

**OCTOBER 22, 2019  
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 22, 2019

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**CALL TO ORDER**

Mayor Neidhamer called the meeting to order at noon followed by the Pledge of Allegiance.

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

Absent: None

Staff: Cindy Grice, Michael Cain, Barb Brooks, Scott McPherson, Kelsie King-Duff, Patrick Kilkenny, Tim Faas, Jeff Gaither and Mark Fowler

Others: There were 16 citizens in attendance including a representative from the Petoskey News Review.

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**CONSENT AGENDA  
MOTION**

2019-10-132  
Moved by Conklin  
Second by Grunch

Approval of the October 8, 2019 City Commission regular meeting minutes as presented

Approval to schedule a joint work session with the Planning Commission and the Parks & Recreation Board on Tuesday, November 19, 2019 at 7:00 p.m.

Approval of the recommendation from the Parks and Recreation Board to accept the resignation of Jo Bowman and appoint Tom Smith to the boards for the remainder of a four year term expiring December 31, 2022

Approval of the Compensation Commission 2019 recommendation to keep the compensation for the Mayor at the current levels of \$3,250 per year and \$2,700 per year for each Commissioner

Ayes: 5  
Nays: 0  
Absent: 0  
Motion carried

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**CITIZENS COMMENTS**

Commissioner Candidate Barbara Malpass-Young said she was contacted by Clerk/Treasurer Cindy Grice about her campaign signs being within the City right of way and inquired if the other candidates received the same call. Clerk/Treasurer Grice said yes, Mayor Neidhamer had a few signs in the right of way and was contacted. Commissioner Conklin was not because only one sign was observed and it was not in the right of way.

Michele Cortright provided an update on the local trail statistics. She also presented the Commissioners with a 50<sup>th</sup> Anniversary copy of the Seaway Review.

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**CORRESPONDENCE**

Correspondence from J.E. Tiffany and Sons, LLC regarding the Boyne USA Boyne River Hydroelectric Project Draft Application for Subsequent License Transmittal to FERC was received and filed.

**CITY MANAGERS  
REPORT**

City Manager Cain reported:

- The groundbreaking for the Pavilion project took place this morning. Dewatering is in progress.
- Curb and driveway approaches are being finished on Terrace Street. Paving will take place later this week or next.
- The Boyne Valley trail project is also progressing with the initial clearing complete along the entire route.
- All drinking fountains have been removed from downtown and stored for the winter.
- Absentee ballots for the upcoming November City Commission election remain available.

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

The September 2019 Financial Statement was received and filed.

**TOMMBA License  
Agreement**

Consideration to approve entering into a license agreement with TOMMBA on the development, maintenance and use of a portion of city-owned property in Evangeline Township for the purpose of completing the Boyne Forest Trail System and authorize the City Manager to execute the documents.

Director of Public Works Tim Faas said that in 2013 the Top of Michigan Mountain Bike Association (TOMMBA) entered into an agreement with the Boyne City Public Schools for the development and use of surplus school property known as the Boyne School Forest Trail for mountain biking. Recently TOMMBA entered into a separate agreement with the Walloon Lake Association and Conservancy (WLAC) for the development, maintenance and use of 40 acres of recently acquired property west of the Boyne School Forest Trail for mountain biking. The City of Boyne City has been an interested and supportive partner with TOMMBA, WLAC and the Boyne City Public Schools to further the objective of adding more mountain biking trails in the region. The City of Boyne City owns an 80 acre property, west of the above two properties, that would be developed by TOMMBA for future trails connecting all three properties creating a network of trails for varying rider skill levels. The City of Boyne City also owns a property off of Old Horton Bay Road which would ideally serve as a trailhead and parking lot for access to the combined Boyne Forest Trail system.

At its August 8, 2019 meeting the Boyne City Parks & Recreation Commission unanimously supported the request by TOMMBA to have the City Commission enter into an agreement for the development, maintenance and use of the city property. Since that time, the City Commission discussed the agreement and suggested a few changes that have now been reviewed by our legal counsel.

In addition, the City Clerk received a letter of support for the agreement from the Evangeline Township Supervisor which was provided in the packet. Also attached is a letter from TOMMBA outlining some history in working together with the City and

highlighting the approach it would take with the development of the trails.

Staff Comments: None

Citizens Comments: Michelle Cortright said there is a plan for fundraising once they get the green light to go on the trail development.

Board Discussion: All are in agreement with the proposed agreement.

