



**City of Boyne City**  
Founded 1856

319 N. Lake Street

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## AGENDA

### BOYNE CITY PLANNING COMMISSION

Monday, February 18, 2013, 5:00 p.m.

Boyne City Hall



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1. Call to Order
2. Roll Call - Excused Absences
3. Consent Agenda  
*The purpose of the consent agenda is to expedite business by grouping non-controversial items together to be acted upon by one Commission motion without discussion. Any member of the Commission, staff, or the public may ask that any item(s) on the consent agenda be removed to be addressed immediately following action on the remaining consent agenda items. Such requests will be respected.*
  - A. Approval of minutes from the December 17, 2012 and January 21, 2013 Boyne City Planning Commission meetings.
4. Hearing Citizens Present (*Non-Agenda Items*)
5. Reports of Officers, Boards, Standing Committees
6. Unfinished Business
7. New Business
  - A. Capital Improvement Plan Review
  - B. Review Zoning Ordinance Section 4.40(A)(6), 5/12 roof pitch requirement in TRD
8. Staff Report
9. Good of the Order
10. Adjournment – Next Meeting, March 18, 2013

*Individuals with disabilities requiring auxiliary aids or services in order to participate in municipal meetings may contact Boyne City Hall for assistance: Cindy Grice, City Clerk/Treasurer, 319 North Lake Street, Boyne City, MI 49712; phone (231) 582-0334*

**Meeting of  
December 17, 2012**

Record of the proceedings of the Boyne City Planning Commission meeting held at Boyne City Hall, 319 North Lake Street, on Monday, December 17, 2012 at 5:00 pm.

**Call to Order**

Chair MacKenzie called the meeting to order at 5:00 p.m.

**Roll Call**

Present: Gretchen Crum, George Ellwanger, Chris Frasz, Jane MacKenzie, John McCahan, Tom Neidhamer and Joe St, Dennis  
Absent: Jim Kozlowski and Lori Meeder

**Meeting Attendance**

City Officials/Staff: Planning Director Scott McPherson, City Manager Mike Cain, City Attorney Jim Murray and Recording Secretary Pat Haver  
Public Present: Twenty eight, including representatives from the press

**Consent Agenda  
MOTION**

**2012-12-17-3**  
**Crum moved, Ellwanger seconded, PASSED UNANIMOUSLY** a motion to approve the consent agenda. Approval of the November 19, 2012 Planning Commission minutes as presented.

**Comments on  
Non-Agenda Items**

None

**Reports of Officers, Boards and  
Standing Committees**

None

**Unfinished Business**

Planning Director McPherson reviewed the request of the Planning Commission from last month, of which they gave direction to Kirtland to prepare a proposal to bring back for consideration. It was received at noon today, and was forwarded via email to the commissioners, along with hard copies made for the meeting tonight (received and filed as Appendix A).

**Kirtland Products  
follow-up**

**Joe Quandt: Council for Kirtland** – Apologized for the lateness in delivering of the reports. They are presenting (3) different proposals for consideration.  
**Tom Monley: President of Kirtland Products** – Reviewed their understanding from the commission, as they understood it; it was to come up with a reasonable standard on the C scale in order to amend the conditional use permit. They have spoken with two different sound engineering firms, Kolano & Saha Engineering and Soundscape Engineering. Kirtland believes that Proposal 3 is the most appropriate proposal to work towards, but will consider which one the Planning Commission feels is the best and will take that path forward. Monley went through each of the proposals submitted stating the pros and cons as listed, and also went through each of the exhibits during this time. Three pieces of equipment identified by the RSG report, page 30, that are highlighted on the 250 Hz at 42 dB, and one that is at 40 dB those are the three noise producing machines that will be mitigated, Kirtland’s remedy in reduction of noise levels rather than doing a sound study. If further mitigation needs to be done, or not, they would like to go ahead and do this as the fastest path to move forward, mutually deciding on an A scale standard, and fixing those machines that are the most annoying in the RSG report at the 125/250 Hz level. The Kodiak exhibit on sound absorption co-efficient (exhibit #3), recommends the 703 FRK as the best for noise absorption on the 125/250 octave band scales, and fiberglass boards at 100 mm 4” thick which is best for low frequency octave bands. In the RSG report, the concrete walls at 8” on the STC (Sound Transmission Co-efficient) scale come in at 45, and these other materials

come in at 51, higher in sound absorption. We would like to come to a mutually agreeable solution to put the noise issue to rest.

**McCahan** – Will these two materials be used together?

**Monley** – Not certain, that is what was sent to me on Friday that they recommend.

**McCahan** – Would it be a wooden structure, with studded walls that would enclose the equipment, and the sound would be further mitigated than what was indicated in the RSG report?

**Monley** – Unknown, they would need to come out and design it, and give us further information. Until the design is done, don't know what the costs will be.

**McPherson** – the Planning Commission asked for three items for this meeting:

- 1) a proposal for the noise
- 2) status of stack testing results
- 3) landscape plan

**Quandt** – The stack testing preliminary report came back on Friday; we are getting a final report available for the DEQ, expect to have later this week. Preliminary results came back as no VOC emissions exceeding standards.

**Monley** – Talked to DEQ this morning that they had a draft report, indicated they did not want any reports until they are finalized, and then they will review.

### **Public Comment opened at 5:26 pm**

**Lisa Liebgott on M-75** – Are the enclosures just walls with no ceilings, will it funnel the sound up and out?

**Monley** – They are fully enclosed, all of the equipment identified in the RSG report The three pieces.

**Liebgott** – It has been loud and constant again, my husband is still having problems with losing his voice.

**Mike Hausler: 450 Cozy Nook** – We don't need a noise study. Before Kirtland came in there was not any sound from the Industrial Park, what do we have to accept? The Planning Commission was proposed no noise.

**Tim Arner: 701 Alice St** - I agree with Mike, I have been in my house for over 30 years, I have never heard any noise of any business in Boyne City that has been troublesome for my family until Kirtland started to operate. There are a number of families in town suffering from the noise, we did not ask for it, however, must tolerate it. I don't always hear it, but at times I do, it is still evident. I encourage you to continue to work diligently; Mr. Cain's comments from last month were appropriate regarding the original Kirtland presentation to resolve the issue.

**Don Nessen: Boice St.** - Last Wednesday was terrible all night really bad, walking home from downtown, when I hit E. Main St. It has been going on for over a year. How long until they are told to fix, every month they come here with an excuse to run one more month, it is going on the second year. When is that going to be it? We have had all kinds of meetings and tests.

**Deb Ferris: Brockway St.** – Last Wednesday, I did hear it, and smelled a very foul smell that penetrated my house. It's not just the sound, but the smell. Is it due to the wood type? Sometimes it does have the smell, sometimes it does not.

