in support. Let's help a business get going. Mayor Pro-Tem Towne said he is in support. Commissioner Gaylord said the prior transfer already included outdoor and entertainment. He has heard no objections. Do we have other Sunday sale permits and the City Manager said yes. Commissioner Gaylord also asked how many venues have dance permits. It is important to know that and we may have some citizens who could raise issues on potential noise. City Manager Cain said he doesn't think allowing the dance permit is breaking new ground. Commissioner Gaylord added he is all for helping businesses thrive. Commissioner Sansom said she hopes this will work. She is glad the license will stay with the property.

2012-10-131

Moved by Neidhamer

Second by Gaylord

MOTION

To approve the transfer of ownership of Class C Resort, SDM liquor license issued under MCL 436-1531(3) located at 5 W. Main Street, Unit 1, Boyne City, Michigan, Charlevoix County, from Y & T Properties LLC to DML Property Management LLC as requested, and subject to background checks

Ayes: 5

Nays: 0

Absent: 0

Motion carried

Consideration to continue retaining the services of attorney Todd Millar, now associated with Swogger & Bruce, P.C. , for the matters he has been representing the City on, and authorize the City Manager and /or City Clerk / Treasurer to submit the necessary documents in order to do so.

**Insurance Attorney
Services**

City Manager Cain discussed that Todd Millar, the attorney the City has used through several instances thru our insurance carrier is moving his practice to a different firm. Attorney Millar has indicated that he would be pleased to continue to represent us if we chose. Our insurance claims department has decided to continue to use Todd Millar's services with his new firm. Our experience with Mr. Millar has been that he is efficient, knowledgeable, prompt, effective, reasonable and easy to communicate with.

Staff Comments: Scott McPherson said he agrees with the recommendation.

Board Deliberation: Commissioner Neidhamer agrees. Mayor Pro-tem Towne stated if the city's happy, he supports it. Commissioner Gaylord said if he is leaving firms, this is an opportunity to discuss remuneration. It is time to negotiate the rate. City Manager Cain said yes, we have that ability. Commissioner Gaylord also asked if Mr. Millar referenced any additional resources he would be bringing and was informed, he did not. Commissioner Sansom said she is in support of regaining Todd Millar. Mayor Grunch said he is in support.

2012-10-132

Moved by Towne

Second by Sansom

MOTION

To continue retaining the services of attorney Todd Millar, now associated with Swogger & Bruce, P.C. , for the matters he has been representing the City on, and authorize the City Manager and /or City Clerk / Treasurer to submit the necessary documents in order to do so.

Ayes: 5

Nays: 0

Absent: 0

Motion carried

Consideration to establish a courtesy car program for short term airport visitors

Courtesy Car

City Manager Cain discussed the possibility of providing a courtesy car to visitors at the airport when they fly in short term. This is a service that is available at most local airports and is very popular. It encourages people to visit and is pretty much trouble free. Our current insurance agent said this would be covered at no additional cost if we use an existing vehicle. The Airport advisory board discussed and unanimously approved the recommendation for the City Commission's approval. If approved, we would start out using an existing City vehicle, probably the marina pickup that we acquired a few years ago for about \$1,200. If an acceptable vehicle is proposed to be donated to the City, that would be brought before the City Commission for consideration.

This is another way to encourage people to visit Boyne City and possible turn a stop to get fuel into a visit and possible sale at some of our local merchants. Currently people flying in have the options to leave a car there, rent a car, use the area transit or cab service when available, walk or have family and friends pick them up.

Citizens Comments: Michele Cortright said everywhere they fly, they borrow the courtesy car. They are typically junkers. It is great for business development and would be a nice enhancement. Rod Cortright added that a survey could be taken to quantify the use.

Staff Comments: Barb Brooks said when she worked at the Chamber, they would get calls. She occasionally loans out the vehicle at the marina.