## **MOTION**

2019-10-133  
 Moved by Solomon  
 Second by Page

To approve entering into a license agreement with TOMMBA on the development, maintenance and use of a portion of city-owned property in Evangeline Township for the purpose of completing the Boyne Forest Trail System and authorize the City Manager to execute the documents

Ayes: 5  
 Nays: 0  
 Absent: 0  
 Motion carried

## **Balsam Street Vacation Public Hearing**

Consideration of request to vacate the entirety of Balsam Place from Woodland Drive to Shady Lane.

Planning Director Scott McPherson discussed the application submitted to vacate the entirety of Balsam Place from Woodland Drive to Shady Lane. Currently four properties are accessed from Balsam Place which are 631, 639, 641 and 645 Woodland Street. The application petition includes 647 Woodland, however it appears this property is not adjacent to Balsam Street and the access for the property is entirely within the Woodland Street right-of-way. Three of the properties are bisected by Balsam Street. If the street is vacated, permits for two new driveways from Woodland Street for 631 and 639 would be requested. The remaining properties would continue to use the existing access and driveways as currently configured. City sanitary sewer line is located in the developed portion of the street. The portion of the street that is proposed to be vacated is 33' wide and borders three properties. All of the adjacent property owners have signed the petition for the application. As required, the public notice for the vacation request was completed and in response to the notice, a letter to the editor from Dorne Davis opposing the vacation request was submitted to the Boyne City Gazette and phone contact was received from a DTE representative citing concern regarding existing gas infrastructure and the need to reserve easements if the vacation request is approved. The developed portion of the street is currently plowed by the City and is designated on the City's Act 51 map. The proposal was reviewed by City department heads and given the property is a developed street that is certified and maintained and there is existing public and

private infrastructure within the street and there have been no reported pedestrian or vehicle accidents on Balsam Street, City staff saw no compelling need to vacate the street.

Mayor Neidhamer opened the Public Hearing at 12:38 p.m.

Dick Sarchet said he has a concern about the large sweeping curve that generates a lot of snow build up. Would the City still clean up the snow excess. City Manager Cain said no, it would be treated like a private road if vacated. Mr. Sarchet also asked who would take care of the fire hydrant access and was informed the City would. Barb Malpass Young asked if we vacated the street, does it impact emergency services negatively and was informed no. Attorney Edward Engstrom, representing the petitioners, said utility rights would be preserved. Rose Newton said she wanted to see what it looks like and feels there is a safety issue.

Mayor Neidhamer closed the Public Hearing at 12:52 p.m.

Board Discussion: Commissioner Conklin said he didn't hear a very compelling reason to vacate the street. Mr. Engstrom said his clients wouldn't have a road bisecting their land. Property owners would not be able to build over the easement. This would be a no brainer.

2019-10-134

Moved by Conklin

Second by Page

**MOTION**

To approve the request to vacate the entirety of Balsam Place from Woodland Drive to Shady Lane effective when all paperwork is done, and the applicants are to provide easements for all utilities

Ayes: 5

Nays: 0

Absent: 0

Motion carried

**Shoreline  
Demonstration Garden  
update**

An update from the Lake Charlevoix Association on demonstration garden at west end of Sunset Park.

Staff Comments: None

Citizens Comments: Barbara Malpass-Young said let nature take its course, let it go and do the best we can.

Board Discussion: Commissioner Conklin said he had concerns about fishermen asking about it. So far we have had no complaints. Kids are using it.

**Parks & Recreation  
Architectural &  
Engineering Services  
Firm Recommendation**

Consideration to award a contract to Beckett & Raeder to perform the desired architectural & engineering services for the Avalanche & Open Space properties, and further that the scope of work also include an update to the City Parks & Recreation Master Plan for a total cost not-to-exceed \$52,855 and authorize the City Manager execute the documents.

Director of Public Works Tim Faas said one of the major projects for this fiscal year is to collect the necessary public input and complete the preliminary conceptual designs, cost estimates and phasing plans for various desired improvements at the Avalanche and Open Space properties. These plans would be used for applications for grant funding over the next three fiscal years. An outside consultant is recommended to perform this labor intensive, technical work generally starting in November 2019 and concluding in February 2020 including five (5) public meetings.

On October 2, 2019 the City of Boyne City received three (3) written proposals from professional consulting firms that offer both architectural and engineering services as outlined in the Request for Proposals document. The three firms were:

- 1) Orchard, Hiltz & McCliment (Petoskey);
- 2) C2AE (Gaylord); and
- 3) Beckett & Raeder, Inc. (Petoskey).

