

**FEBRUARY 14, 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 FEBRUARY 14, 2012

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**CALL TO ORDER**

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

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

Staff: Scott McPherson, Andy Kovolski, Barb Brooks, Dan Meads, Craig Remsberg, John LaMont, Hugh Conklin, Cindy Grice and Michael Cain

Others: There were 78 citizens in attendance, including representatives from the Petoskey News Review and Boyne Gazette

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**CONSENT AGENDA  
MOTION**

2012-02-010

Moved by Neidhamer  
Second by Towne

2012-02-010A

Approved of the January 24, 2012 regular City Commission meeting minutes as presented

2012-02-010B

Approved of the February 7, 2012 Joint Board and Commission meeting as presented

2012-02-010C

Approved the appointment of Kelly Bellant to the EDC board to an unexpired term ending March 11, 2016

2012-02-010D

Approved the appointment of Kelly Bellant to the LDFA board to an unexpired term ending March 11, 2014

2012-02-010E

Approved the appointment of Ralph Gillett to the EDC board with a term to expire March 11 , 2014

Ayes: 5

Nays: 0

Absent: 0

Motion carried

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**CITIZENS COMMENTS**

None

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**CORRESPONDENCE**

Correspondence from Nancy and Robert Quirk regarding Kirtland Products was received and filed.

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**CITY MANAGERS REPORT**

City Manager Cain reported:

- The GT Band of Ottawa and Chippewa Indians recently awarded grant funds in the amount of \$28,888 to the Boyne Area Free Clinic and \$10,000 to the City of Boyne City for the sidewalk project. George Lasater accepted the grant fund check on behalf of the Boyne Area Free Clinic.
  - Ongoing energy efficient measures are being taken at City hall.
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Draft Minutes of the January 5, 2012 Main Street Board Meeting; the January 16, 2012 Economic Development Corporation Meeting; the January 16, 2012 Local Development Finance Authority Meeting; the January 16, 2012 Planning Commission Meeting; and the January 26, 2012 Airport Advisory Board Meeting were received and filed.

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

### **Kirtland Products**

Planning Director Scott McPherson discussed that since the start of production in the fall of 2011, there have been many complaints in regards to the Kirtland Wood Pellet facility. While the noise produced by the plant has been the primary concern, there also have been concerns about odor and dust. At the January 10, 2012 City Commission meeting, representatives from Kirtland Products informed the Commission of their plans to install mufflers that would help mitigate the plant noise and to make adjustments to the augers to eliminate the squeaking noises.

Kirtland has implemented several measures to eliminate the squeaking noise from the augers and it appears to have been resolved. The installation of the mufflers did appear to reduce some of the noise, however noise being produced by the plant can still clearly be heard and is measurable at significant distances from the facility. Since the installation of the mufflers, noise from the plant has been monitored by listening and with decibel meters. The noise fluctuated at several of the monitoring locations and appeared to vary significantly depending on wind and weather conditions. In some surrounding residential areas plant noise at times was clearly audible while at other times it was barely detectable.

In 2008, Kirtland Products made an application to the Planning Commission for a conditional use permit for a wood pellet manufacturing facility. As opposed to a use of right, conditional uses have unique characteristics that are considered prior to approval of a permit and in this case, noise was a primary concern. In Kirtland's application and presentations to the Planning Commission, it was stated that the noise produced by the plant would be mitigated. Kirtland provided estimates that noise from the loudest piece of the equipment at the plant that would be no more than 24 db at the lot line and that any piece of equipment that exceed 40 db would be placed inside the building. During consideration of the conditional use permit, Kirtland representatives specifically stated to the Planning Commission that the loudest piece of equipment would be the back up beeper on the loader. When considering the conditional use permit, the Planning Commission relied on the information provided in Kirtland's application and based its approval of the permit on these representations. After starting production it was apparent the noise produced by the plant exceeded the expected levels and Kirtland representatives acknowledged that they had underestimated the amount of noise that would be produced by the facility.

As stated previously, there have not been as many odor complaints as noise complaints, but it has been noted as an issue. A quantitative assessment of odor is difficult as people have a widely varying sensitivity to smell. Some people have indicated that the smell is offensive, while others have indicated that they can notice an odor but do not find it unpleasant. Similar to the assessment of the noise, weather conditions appear to affect the location and intensity of the odor. In Kirtland's application to the Planning Commission it was noted that the facility may produce "an occasional smoky smell". In my assessment, I would say

there is a detectable odor when the plant is in operation, and would characterize the smell as that of fresh cut wood or sawdust. Much more detailed analysis and testing would be required to determine if the odor is in violation of the ordinance performance standards.