### **Public Comments closed at 5:33 pm**

#### **Board Discussion**

**MacKenzie** – Do we want to go onto the landscape plan, or discuss the proposals first?

**Crum** – Lets go through the proposals first

**Neidhamer** – I would like to stay on this and hear the advice from staff, city

council's advice, and Mike Cain's advice. I would like to stay on this topic.

**St. Dennis** – I have never seen a decision made by this board, when information is presented at 4:58 pm that we were happy with. I have a problem with only 2 minutes to go over a packet like this. It was poor planning, how long is this going to go on? Getting the packet when I walk in the door is not good planning.

**MacKenzie** – If we are interested in the 3<sup>rd</sup> option would like more information about the materials.

**McCahan** – It was tough for it to come so late in the day. The equipment in proposal 3 you are going to put in the enclosure, are they all of the equipment called out in the RSG report above 40bB?

**Monley** – One is at 40, and the other two are above 40.

**McCahan** – There are no other pieces of equipment outside that are above 40?

**Monley** – Not according to the RSG report.

**McCahan** – Something needs to be done to enclose this equipment. RSG said it would reduce the sound. Why not just go ahead and proceed with that, and get it done? Need to determine which matrix best identifies low and mid noises. Fair and reasonable is what we are all looking for. You need to get moving with a design and construction for the noise pieces of equipment enclosure. I feel the Kolano proposal was better when I read it. Your KVA report shows that 170 is a ball park number for usage.

**Monley** – That is when Arete' is running. We use 1600 KVA when the plant is fully running. The average 300 KVA usage is when Kirtland's lights were also on, and the pallet machines were running, trying to keep people busy.

**Ellwanger** – Each of the proposals will take 6 weeks or more, we have to do something now, I'm sympathetic to you, however, we need to get started with something.

**Frasz** – Our expectations were clear, we identified them on September 17<sup>th</sup>, the applicant was not in compliance with the issued conditional use permit, based on 4 points

- Sound produced by the plant exceeds levels represented to the Planning Commission,
- The sound abatement and landscaping measures as proposed by Kirtland and approved for the conditional use final site plan have not been completed as all equipment exceeding 40dB was not placed inside the building,
- Landscaping as shown and described in the final approved development plan has not been installed,
- Concerns for public health, safety or welfare by reason of excessive production of traffic, noise, smoke, odors or other such nuisance.

It has been 90 days, our expectations were very clear. We don't have the confirmation on the stack test, we don't have the equipment exceeding 40dB inside a building, I think the applicant is working hard to address the issues, but it has been 90 days, we as a commission have to say at some time, have they met the criteria that was presented by them to comply with the permit, and we would have to say no. The last two meetings we did not make it our final decision in hopes they would make efforts to get something going to be in compliance with the conditional use permit. We could make it final, and see what happens, based on what was proposed to us.

**Crum** – Are you saying enforce the conditional use permit at 40dB? We did find them non compliant, and did not take action.

**Frasz** – In the September 17<sup>th</sup> meeting, found non-compliance, and they have not addressed those issues. Nothing different or new since then.

**Ellwanger** – I agree with Chris 100%, I hope something new has started or getting

done at each meeting.

**MacKenzie** – Making the decision final, doesn't solve the problem any faster than continuing to work with them. Making it final could make it go to court, and it could drag out a lot longer.

**Ellwanger** – to remain viable, they need to meet the criteria.

**MacKenzie** – Things have been done the Traverse City Ordinance officer was here, we have had RSG in also.

**Frasz** – Things have been happening, I was speaking to the non-compliance, we have known that for 90 days, it was spelled out clearly, for that reason, I don't believe we should have this conditional use permit active. Maybe making it final will instigate something to happen.

**Neidhamer** – Chris, I agree with you, and I agree with Joe that we got the packets way too late, they were suppose to be in so that staff could review and send out, I also agree with Jane's comments, the process of finding the solution would work better if we work together, rather than in court. I would like to hear council's opinion.

**Jim Murray: Legal council for the City** – From the legal perspective, nothing has changed from the last meeting. The recent materials, I have read. If you make the decision final it will probably head to court, the court may order them to put the equipment indoors but will that alleviate the problem? An amended conditional use permit may get to the heart of the problem. If you go to court it will be out of your hands, they may agree as it is clear in the conditional use permit, however, it won't address the smell or environmental issues. The best interest of the city may be to continue working towards a solution with Kirtland. We know time has lapsed, we know it has taken longer, but you still have things to balance, is there more out there or a better option, than making it final. I do see a need for resolution.

**Joe Quandt** – In November you asked us for a proposal, and we have given you three, that is what was asked for, the first couple of proposals look at what you may want. Now that it has been identified that it is C scale or octave band noises, you sent us out to come up with a reasonable standard. It is difficult to get things done in a short time frame, to get information and noise analyzed. We are trying to be responsive, but knee jerk reaction of throwing us off a cliff to see what remains is not an appropriate response.

**Frasz** – Comments are not knee jerk reactions; this has been on the table a lot.

**Quandt** – I would encourage you to take a look at the conditional use permit, it has none of the things that have been identified, yes there were findings of fact and conclusions, there is not a single condition attached to the permit. You identify four things, with two not having objective criteria established for the basis. We are looking for objective criteria in proposals # 1 & 2. Stack emissions, you have no jurisdiction, it is a DEQ matter. Equipment over 40dB not being in the building; equipment identified as likely being over 40dB was put in the building. We believe the generalization and promise that all equipment over 40dB would not be outside the plant is not accurate. If you look at what was promised on the application to be inside the building, it was put inside. The landscape issues, a plan will be implemented; most of the consultants tell us that it will not have an impact on the noise issues. Proposal 3 is to try to provide immediate relief, getting an enclosure around the equipment that is appropriate for the equipment and sound abatement. Bottom line, we are trying to get to an amended conditional use permit that we both can agree on, type of enclosure and sound suppression and we have to agree that it will be enough. We don't want to push off to another meeting, but also don't want my clients to invest money if it is not adequate without objective standards. We know we can't satisfy everyone, we are trying to get to what objective standards are, agree on what it is, agree on what corrective actions needs to be

done.

**Murray** – The DEQ jurisdiction is correct, in the Kirtland application form dated 11-16-2009 page 12 of 12, it was stated “we have placed all loud (over 40dB) equipment inside the building.” This was part of the application, and discussed at the Planning Commission. When you are balancing things, this will be at the heart of the matter. We all agree that was the objective standard brought before the Planning Commission in 2009. I have heard the term “production equipment”; I don’t know what that is. In your findings perhaps you want to or should make it clear on equipment or production equipment.