Board Deliberation: Commissioner Neidhamer and Mayor Pro-Tem Towne are in support. Commissioner Gaylord said at first glance it seems like a simple request, the first one gets the car? Rod Cortright said it is usually first come first serve although some airports take reservations. Commissioner Gaylord asked if any chamber members looked at advertising shuttles to their places of business. Jim Baumann said he has not heard of any. Rod Cortright said his usual experience with that is with lodging. Commissioner Gaylord said this would be a perfect example of use of funds raised during the drag races without additional general fund money. City Manager Cain said the airport has not needed General Fund transfers in several years. Commissioner Gaylord added that it would be appropriate that the airport would bear costs. Commissioner Sansom asked what the anticipated usage rate is. Rod Cortright said a courtesy car at an airport is a huge draw and many times people donate funds. City Manager Cain said accidents would be under the city's insurance. Commissioner Sansom also likes the idea of adding bicycles. Mayor Grunch said in summer, we'll need

a second vehicle and he is in full support. Commissioner Gaylord said maybe having this service could be brought up at the next business after hours.

2012-10-133
 Moved by Towne
 Second by Sansom

MOTION

To establish a courtesy car program for short term airport visitors

Ayes: 5
 Nays: 0
 Absent: 0
 Motion carried

Consideration to purchase a refurbished Auto Pulse unit to perform cardiac compressions in the amount of \$1,900 from the Charlevoix Fire Department and authorize the City Manager to execute the documents.

**Purchase of refurbished
 Auto Pulse Cardiac
 Compression Unit**

EMS Director John LaMont discussed the donation the EMS department received from a family who suffered a tragic accident in our community. The family wished to donate a piece of equipment to the ambulance service. Our staff has also been providing CPR/AED training as a fund raiser towards equipment purchases. Our staff is interested in an Auto Pulse for use with a cardiac arrest patient. This would free the medic to provide immediate interventions while the Auto Pulse would provide continuous quality compressions for the cardiac arrest patient. Bob Roloff of the Charlevoix Fire Department recently acquired multiple Auto Pulse Units and has offered the purchase of one of these units to Boyne City EMS. These units provide quality compressions allowing the rescuers to perform the necessary medical interventions for a positive outcome for the patient. The units normally cost greater than \$10,000 but a refurbished unit is available to us at a cost of \$1,900.00.

Citizens Comments: None

Staff Comments: Fire Chief Amesbury and Harbormaster Brooks agree.

Board Deliberation: Mayor Pro-Tem Towne is in support. Commissioner Gaylord inquired of the warranty and was informed, 90 days. Commissioner Gaylord inquired how often the unit is certified and the answer is unknown. John added that replacement compression apparatus needs to be replaced after each use. Commissioner Gaylord also thanked Bob Roll of Charlevoix for his generous offer. Commissioner Sansom said she is in support of anything to help save lives. All Commissioners are in support of this request.

2012-10-134
 Moved by Gaylord
 Second by Towne

MOTION

To purchase a refurbished Auto Pulse unit to perform cardiac compressions in the amount of \$1,900 from the Charlevoix Fire Department and authorize the City Manager to execute the documents

Ayes: 5
Nays: 0
Absent: 0
Motion carried

Review and further discussion of topics and items learned at the MML Conference.

MML Convention Follow-up

Mayor Grunch said he would like to schedule a work session and compare notes from the recent MML conference that the Commissioners attended. Mayor Pro-Tem Towne said City Manager Cain did a great job promoting Boyne City at his session. Commissioner Neidhamer said he is in favor of a work session. If we take our goals and department heads and have work sessions, those are good concepts we can pursue. There is creativity potential.

2012-10-135
Moved by Grunch
Second by Towne

MOTION

To schedule a work session for follow up of the MML Convention to be held on Tuesday, October 30, 2012 from 3:00 p.m. to 5:00 p.m.

Ayes: 5
Nays: 0
Absent: 0
Motion carried

Commissioner Gaylord followed up on the dogs in Veterans Park comment. Mr. Crozier is very upset about this. If we find people violate the ordinance we should ticket them. Police Chief Gaither said he and Andy Kovolski have been there many times and he has not seen any evidence at all. Commissioner Sansom asked if we have a dog waste dispenser there and was informed that there are dispensers in Veteran's park.

Good of the Order

Moved by Mayor Grunch, seconded by Mayor Pro-Tem Towne to adjourn the regular City Commission meeting of October 9, 2012 at 10:02 p.m.



Ron Grunch
Mayor



Cindy Grice
Clerk / Treasurer