Scott also added that on the afternoon of February 2, he received notice there was particulate coming from the plant and investigated the complaint. At a location approximately 1,000 feet east of Kirtland Products property line, he observed a utility box that had a light covering of dust. As the plant was scheduled to run until 7 am the next morning, he cleaned the top of the box and returned the next day to make an observation. He noticed a thin covering of dust on the top of the box and collected that material. The material does appear to be wood particles and does appear to have come from Kirtland but more specific testing would be needed to determine the exact source of the material.

City staff has been in contact with Kurt Childs from the MDEQ regarding emissions and testing procedures and have informed him about the observations that have been made. Mr. Childs indicated that a site visit was made following the complaint about particulate but on that day, did not notice any material coming from the plant. He also indicated that he will continue to monitor the facility.

Mr. McPherson outlined the options to the City Commission as follows: take no action, determine Kirtland is in compliance and take no action, refer issues back to staff for further review and recommendations, determine Kirtland is not in compliance and give additional time to implement solutions, determine Kirtland is in violation of the zoning ordinance performance standards and issue a civil infraction, refer the issue back to the Planning Commission to hold a public hearing in accordance with section 2.70(G)(4) to review the conditional use permit to determine if Kirtland Products is in compliance, or other actions not identified that the Commission deems appropriate.

Leon Tupper of Kirtland Products gave a formal reply with a report of the unfinished work that he distributed to the City Commissioners and City Manager.

Tom Monley of Kirtland addressed the decibel level. When they started this process in 2008, it was explained that they would be installing sound emitting equipment. From 2008, until production began 2 ½ years later it was assumed what a pellet plant is and how it operated. They wanted a good fit for Boyne City, they made a lot of engineering and environmental controls. Since that time, they received approvals from the City, the County, the MDEQ and EPA. He added that he feels they have always been up front in putting this project together.

Citizens Comments:

Lori Meeder, local resident, said she moved to Boyne City 2 ½ years ago, not just for the esthetics, but quality of people as one of the best attributes. She is concerned that there is misinformation being spread around. By working together with this, it could make us a better community. We cannot know or understand what the long term effect is.

John Harris, who lives near the plant, said he doesn't have anything against the plant, but not at 3 am or early in the morning,

Michael Linebaugh, local homeowner, said he sent a letter to each of the commissioners. He and his wife had plans to retire to Boyne City and were looking at a six figure addition to their home. He has contacted an environmental attorney. He stated his property is worthless right now. This is not a new issue in other communities. It appears that pellet plants have been a big problem, jeopardizing citizens health and problems. There is no scientific data of anyone being around pellet plants. Mr. Linebaugh added that Kirtland is incompetent and he recommends it should be moved and shut down in the meantime.

Julie Howard said the majority of the people don't have six figures or a second home. She moved here to raise their family. For someone on a part-time basis to call Kirtland incompetent is rude. She said she has to feed her family. It is steam, not smoke. These people are trying their hardest. East Jordan will take the plant.

Hap Wright said someone didn't do their homework. He requested we don't go here again with businesses.

Clarence Stark said he has been here 15 years. He spent 23 years in the military. Look at what happened to Camp Grayling when noise became an issue. We are trying to make this work for everyone.

Susan Stark said she understands, and we need to find out where the noise is coming from. We all need to work together. Lets work as a team. We all have to live here.

Tom Johnson said he is concerned about the plant. It is a great concept. He has compassion for those who work there and those who are losing sleep over the noise. He is concerned about the by-products of the steam emissions and what the dangers are. Questions should be asked. There are technologies to abate the noise. Get answers and work together. Look for facts.

Mike Lange of Kirtland Products said a great deal of analysis was used when designing the facility. The plant is designed with air quality in mind. They received the permit to install from the DEQ and there are processes to monitor it. We all are in constant contact with things that, in high concentration, are dangerous in many ways.

Sandra Turley said she is a retired health care professional. She hopes they will continue to monitor it. What is the City doing to attract more jobs?