Upon review of the submittals, each firm is well qualified to perform the desired scope of services for us. The first two firms listed above recommended a civil engineer as the project manager, the third recommended a planner lead the project. A summary of the costs and hours is attached for review. These services are intended to be selected primarily on qualifications, with cost as a secondary factor.

I believe that Beckett & Raeder would offer the City of Boyne City the best combination of professional experience and price. It was the only firm that pointed out the need for the City to complete an update of its 2015 Parks & Recreation Master Plan concurrent with this work should the City of Boyne City desire to pursue State DNR grants in 2020. The additional scope of the Master Plan update would cost another \$18,900; however, Beckett & Raeder offered to reduce the overall total cost of the combined services by 7.5% if awarded the Parks & Recreation Master Plan work as well. As such, the total cost for the original scope plus the Master Plan Update would be no greater than \$52,855 which is less than the \$60,000 budgeted for the original scope.

The Parks & Recreation Commission unanimously supported the selection of Beckett & Raeder at its October 10<sup>th</sup> meeting.

Staff Comments: None

Citizens Comments: Barbara Malpass-Young said it is a great bargain. What we are doing is wonderful.

Board Discussion: All are in favor of the recommendation.

2019-10-135  
 Moved by Solomon  
 Second by Page

**MOTION**

To approve to award a contract to Beckett & Raeder to perform the desired architectural & engineering services for the Avalanche & Open Space properties, and further that the scope of work also

include an update to the City Parks & Recreation Master Plan for a total cost not-to-exceed \$52,855 and authorize the City Manager execute the documents

Ayes: 5  
Nays: 0  
Absent: 0  
Motion carried

**Fireworks Ordinance  
Amendment Second  
Reading**

Consideration of a second reading of an amendment to the Fireworks Ordinance as allowed/mandated by State law and adopt the amendment as presented.

Police Chief Jeff Gaither said that at the September 10, 2019 City Commission meeting, a first reading of the proposed new fireworks ordinance amendment was held. The new State Law, HB 5939 had significantly reduced the number of days people can shoot off fireworks unrestricted from 30 to 12 and allowed governments to establish ordinances that prohibit fireworks use on any day other than those listed. The recommended and proposed amendments are as follows:

Sec. 34-113. - Ignition, discharge, and use of consumer fireworks.

***A person shall not ignite, discharge or use consumer fireworks except after 11 a.m. on the following days:***

- (a) December 31 until 1 a.m. on January 1.***
- (b) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.***
- (c) June 29 to July 4 until 11:45 p.m. on each of those days.***
- (d) July 5, if that date is a Friday or Saturday, until 11:45 p.m.***
- (e) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days***

Sec. 34-116. - Penalty.

***(a) Any person who violates any provision of this article is responsible for a municipal civil infraction, subject to payment of a civil fine of \$1,000.00 for each violation of the ordinance and no other fine or sanction. \$500.00 of the fine collected under the ordinance will be remitted to the Boyne City Police Department, as they are the law enforcement agency responsible for enforcing the ordinance***

The following sections will be repealed.

Sec. 34-112. - Fireworks defined.

(f) "National holiday" means the following legal public holidays (1-10

34-113. - Ignition, discharge, and use of consumer fireworks. A person shall not ignite, discharge or use consumer fireworks except for the day preceding, the day of, or the day after a national holiday, or by permit from the city commission.

Sec. 34-116. - Penalty.

(a) Any person who violates any provision of this article is responsible for a municipal civil infraction, subject to payment of a civil fine pursuant to section 1-7.

(b) Repeat offenses under this article shall be subject to increased fines as provided by section 1-7.

Staff Comments: None

Citizens Comments: None

Board Discussion: All are in agreement.

**MOTION**

2019-10-136  
Moved by Conklin  
Second by Page

To approve second reading of an amendment to the Fireworks Ordinance as allowed/mandated by State law and adopt the amendment as presented

Ayes: 5  
Nays: 0  
Absent: 0  
Motion carried

**Goals Update**

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City Manager Cain and staff provided updates to the Commissioner on the City's goals

**Good Of The Order**

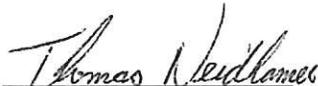
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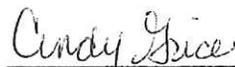
Commissioner Conklin said the Housing Summit he attended last week provided good and useful information.

**ADJOURNMENT**

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Motion by Mayor Neidhamer, second by Mayor Pro Tem Grunch to adjourn the Regular City Commission meeting of Tuesday, October 22, 2019 at 2:12 p.m.

  
Tom Neidhamer  
Mayor

  
Cindy Grice  
Clerk/Treasurer