**Mike Lange: Kirtland Products** – There was a question last time about production equipment vs. non production equipment. “All equipment which exceeds 40dB will be inside” that is Tom’s proposal. To enclose all equipment over 40dB, essentially it will be inside. The sound transmission co-efficient of 8” concrete walls is only 45, the Kodiak Group recommended panels which has the co-efficient of 51. These are Owens Corning dense fiberglass panels, which will be off-set in a decoupled fashion. There is some equipment and pile of chips that can not go inside; truck tipper, wood chips, front end loader. The cyclone is a piece of steel shaped like a cone is outdoors; it has no motor and does not make any noise. All equipment identified at the proposal, all of that equipment that makes noise is inside. What is outside are the blowers that move the material from one piece of equipment to another, we did not realize that those pieces of equipment would exceed 40dB. Tom has proposed, based on RSG findings which identified which pieces are over the 125/250 bands, to move forward and enclose those pieces of equipment. That is what is proposed tonight.

**Neidhamer** - I’m in favor with moving ahead with proposal 3, because its action, but do not agree with locking into 60dB or 55 dB, which is part of proposal 3.

**McCahan** – I agree with Tom, 3 months ago we should have enclosed the materials. I’m in favor of that part of proposal 3, but not the A scale limits from Traverse City. We need to hire someone to come up with a good limit, so you can modify your conditional use permit. I’m concerned about who will pay for this. Need to figure out what is a reasonable limit on the octave band or C scale limits. Do not want proposal 3 to be locked into Traverse City A scale.

**Monley** – We need a standard to mitigate to.

**Murray** – We have closed the public comment, and are in board deliberation.

**MacKenzie** – We have three proposals that we have had 5 minutes prior to the meeting to review. It has been 90 days so far, this is what we asked them to bring back to us, but I don’t feel comfortable picking one without significant time to review. I would like more information about the third one.

**Quandt** – We wanted to get before the Planning Commission, three proposals as a template to move forward. You want us to come up with a standard, and modify to meet those standards, that are proposal # 1 & 2, or what is most difficult is the output of money putting in one patch over another patch. We need to have a predictable pathway that is good for the community as well as the company. If we do proposal 3, we want to have reassurances that if we have taken the corrective action and done the work that the conditional use permit is modified to the objective that everyone has agreed to. My suggestion is if you need more time, apologized again for the lateness of the reports, but they were given to the commission when they were available, we will have one of the representatives from Kodiak here at the next meeting, the time between now and January’s meeting, we will have materials available, and if the Planning Commission is prepared to move forward on proposal 3 or some modification of proposal 3, tell us what it is to make the commission and the community satisfied. We need to have something scientific, objective, measurable and achievable. If you want to take the

time to review, we can bring someone from Kodiak with a mindset that proposal 3 is what you want, then we will be prepared to make sure proposal 3 is implemented as quickly as construction allows it to be.

**Crum** – Predictability goes both ways. We do have citizens who have over a year or two, attended meetings and have been involved in exchanges and expect a resolution. I think we were pretty clear, and the citizens are telling us what has been proposed is predictable and not a solution. We determined that it was not in compliance, and have tried to give guidance.

**Murray** – Months ago was the desire to work with staff and ultimately bring to you something to review, and at some proper time ask you to amend the conditional use permit to incorporate either proposal 1, 2, or 3. You don't have to do anything, you can act to make it your decision final, or give direction to staff; Scott, Mike Cain, and myself.

**Neidhamer** – We have the World Health Organization 40/45/50 dB on the A scale, we don't know if that can still be heard at the neighbor's houses.

**McCahan** – Recognition from Kirtland that they have equipment outside that was above 40dB, we are going to enclose it right away, as soon as we can, and we are interested in modifying the conditional use permit with some type of metric, C scale, octave, and hire acoustic professionals to come up with reasonable and fair standards for the community. That is what they ought to be doing.

**McPherson** – Proposal 3 moves in the direction that is closest in compliance to the original approval. It is very clear in the approved site plan that they indicated all equipment over 40dB would be inside. They admitted that they made an incorrect statement, and they are trying to correct by putting enclosures around some of the equipment identified in the RSG report. My concern, by enclosing the 3 pieces identified, when it is done and there is still a disturbing noise that can be heard, what position does that put us in? Reluctant to say that is an acceptable solution without knowing what the mitigated results would be. Also disappointed in the lateness of the report, and it does put the planning commission in a bind to make a decision based on limited review.

**Frasz** – On the conditional use permit we didn't clearly identify what the final noise level should be, only to have equipment over 40dB enclosed.

**McPherson** – Based on the enclosure, they could enclose with a little fiberglass shack and meet the conditional use. Going this direction, by being specific about putting up adequate enclosures around the most disruptive machines, what happens if they do 3, and afterwards find that a piece of equipment at 39dB is a problem.

**Neidhamer** – Another possibility is after enclosing the 3 pieces and the outcome does not change, maybe the noise is coming from the big building itself. A possible solution, can we encourage them to proceed with proposal 3 and enclose the 3 identified pieces in good faith, and not lock into a decibel range. Would appreciate them moving forward right away, in good faith, and in compliance with the permit, to maybe solve the problem. Is that a way to move onto the next month?

**Ellwanger** – Would they be willing to break ground and start with some of the noise suppression measures?

**Leon Tupper: Kirtland Products** - From day one we have been aware of noises emitting from the facility, and have been very open, transparent and aggressive in terms of addressing without benefits of scientific support. We were in sound mitigation action within 30 days. The non-scientific approach taken did not bring about the results we would have liked, however, did take into consideration the community feed back about acceptable sound or not. The City recognized our dilemma and thought there was value in pursuing services from RSG and their analysis and guidelines and direction. We have been waiting for the studies to be

completed before we started sound mitigation. RSG studies concluded with recommendations in their best judgment, to address those pieces of equipment which could resolve the matter. We have been asked to work towards an undefined goal. I don't believe we can achieve 100% community support, maybe 75% community satisfaction, what level is acceptable to the Planning Commission? What standards are you looking for so that we can direct our sources or experts to assist us in working towards those goals.

**Neidhamer** – I agree and appreciate your dilemma, however, you are asking us to set a city ordinance dB scale tonight, we can't do that.

**Murray** - You don't have the authority to do an ordinance change tonight; you can make the decision final, or elect to do nothing. You can encourage them to go in one of the directions. Seek an amended conditional use permit based on the submitted proposals 1, 2, or 3.

**Frasz** – On the application 40dB was submitted, is there strong enough evidence to say that what was in the application which was used to approve the conditional use permit, 40 dB equipment be encased, be a logical step that the sound at the edge of the property be at 40dB or lower?

**Murray** – It was in their proposal, and that is what the court would consider.

**MacKenzie** – We are not sound engineers, but if you have 5 pieces of equipment running at the same time, all at 40dB, it will be louder than 40dB.

**Murray** – they would like you not to make the decision final, as it would force their hand. Ultimately, you can make it final or not. Do you want to give them more additional time or not? One gets to the heart of the application, and one addresses the C scale noises, which is not indicated in the application.

**McCahan** – The proposed construction with the fiberglass panel is equal to, or better than what is in the RSG report. I think that it would solve a lot of problems if they enclosed the equipment.