Mike Hausler said 1874 is when the Hausler family moved to Boyne City. It is now affecting 50 to 100 homes. He wants the jobs to stay in Boyne City. He knows the guys are hard working. His worst fear is that his grandchildren are being used as human experiments. He said he doesn't believe everything the EPA says. Over 18 years, he is not willing to take that change. There's not a person who doesn't want those jobs. Lets go to Honeywell and Lexamar and offer tax credits to hire those guys.

Bob Foster said his complaint is with the noise, not emissions. He can't see himself in the summer being outside. 24/7 hours is tough to take. He hopes they can address the issue.

John McCahan said his issue has been a noise ordinance. There is no noise ordinance in this town. He thinks it is because the City Manager doesn't want to devote any resources to developing a noise ordinance. He added he is tired of waiting for a noise ordinance. He hired an acoustical engineer to provide the best noise ordinance for this town. Is anyone going to stand up? He is asking the City Commission to take action in developing the noise ordinance.

Kurt Roland said he lives outside of the town and is not affected, but his daughter, son-in-law and others are. People can't sleep in their homes. It is basically holding the town hostage. In the meantime people are not comfortable in their homes. Should have known about the effect of pellet plants. The victims are the employees.

Al Aown said we are all between a rock and a hard place. He chose Boyne City because of the lake and clear skies. His concern is the jobs but at what expense. He is now worried about property values and worried about businesses. Homes are not being built. Our front door to Boyne City will never be the same. Everything seems to be different now.

Connie Dhaseleer said she agrees with Mr. Aown. She is concerned they don't know about the pollutant possibilities. She has a problem with the location of it and her concern is 10, 15, 20 years from now.

Don Nessen said he is an army vet who has lived here all his life. He was there before the industrial park. He asked Kirtland what are they going to do and the City Commission how long does he put up with this crap.

Joe Jones said he is concerned about the potential loss of home values. He appreciates what they have done so far but would like to see improvement.

Ryan Giem said thank you for recognizing and addressing the problem. The noise is there, is always there and it is not just a white noise. It is a low frequency steady hum that can grate on your nerves. The particulate matter could be an issue. It could create a maintenance issue for other plants.

Nick Liegott said he concurs it isn't a white noise. Can the plant investigate building up a sound barrier wall? He grew up in northern Michigan. Boyne City seemed like a nice fit. He doesn't see why this can't be worked out. The sound keeps you on constant edge. He knows they want to work at it. Something needs to be done to cancel the noise.

Mike Lange addressed the squeaky screw conveyer. They implemented a solution. They had a day of loud trucks, but restricted that at 5 pm. They haven't off loaded any trucks but have run the conveyer belt. When talking of doling out jobs to other places, he was part of the 2008 job loss at Lexamar. This was a plan to develop a plant and bring jobs back. It is not their intention to create something adverse to the community.

Robin Koteskey said she is concerned about air quality but also about jobs.

Does the City have a plan?

Tom Monley said they did spend three years doing due diligence. Upon approvals, they invested \$6,000,000 on good faith. Out of nine plants they visited, Kirtland is one of the quietest plants. It isn't fair to Kirtland to be not be able to operate in this environment. They were up front all the time.

Kurt Roland said the problem is that it is still a huge disturbance. People still aren't able to sleep in their homes. If the pellet plant can't comply, there needs to be an immediate timeline. When is the problem going to be solved?

Kris Whittet said she has lived here all her life. She wakes up with a headache at 3 am. They can't get away from the sound and can't sleep. Something has to be done. We need a solution.

Theresa Satmary said she has also lived here all her life. She doesn't want to lose jobs but the problems still remain. She believes the industrial park was for light industry.

Vicky Riley said she works for Kirtland. People are pointing their fingers at the Board members, Tom, Mike and Leon. She doesn't hear who was here in 2008 and 2009 asking questions about the plant.

Patti Lapeer said if she had known she would be up at 2 am, she would have been here.

Sandra Turley asked what's going to happen in the summer. Many people don't have air conditioning and have to open their windows.

Don Nessen said he would like to see a timeline.

Susan Stark said what about everyone who puts in a wood stove?

Mindy Startzel said everyone has their concerns. Most places get at least 180 days when they get up and running. Who is following the facts? She said she is sick and tired of people saying things that aren't true. She feels like Kirtland is getting harassed.

Clarence Stark added that on cold nights, there is some smoke that smells like garbage.