City Council Murray was excused at 6:45 pm, due to a prior conflict

**MacKenzie** - We have a few options:

- Take no action
- Take action to make it a final decision
- Direct staff to continue to work with the applicant
- Encourage Kirtland to take some action

**Neidhamer** - Some of my thoughts towards completion

- Encourage Kirtland to start construction of the enclosure with sound abatement for the outside machinery, ASAP, with a construction schedule to be published,
- Encourage Kirtland to work with staff to analyze the direction of the three proposals for the best community outcome,
- Kirtland come to the next meeting with or without Kodiak, have a design for the building enclosure for the equipment over 40dB and proceed with construction with a detailed time line.

**St. Dennis** – If we do ever have winter, construction could be held up.

**McPherson** – To make it clear, your proposal for the 3 pieces of equipment to be enclosed is the cooler fan model FC19 is that correct?

**Monley** – No

**McPherson** – So the bag house fan model FC 21 (40dB), dry hammer mill vacuum pump (42 dB), and enclosure of the air power unit model M-D5009 (42 dB) will be enclosed. We do have one that is at 40dB that will not be enclosed.

**Monley** – That is correct, there is one enclosure that needs to be re-done.

**Neidhamer** – The motion will address the most obvious, to get the machinery in an enclosure, however it does not address city wide dB standard levels, which could take months, and we don't want to set a specific standard for Kirtland, and have to change it later for the entire city.

**Frasz** – We need to do what is best for the community in the best time frame. I want the applicant and the community to succeed. Things need to get done quickly.

**\*\*MOTION**

With no further discussion, **motion by Neidhamer, seconded by McCahan** to

- Encourage Kirtland to start designing and construction of the enclosure for the three identified machines,
- Staff and Kirtland continue to communicate and work closely on the three proposals,
- Come back in one month to the Planning Commission with a time line if construction begins within the month, staff report updating findings with Kirtland communications on the proposals.

**2012-12-17-6A**

**Roll Call:**

Aye: Ellwanger, Frasz, MacKenzie, McCahan and Neidhamer

Nay: Crum and St. Dennis

Absent: Kozlowski and Meeder

**Motion Carries**

**St. Dennis moved, seconded by Ellwanger, PASSED UNANIMOUSLY** to postpone the submitted landscape plan until next month.

**\*\*MOTION**

**Water Street Center Plan  
Amendment**

Chair MacKenzie recused herself due to a continued conflict of interest; she left at 7:02 pm and turned the meeting over to Vice Chair Crum.

Planning Director McPherson reviewed the staff report that was included in the agenda packet. In October, Mr. Kruzal came before the board with a request to amend the site plan for the Water Street Center, in order to purchase parking spaces that were adjacent to his building from the center. He did not have a site plan for his building, and the Planning Commission wanted to see one prior to approval. The proposal is to purchase a 20 ft x 165 ft strip of parking lot to be added to his building, which would require an amendment for Water Street. Site plan amendment was submitted for his building, which would add (2) more units, for a total of 7 units, (4) two bedroom, and (3) one bedrooms. Previously this plan received a variance to allow the building to be constructed, and gave a variance of 8 parking spaces in total. One additional amendment was reviewed which would require an additional parking space, and a variance was granted for that space. By transferring this property, it would give him 14 parking spaces, which is more than a total required of 13 spaces.

Public Comment opened at 7:09 pm

**Jim Baumann: Boyne City Chamber of Commerce Director** – Love the idea of more affordable housing, especially in the downtown area, I would encourage you to have parking for the building limited to the back of the unit, and not on the street, taking up parking for businesses in the area.

**Hugh Conklin: Main Street Manager** – The Main Street Design committee has not formally reviewed the plans, and has no input on it at this time.

Public comment closed at 7:10 pm

Board Discussion

**Ellwanger** – Extra spaces have been picked up for the tenants in the back, *parking meets our formula, and I have no objections.*

**St. Dennis** – This does not affect the mall *parking*; however, *would* encourage tenants parking in back *to take some of the parking off of the street.*

**Kruzel** – I will have assigned parking spaces for the tenants, so they know where to park.

**McPherson** – I would recommend that the Main Street Design committee have a chance to look at the plans and elevations for the buildings.

**Frasz** – The property has designated specifically for parking and not buildable for the future?

**McPherson** – That is the proposal made to staff and this commission, that it would be used for parking only, no other plans has been submitted.

**Frasz** – What about dumpsters placed in the parking area?

**Kruzel** – American Legion dumpster is enclosed, and will be used in exchange for parking.

**St. Dennis** – What about the containers at the end?

**Kruzel** – They are mine, 4 are recycling and 1 is trash. With winter coming, they may be moved into the garage.

With no further board discussion, **motion by Neidhamer, seconded by St. Dennis**, to amend the development plan to the Water Street Center, survey completed by Ferguson and Chamberlain, dated November 20, 2012 with the 20 ft. x 165 ft piece of parking lot being separated from the Water Street Mall, with the easement to remain in effect.

**\*\*MOTION**

**2012-12-17-6B(1)**

**Roll Call:**

Aye: Crum, Ellwanger, Frasz, McCahan, Neidhamer and St. Dennis

Nay: None

Absent: Kozlowski, MacKenzie and Meeder

**Motion Carries**

**Motion by St. Dennis, seconded by Ellwanger**, to approve the site plan amendment to 310 S. Lake Street with the following conditions:

- Main Street Design committee review and input,
- Dumpsters removal

This amendment approval is for 2 additional 2 bedroom units for a total of 7 units, adding the 20 ft. x 165 ft. parking only area to the property, *which now would meet ordinance requirements of 13 parking spaces.*

**\*\*MOTION**

**2012-12-17-6B(2)**

**Roll Call:**

Aye: Crum, Ellwanger, Frasz, McCahan, Neidhamer and St. Dennis

Nay: None

Absent: Kozlowski, MacKenzie and Meeder

**Motion Carries**

**New Business**

Included in the agenda packet is the 2013 meeting calendar, for your review and consideration. **Motion by Neidhamer, seconded by McCahan, PASSED UNANIMOUSLY**, to adopt the 2013 calendar as proposed.

**Adoption of the 2013 Calendar**

**\*\*MOTION**

**Staff Report**

Leslie Meyers will be starting on Wednesday, December 19<sup>th</sup>, as the Assistant Planning Director. She brings many years of experience with her, and will be an asset to the Planning Department.

**Good of the Order**

Is the city looking at equipment that is easier on the curbs while snowplowing? Kovolski is aware and investing materials.

**Adjournment**

The next meeting of the Boyne City Planning Commission is scheduled for January 21, 2013 at 5:00 pm in the Auditorium.

**2012-12-17-10**

**Neidhamer moved, Frasz seconded, PASSED UNANIMOUSLY** a motion to adjourn the meeting at 7:29 p.m.

**\*\*MOTION**

\_\_\_\_\_  
Jane MacKenzie, Chair

\_\_\_\_\_  
Gretchen Crum, Vice Chair

\_\_\_\_\_  
Pat Haver, Recording Secretary

**Meeting of  
January 21, 2013**

Record of the proceedings of the Boyne City Planning Commission meeting held at Boyne City Hall, 319 North Lake Street, on Monday, January 21, 2013 at 5:00 pm.

Chair MacKenzie called the meeting to order at 5:00 p.m.

**Call to Order**

Present: Gretchen Crum, Chris Frasz, Jim Kozlowski, Jane MacKenzie, Lori Meeder, Tom Neidhamer and Joe St, Dennis

**Roll Call**

Absent: George Ellwanger (arrived at 5:04 pm)  
Vacancy: One

**Meeting Attendance**

City Officials/Staff: Planning Director Scott McPherson, Assistant Planning Director Leslie Meyers and Recording Secretary Pat Haver  
Public Present: Twenty, including representatives from the press

**Consent Agenda**

**2013-01-21-3**

Minutes of December 17, 2012 have been tabled until the next meeting for clarification.

**Comments on  
Non-Agenda Items**

None

**Reports of Officers, Boards and  
Standing Committees**

None

Lori Meeder excused herself, due to a conflict of interest.

**Unfinished Business**

**Kirtland Products  
follow-up**

Planning Director McPherson reviewed the staff report included in the agenda packet. In December the Planning Commission identified a combination of elements in the 3 proposals from Kirtland as a way to move forward. Staff and representatives from the Commission and Kirtland met on January 7<sup>th</sup> & 14<sup>th</sup> and discussed the proposals, the building enclosures in proposal #3 specifically, with some concerns expressed about their effectiveness and is there a way to identify reduction in noise levels? Could Eddie Duncan at RSG input the proposed structures into the model to get some idea if the buildings would work in limiting the sound to existing background and ambient noise levels? Would he be able to tell if these would be effective, or if additional mitigation would be needed? Kodiak Group are designing the enclosures, and they will be sent to Eddie Duncan, who has indicated he could begin working on the designs on January 23<sup>rd</sup>. The designed structures were included as a part of the packet for consideration.

**Tom Monley: Kirtland Products** - Discussed the conceptual drawings that were included in the agenda packet. The enclosure on the south side will be made up of acoustical panels that will enclose two equipment units; the 115-035 & 115-045. The existing structure around the piece of equipment 115-045 will be taken out, and replaced with this structure. Acoustic louvers were being looked at for venting; however, the venting will now be done into the building, so no louvers will be used that could add additional noises. The second structure, on the west end of the building, will house the 140-010 bag house fan, also up against the building, so will be vented into the main building. We have been working with Kodiak on these structures, and once the final design of the structures is done, they will be sent to Eddie Duncan at RSG.

**McPherson** - The stack test results have not been received from the DEQ as of yet,

but in Friday's paper, an article was written of a finding of non-compliance on some of the emissions and believe that there is an appeal period, that Kirtland may work through with the DEQ to resolve. A number of letters and emails from various people voicing their concerns which were received have been forwarded to the commission. We also received communication from Kirtland's attorney regarding the minutes and determination of final decision, which this commission pretty clearly stated that the decision was not final yet (received and filed as Appendix A.)

**Monley** - We are working with the Kodiak Group to finalize the drawings and make sure the design is technical. RSG can not start this project until the 23<sup>rd</sup> of January, and were hoping to have something back by the 31<sup>st</sup> regarding the modeling of the two enclosures on the overall sound levels with the 125/250 hertz noises that we are focusing on.

**Mackenzie** - So the city has not had any formal communications from the DEQ?

**McPherson** - No, we have not received anything.

**Monley** - We have not either.

Public comment opened at 5:11 pm

**Ryan Giem: 421 Boice St.** - It has been a year, and there has been no progress from where we started. Mr. Cain's comments from a couple of meetings ago, urged you to consider how the conditional use permit was granted in the first place with the information that was provided in the Fall of 2008. Noise and visual impacts were important. The noise has been found to be non-compliant. They have some plans in place to have evaluated to the 125/250 hertz frequencies. Eddie Duncan made comments that you will still hear the noise, it won't go away completely. Kirtland made statements that they needed objective criteria to evaluate to and goals to work towards. These were given during the findings of fact; you were told that the plant would not be any louder than the rest of the park. You have to look at the visual impact and image of Boyne City with emissions. Would you have considered the conditional use permit with the current permitted VOC output of 161,000 lbs. per year and the permitted 105,000 lbs. per year of particulate matter? Noise levels, visual impact and emissions they are not doing so well. I encourage you, as you go forward to keep all of these items in consideration.

**Mike Hausler: State St.** - You have to realize the particulate is a fine dust, and with it being near schools, it is not a good thing. When I purchased the CDs from the city for the 2008 meeting, I heard you ask the questions, and you were not given the right answers. It is time now to rescind the permit. We have waited long enough and have been patient. I am not against the owners, but they did not do their homework. The plant needs to be on flat land, with higher stacks and not near residences. I wish there was a solution, but I don't think there is one. When the plant first opened, they mailed letters to 30 of us, and held a meeting admitting that there was a noise problem, and they did not realize how much noise would be coming out of the stack.

**Debbie Ferris: Brockway St.** - Question; once they do this enclosure, will they guarantee it will take care of the noise; really take care of it? What happens if we sign an agreement to pass the design, if it doesn't take care of the noise, what do we do? I'm really concerned about the emissions, we see it on the snow, we are breathing it, my grandkids are breathing it at the schools, and I don't think it is a good thing.

**Nick Liebgott: M-75** - The noise is higher than the promised 24dB; which has been recorded up to 69dB. Recently the Petoskey News Review reported that up to ½ pound of fine sawdust is coming from the stacks every hour. A DEQ report for work order # 12090865, on page 5, emissions of acetone and hexane with side

effects were reported, which include irritations to the eyes and throat, headaches, dizziness and nausea. On several dates given, he had experiences with some of these side effects along with hoarseness and loss of his voice. He is not able to accomplish work outside on his property when Kirtland is running. Kirtland is not in compliance with the conditional use permit, and ask that you act in due capacity and force a shut down until they are in full compliance.

**Mark Kowalski: Fall Park Rd.** - I agree with what has already been said. This has gone on long enough, for 14 months now. The plant that was permitted is not the plant that was built. The noise issue is a big factor, and it affects a lot of people depending on the wind directions. Odors can be smelled downtown and all over town. The plume is the first thing you see when coming into Boyne City. The emissions reported in the paper are important stuff, with the output of fine sawdust, carbon monoxide and formaldehyde. VOCs floating around in Boyne City are not good, and we must protect our town. You approved this plant based on misinformation supplied by the applicant. You must pull the permit based on false statements given. It is not CO2 and water coming from the stacks as stated; it is time to take action, the citizens of Boyne City have been through enough. A picture of St. Matthew's Church was passed around to the commission members showing what the snow looked like with the fine sawdust particles that came from Kirtland's stacks.