City Manager Cain said this has been monitored very closely. Improvements haven't happened to the level people have hoped for. There is a lack of good information out there. We are not there. Can we get information as to what is coming out of the stack and can we quantify it? Kirtland feels like they are a moving target. The EDC / LDFA board decided to hire an independent expert to help. Up to this point, we have gone forward in good faith. We need additional help and expertise. It could take 30 to 60 days. We need the DEQ to talk about what's coming out of the stack. He added he doesn't have answers at this point. There are people out there that have expertise. We must find that balance. He understands everyone's frustrations about the noise. The City Commission could potentially consider taking up the EDC's offer to hire an independent

consultant and set up a committee of 8 – 10 people.

Board Deliberation: Mayor Pro-Tem Towne thanked everyone for coming. He has toured Kirtland and has seen the improvements. He has been at various resident's home and the sound varies from different locations. He has listened to audio of the Planning Commission and the City Commission and wants to see the noise levels brought down to acceptable levels. There has to be technology out there.

Commissioner Neidhamer stated a month ago, he said we need patience, solutions and timelines. He totally acknowledges the integrity and intentions of Kirtland but also understand the effects. We need to work together as a team and solve this. We have an opportunity to hire the best consultant. We need data. We also need experts on what is coming out of the stack. Not now for a sound ordinance. We should get to a level using professional data. We are a town that has always rallied for the better of the community. We have the means to bring in people and find a solution.

Commissioner Sansom also thanked everyone for speaking their minds. She couldn't go home and not have peace and quiet. People are emotionally suffering from the sounds. If we can somehow get an expert here, in the meantime, 24/7 is not fair to inflict on the Community. She understands it cuts production down. How much did the mufflers reduce the decibel levels. She has visited people's homes. Commissioner Sansom added she is concerned how far the sound carries – up to a mile away. In some cases, people are hearing it two miles away. She would also like to have a timeline.

Commissioner Gaylord thanked everyone for being here. Obviously it is highly charged on both sides. Look at the process and facts and emotions taken out. Kirtland was granted a conditional use permit. He recommends we begin to review those uses to make determination of the permit and encourages that as soon as possible.

Mayor Grunch said we do follow up on complaints. All letters received are given to the Planning Director. The best place to call for additional information is the City Planner. He has made many trips to Boyne Hills and the noise level is unacceptable. It has to be reduced. The suggestions from City Manager Cain and input from the EDC are the best suggestions and refer it to staff to put the Citizens committee together.

Tom Monley of Kirtland said they do not get the full efficiency from the dryer unless it runs 24 hours. He said it is necessary to stay on the 24 hour schedule to get the stacks tested.

Commissioner Gaylord said he still believes we have the best tools in place and that is the Planning Director. Use his expertise to work with Kirtland.

2012-02-011  
Moved by Grunch  
Second by Towne

**MOTION**

To take a five minute recess at 9:25 p.m.

Ayes: 5  
 Nays: 0  
 Absent: 0  
 Motion carried

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2012-02-012  
 Moved by Sansom  
 Second by Neidhamer

**MOTION**

To reconvene the meeting at 9:29 p.m.

Ayes: 5  
 Nays: 0  
 Absent: 0  
 Motion carried

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Commissioner Gaylord asked if the EDC motion also includes funds to loan Kirtland? City Manager Cain said the EDC discussed a possible low interest loan if solutions can be found, cannot commit to that, but did have that discussion.

Commissioner Gaylord said Scott McPherson does have the ability to look at the permit and make a decision based on that. He would like Scott to be directly involved in the process. Mayor Grunch said Scott should certainly be the key advisor. Commissioner Gaylord added there is an issue with the timelines. He doesn't want to have it continually pushed out down the road. Scott has the ability to set the guidelines in rapid fashion. City Manager Cain said he has tried to focus everything thru the planning department. Kirtland has been cooperative and making good faith efforts, but what he is hearing today, it is not sufficient. He added doesn't know if citing them helps with our ultimate goal. Ultimately Kirtland doesn't have many options, either in compliance or not. Commissioner Gaylord said Scott has the ability to look at the permit and make a decision based on that, not automatically a citation, but be hands on.

2012-02-013  
 Moved by Neidhamer  
 Second by Sansom

**MOTION**

To refer to staff including Planning Director Scott McPherson being part of the decision making process and City Manager Michael Cain a part of the process; form a citizens group balanced with Kirtland staff, community members and neighborhood; follow with the process of hiring a firm who are experts in noise abatement and stack emissions, could be one or two firms, Kirtland be allowed to on a operate 24 / 3 in the process; all parties concerned be on a very expedited timeline to lessen adverse effects on neighborhood; goal would be to gather data so staff, committee and Kirtland to possible implement and solve vapor problems and or, particulate matter and most importantly the noise abatement; keep as a standard matter of unfinished business at every Commission meeting and have the citizens committee formed by the next meeting.