**Donald Nessen: Boice St.** - If you go and modify Kirtland's permit in any shape or form, what kind of justice is that for us citizens? What happens if it gets real noisy in the future, or any other company you may negotiate with? Your job is to protect Boyne City and its citizens, we have been real patient. Can we afford even one more day, or the pollution falling on the kids in the school yard?

**Mike Smith: Evangeline Township** - Live north as the crow flies. I can hear the plant as if it was right down the street. I'm here because of a quote in the Petoskey News Review, one of the owners stated that the factory is no louder than Boyne City's ambient noise. The citizens have been patient. Southerly breezes I can smell the plant, and I can hear the plant.

**Emily Jones: 1124 Nordic Dr.** - I am tired of emailing the city and DEQ. The plant has been dishonest from the beginning. We have a shop in the Industrial Park, and it is a mess with sawdust. The plant is blowing down on us; I have to hold my breath going in and out of my shop. My 8 month old daughter can't hold her breath. I encourage you to protect the citizens and do what is right. What is the adverse reaction on the kids, no one knows.

**Bill Kuhn: 1010 Kuhn Dr.** - If you have any doubt about the noise, I invite you to come to my house and spend the night in one of our guest rooms or in the basement with me.

**Bridgette Nesses: 416 Boice St.** - I am shocked, this has been going on for a year, enough of this. It is not fair to Boyne City.

**Public Comments closed at 5:40 pm**

#### **Board Discussion**

**Kozlowski** - I came from an industrial environment so am familiar with some of the things going on. The people who presented this to the commission, they have the most knowledge of their equipment. They did not present problems with noise, smell or emissions. What is the present plan to alleviate the problem? The burden needs to be on Kirtland, how do they plan to move forward? We have conceptual drawings that are speculation at this point. My opinion, until they have all of their information back, they need to not operate in the current form.

**Ellwanger** - I agree with what was said last month with the four points, that have not been done. We need something solid that is going to work, I know they are trying, but the residents have been very patient. Unless something comes up, the conditional use permit can not go on any further until the noise and the emission problems have gone away. I know they are trying, but that is my position.

**St. Dennis** - I agree. Trying to figure out how to keep them going, but I can't figure it out, and have to leave it to Kirtland to figure it out. It has been going on for a long time.

**Frasz** - I agree with all the comments stated. We were presented information, and made our decision on that information, which proved to be inconsistent. We have been very accommodating in trying to work with the applicant. My position even last month before a last minute document was presented is they were non-compliant based on the 4 points stated in September. We have been looking at only one aspect of these four issues. With the testing coming in from the 5 stacks, it is alarming that 3 of the 5 stacks exceeded the permitted levels; there are particulates in the air which are more than water vapor and carbon dioxide. The pellet grinder is 10 times the permitted levels, and that is by a school in our community. In my eyes, the issues have not been addressed over a long period of time. We should not have to wait any longer for something to be done. My hesitancy, even at the last meeting was what if this goes to court, it would be out of our hands, and taxpayers' money would be going to a court case. We have to look back at how we found them non-compliant, agree that they are still non-compliant for the same issues, and with more evidence of what is coming out of the stacks, rescind the conditional use permit. We need to stop the permit because of non-compliance.

**Crum** - My views align best with what Jim said, with the proposals presented we still can't make a determination today, and it would go back to another meeting, and I am not comfortable with that.

**Neidhamer** - I believe every public comment that has been made the past 14 months; I have been out there visiting, listening and watching, I also at the first meeting said let's solve this problem with patience, data, time and money. The patience has worn out; the city is not into it for any more money, are we at a point when we can't problem solve any longer? We have met with Kirtland and came up with the sound enclosures designed by sound engineers as a way to solve the noise. Do we give them an opportunity to complete the enclosures? The dilemma is we are so close; do we give them another month to try to abate the sound? What if they build it and it is still audible? We might be close, or we may not be? What is the scenario if we vote tonight to revoke the conditional use permit?

**McPherson** - You would need to make the determination that you made earlier of non-compliance final, which would start the clock today, and I'm assuming they would immediately appeal.

**Neidhamer** - Rhetorical question, if they appeal would they begin construction for sound abatement or not? We are back to not solving any problems, other than the clock is now ticking and we are forcing the issues.

**McPherson** - I believe you would be forcing a legal course of action. I personally feel that they would not begin construction of anything.

**Kozlowski** - Is there a possibility of a voluntary shutdown, until things are resolved and proven?

**Frasz** - If we rescind the permit could move towards a legal position.

**Neidhamer** - I am saddened that we can't solve this. We may be close. If we find them today non-compliant can they stay open for another 30 days?

**McPherson** - The permit would be rescinded immediately, if that is the determination tonight, this puts in place legal time lines that they would need to act on.

**Frasz** - I think we are all saddened by this that is why it has taken so long, everyone has wanted to try to make this work. At some point, we have to look at the information, and then to have the report on the particulate matter, it is a whole other aspect than just the noise. Who deals with that and measures it? We make the previous determination final, and if the applicant wants to go back and look at what they are doing, they can come back with a process that does not have any particulate emissions and noise issues. We can then make a decision at that point. We just can't keep going on and on because they are not in compliance.

**Ellwanger** - I have an industrial background and got on the initial committee to help them. We have all tried, we just can't keep going on.

**MacKenzie** - After our meetings, hoped we were coming to a solution. Seemed like there was a plan for noise reduction to a level that would not invade the homes. That is just one of the 4 items, I realize DEQ is in charge of emissions, and the amount going on for 5, 10, 20 years, it just adds one more thing that I did not realize how much was out there. Are there processes that are less impactful?

**\*\*MOTION**

With no further board discussion, **motion by Frasz, seconded by Ellwanger** to make the previous determination of non-compliance final, to rescind the conditional use permit based on the 4 specific points when they were earlier found non-compliant.

**2013-01-21-6A**

**Roll Call:**

Aye: Crum, Ellwanger, Frasz, Kozlowski, MacKenzie, Neidhamer, and St. Dennis

Nay: None

Abstain: Meeder

Vacancy: One

**Motion Carries**

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Meeder returned to the meeting at 6:03 p.m.

**New Business  
2012 Planning & Zoning  
Report**

Planning Director McPherson reviewed the 2012 Planning and Zoning report that was included in the agenda packet. A lot of good things have been happening, and a lot has been accomplished as a department and with both boards.

**Resignation of Planning  
Commissioner John  
McCahan**

Planning Director McPherson reviewed the memo and letter of resignation that was submitted by John McCahan. His appointment was due to expire in May of 2013. Aaron Place who had applied earlier is still interested, and more than happy to serve. There were a couple of other applicants, however, the Planning Commission was listed pretty far down on their listed choices of boards to serve on, and felt that Aaron was the leading candidate. With no further board discussion, **motion by Ellwanger, seconded by Crum, PASSED UNANIMOUSLY**, to recommend to the City Commission Aaron Place to fill the remainder of John McCahan's open position, to expire in May 2013.