Ayes: 5  
 Nays: 0  
 Absent: 0  
 Motion carried

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City Manager Cain discussed that since the December 13, 2011 meeting and discussions with the Fire Chief Dennis Amesbury, they are recommending that we maintain the traditional and current 10:30 nightly siren sounding and not sound the siren for fires for a six month test period. If serious problems arise, the City Manager would be authorized to end the test and bring the matter back to the City Commission. A protocol for the use of the sirens around the County in the case of a severe weather or other community wide event is still under development by the local Fire Chiefs and the regional Office of Emergency Management. That will be brought to the City Commission once it is developed.

### Siren Usage Follow-up

Staff Comments: Fire Chief Amesbury agrees with the recommendation.

Citizens Comments: John McCahan said he agrees with the six month trial but doesn't believe we need a 10:30 siren every night.

Board Deliberation: Mayor Pro-Tem Town said he had one citizen contact him regarding this. Commissioner Gaylord said he heard from many to not take the siren away and agrees with the recommendation. Commissioner Sansom asked if the siren being used daily as just a test of the siren? City Manager Cain said he doesn't see the consistent time as a test. People welcome the tradition of the curfew. Mayor Grunch agrees with the recommendation.

2012-02-014  
 Moved by Towne  
 Second by Gaylord

### MOTION

That the City maintain the 10:30 p.m. nightly siren sounding and begin a six month test of not using the siren during fire runs with the City Manager being authorized to terminate the test and report the termination to the City Commission if serious problems arise.

Ayes: 5  
 Nays: 0  
 Absent: 0  
 Motion carried

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Update and consideration of review of Collective Bargaining Agreements.

### Negotiation Update

City Manager Cain said a tentative agreement was reached with the AFSCME bargaining unit. The contract goes thru 2014. City Manager Cain provided highlights of the contract.

Staff Comments: Dennis Amesbury inquired about one of the items on the contract.

Citizens Comments: None

Board Deliberation: Commissioner Gaylord asked if some of the contract language is a result of state law, such as no retro pay. The transfer language is a benefit of efficiency to the City. The drug and alcohol policy is good and protects employees and the citizens we serve. Commissioner Gaylord also said he is concerned about unfunded liabilities if we are projected to be fully funded. All other commissioners are in agreement.

2012-02-015

Moved by Neidhamer  
Second by Towne

**MOTION**

To ratify the contract as presented and after approval of the City Attorney, authorize the City Manager and City Clerk to sign the document.

Ayes: 5

Nays: 0

Absent: 0

Motion carried

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Consideration of support to regain and target federal funding for the purpose of dredging in our Great Lakes harbors and authorize the City Manager and Harbor Master to execute the necessary letters and resolutions communicating that action

**Dredging Resolution**

Harbormaster Barb Brooks discussed the impact of the lack of federal funding for dredging in our Great Lake's harbor on our marina. If the condition of the channel between Lake Charlevoix, Round Lake and Lake Michigan ever becomes impassable by larger or commercial boats, it will possibly have negative impact on the ability of larger boats or ships to visit Lake Charlevoix, Boyne City and other harbors in our area as well as the South Arm and East Jordan.

It is imperative that all of the harbors on or accessed by the Great Lakes band together to protect our waterways and harbor accesses for recreational and economical purposes. City Manager Cain agrees with Barb's recommendation of support.

Citizens Comments: None

Staff Comments: None

Board Deliberation: All are in agreement

2012-02-016

Moved by Towne  
Second by Sansom

**MOTION**

To approve a motion that support retaining and targeting federal funding for the purpose of dredging in our Great Lakes' harbors and authorize the City Manager and Harbor Master to execute the necessary letters and resolutions communicating the action.

Ayes: 5

Nays: 0

Absent: 0  
Motion carried

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None

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**Good of the Order**

Moved by Mayor Grunch, seconded by Commissioner Gaylord to adjourn the regular City Commission meeting of Tuesday, February 14, 2012 at 10:17 p.m.

**ADJOURNMENT  
MOTION**

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Ron Grunch  
Mayor

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Cindy Grice  
Clerk / Treasurer