**\*\*MOTION**

**Staff Report**

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None

**Good of the Order**

- Master Plan update: The entire document needs to be updated. As of tomorrow, a request will be made to the City Commission to apply for the “Re-development Ready Community” designation, which has specific items for Master Plans. It would be a good coordination of the process for the designation with grant approvals to update our plan at that time. It will give us more opportunities. The Market Study that was recently completed could also be included in the plan. The review process could begin as early as next month’s meeting and could be done at each meeting.
- Shoveling of sidewalks – We have done a great job of promoting Boyne City as a walkable community, and with the recent snow fall, we have large banks that we have to walk over, and because we have several places that the sidewalks and bridges are not cleared off and accessible, you have to walk in the roadway, which is not safe.
- Kudos to the people who are doing the plowing of the streets with the recent snowfall.

**Adjournment**

The next meeting of the Boyne City Planning Commission is scheduled for February 18, 2013 at 5:00 pm in the Auditorium.

**2013-01-21-10**

**\*\*MOTION**

**Crum moved, MacKenzie seconded, PASSED UNANIMOUSLY** a motion to adjourn the meeting at 6:22 p.m.

\_\_\_\_\_  
Jane MacKenzie, Chair

\_\_\_\_\_  
Pat Haver, Recording Secretary

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Appendix A ① 1137 Kirtland  
Ed Copy

KUHN, DARLING, BOYD AND QUANDT, PLC  
LAW OFFICES

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2937 Atrium Drive, Suite 200  
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CHARLES H. MENMUIR  
1903-1987  
Of Counsel:  
LEWIS G. GATCH

December 27, 2012

Jim Murray  
340-6413

James J. Murray  
Plunkett Cooney  
303 Howard Street  
Petoskey, MI 49770

Re: Kirtland Products - Boyne City, MI

Dear Jim:

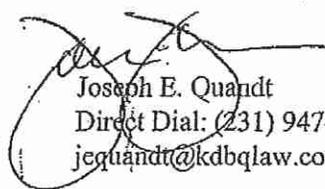
As a follow-up to the December Planning Commission meeting, I went back to review the minutes for the October and November meetings, and noticed that the minutes do not properly reflect the decisions made by the Planning Commission in October. Specifically, in October it was decided to not finalize the September actions of the Planning Commission, either in the context of finding the Kirtland facility out of compliance or recommending that the permit be modified to allow continued use for 24-hours a day, three days a week, while recommendations and proposed solutions could be considered.

As you know, the entire purpose of making the adjustment to the minutes was to reflect that the decision of non-compliance was not final and to eliminate the necessity of immediate legal challenge to that decision. I noted in the final approved minutes that the notation amending the status of the September decision as a non-final decision was made only with respect to the second motion (page 10 of the minutes), rather than on both motions (pages 8 and 10). Please make sure this is on the agenda for the correction of the September 17, 2012 minutes for the January 2013 meeting.

We will continue to proceed as though the September 17, 2012 minutes were appropriately amended, as discussed in the October meeting, unless I hear otherwise from you.

Sincerely,

KUHN, DARLING, BOYD AND QUANDT, PLC

  
Joseph E. Quandt  
Direct Dial: (231) 947-7901 x115  
jequandt@kdbqlaw.com

JEQ:shp  
cc: Leon Tupper

2

KUHN, DARLING, BOYD AND QUANDT, PLC  
ATTORNEYS AT LAW

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January 21, 2013

James Murray  
Plunkett Cooney  
303 Howard Street  
Petoskey, MI 49770

Via Email

Re: Boyne City Planning Commission/Meeting Minutes

Dear Jim:

I am following up with you concerning Joe Quandt's letter of December 27, 2012, and our exchange of voice mail messages over the last few days. Your most recent message was to the effect that you did not see anything confusing or requiring clarification in any of the prior meeting minutes - as it is clear that the P/C has yet to make a "final decision" in any of its previously approved motions. We take this to mean that no appeal period has commenced with regard to filing a Circuit Court action as there has been no "final decision".

Accordingly, it is my understanding that the P/C will not take up Mr. Quandt's request set forth in the attached December 27 letter; and, as the parties are continuing to work together to hopefully find a mutually satisfactory result, no final P/C decision has occurred triggering any deadline to take an appeal to Circuit Court.

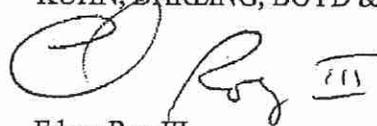
It is my understanding that neither you nor I will attend tonight's P/C meeting; however, I am asking that this letter and the December 27 letter be made part of the formal record. I anticipate Kirtland representatives to deliver both letters to the P/C tonight.

3

Thank you for your continued cooperation.

Sincerely,

KUHN, DARLING, BOYD & QUANDT, PLC

A handwritten signature in black ink, appearing to read "Edgar Roy III". The signature is written in a cursive style with a large initial "E" and "R".

Edgar Roy III

ER/ljd

Enclosures

cc Leon Tupper (via email)

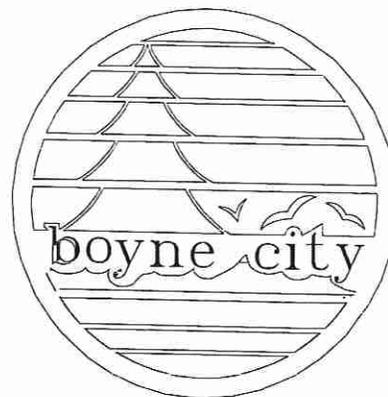
## CITY OF BOYNE CITY

**To:** Chair Jane MacKenzie and fellow Planning Commissioners

**From:** Scott McPherson, Planning Director

**Date:** February 18, 2013

**Subject:** Capital Improvement Plan



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### Background Information

As required by the Planning Enabling Act the City is required to annually develop a Capital Improvement Plan (CIP). The Act stipulates that the Planning Commission is charged with the development of the CIP plan unless they are exempted from this requirement by the City Charter. In the case of Boyne City, the City Charter does exempt the Planning Commission from this requirement. At the time of this report the updated CIP plan has not been completed. It is anticipated that the plan will be provided to the Planning Commission at the meeting. The last time a capital improvement plan was reviewed by the Planning Commission was 2007. A copy of that plan has been provided for reference.

### Process

While the Planning Commission is not responsible for the development of the CIP, the enabling act does provide authority to the Planning Commission for review and recommendation of the CIP.

### Recommendation

Review CIP improvement plan a make recommendation to City Commission

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

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**CAPITAL IMPROVEMENT PLAN - FYE 2008 - 2015**

**CAPITAL IMPROVEMENT PLAN - FYE 2008  
FYE 2007/2008**

<u>PROJECT/DEPARTMENT</u>	<u>PROJECT COST</u>	<u>FUNDING SOURCE</u>
<u>GENERAL SERVICES</u>		
	\$10,000	General Services
<u>SIDEWALK CONSTRUCTION</u>	\$65,000	Sidewalk Construction
<u>PUBLIC BUILDINGS</u>		
City Hall	\$20,000	General Fund
<u>CEMETERY</u>		
Fence / gate installation	\$100,000	Cemetery
Grounds improvements	\$50,000	Cemetery
<u>POLICE</u>		
Miscellaneous	\$7,000	Police
<u>FIRE</u>		
Miscellaneous small equipment replacement	\$20,000	Fire
Set aside for fire truck replacement	\$20,000	Fire
<u>AMBULANCE</u>		
Miscellaneous small equipment	\$5,000	Ambulance
Echo vehicle replacement (lease)	\$5,000	Ambulance
<u>AIRPORT</u>		
Property acquisition/ fencing	\$15,000	Airport

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

PARKS/RECREATION

Capital Outlay  
Parks/Recreation

Rotary Park	Concession/restroom/ springler	\$10,000	Parks/Recreation
Veterans Park -	Sprinkler	\$5,000	Parks/Recreation
Avalanche -	Site Improvements/ flooring Master Plan	\$15,000 \$10,000	Parks/Recreation
Old City Park	River bank restoration	\$20,000	Parks/Recreation
Peninsula Beach	Site development	\$5,000	Parks/Recreation
Sunset Park		-0-	Parks/Recreation
Tannery Park	Site Work	\$500	Parks/Recreation
Riverside Park Parks/Recreation			-0-
Road Ends	Charelvoix St	\$74,540	Parks/Recreation
Non-motorized Trails		\$20,000	Parks/Recreation

MARINA/LAUNCH RAMP

Launch Ramp - extend, pave, and dredge		-0-	Marina
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MAJOR STREETS

South Lake & Water Street		\$1,628,250	State Grant, Major Streets/Water Sewer/Main Street
Front Street	Main- Pleasant	\$294,000	Major Streets/

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

Sewer/Water

Trees

\$10,000

Major Streets

LOCAL STREETS

Lacvue Marshall - end

\$18,000

Local Streets

Trees

\$15,000

Local Streets

Main Street

Front Street Water - Main, Sunset Park

\$1,251,734

\$620,800

MEDC

\$66,300

Water

\$73,100

Wastewater

\$243,034

Streets

\$248,500

Main Street

WATER/WASTEWATER

Water meter replacement program

\$50,000

Water/Wastewater

Sanitary Sewer upgrades Silver St

\$30,000

Wastewater

Utility tank

\$40,000

Water/Wastewater

MOTOR POOL

Holder

\$70,000

Motor Pool

Hydraulic for Sander

\$5,000

Motor Pool

FYE 2008 SUMMARY

GENERAL FUND

\$477,040

MAJOR STREETS FUND

\$1,932,250

LOCAL STREETS FUND

\$33,000

MAIN STREET

\$1,251,734

WATER/WASTEWATER FUND

\$120,000

MOTOR POOL

\$75,000

GRAND TOTAL

\$3,889,024

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

PARKS/RECREATION

Avalanche	Site Improvements	\$10,000	Parks/recreation
Old City Park	Stream bank restoration and	\$15,000	Parks/Recreation
Peninsula Beach	Site Improvement	\$10,000	Parks/Recreation
Riverside Park	Site Improvements	\$6,000	Parks/Recreation
Rotary	Site Improvements	\$10,000	Parks/Recreation
Sunset Park	Site Improvements	\$1,000	Parks/Recreation
Tannery Park	Site Improvements	\$1,000	Parks/ Recreation
Veterans Park	Site Improvements	\$5,000	Parks/Recreation
Road Ends	Site Improvements	\$20,000	Parks/ Recreation
Non-motorized trails	Site Improvements	\$20,000	Parks/Recreation

MARINA

Marina expansion		\$7,084, 028	
		\$3,542,014	Waterways Commission
		\$3,542,014	Genera Fund

MAJOR STREETS

Trees		\$15,000	Major Streets
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LOCAL STREETS

Douglas St	Lincoln – Pleasant	\$136,000	Local Streets
Hannah St	State – Vogel	\$78, 500	Local Streets
Charlevoix Street	Court – City Limits	\$211,300	Local Streets
Trees		\$15,000	Local Streets

MAIN STREET

Site Development		\$10,000	DDA
------------------	--	----------	-----

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

WATER/WASTEWATER

Sewer	\$50,000	Wastewater
Water	\$50,000	Water

MOTOR POOL

Sweeper	\$120,000	Motor Pool
Mower	\$45,000	Motor Pool

FYE 2009 SUMMARY

GENERAL FUND	\$7,399,528
MAJOR STREETS FUND	\$15,000
LOCAL STREETS FUND	\$440,800
MAIN STREET	\$10,000
WATER/WASTEWATER FUND	\$100,000
MOTOR POOL	<u>\$165,000</u>
<b>GRAND TOTAL</b>	<b>\$8,130,328</b>

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

**CAPITAL IMPROVEMENT PLAN - FYE 2010  
FYE 2009-2010**

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

GENERAL SERVICES

\$5,000

General Services

SIDEWALK CONSTRUCTION

\$42,000

Sidewalk Construction

PUBLIC BUILDINGS

\$20,000

Public Buildings

CEMETERY

\$15,000

Cemetery

POLICE

Car

\$25,000

Police

Miscellaneous

\$5,000

Police

FIRE

New Fire/Ambulance facility

\$2,000,000

Fire/Ambulance/DDA

Set aside for fire truck replacement

\$20,000

Fire

AMBULANCE

Set-aside for ambulance replacement

\$20,000

Ambulance

AIRPORT

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

Site work \$10,000 Airport

PARKS/RECREATION

Capital outlay \$5,000 Parks/Recreation

Avalanche Site work \$10,000 Parks/Recreation

Old City Park irrigation \$10,000 Parks/Recreation

Peninsula Beach development \$10,000 Park/Recreation

Riverside Park site work \$5,000 Parks/Recreation

Rotary Park site work \$10,000 Parks/Recreation

Sunset Park site work \$5,000 Parks/Recreation

Tannery park site work \$1,000 Parks/Recreation

Veterans Park site work \$10,000 Parks/Recreation

Road ends site work \$20,000 Parks/Recreation

Non-motorized trails site work \$5,000 Parks/Recreation

MARINA

Miscellaneous small equipment \$ 5,000 Marina

MAJOR STREETS

Park Ray – Main \$140,000 Major Streets

Park Water – Ray \$140,000 Major Streets

Division Street Boyne Ave- Lake \$675,000  
\$540,000 MDOT  
\$250,000 Major Streets

Trees \$15,000 Major Streets

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

LOCAL STREETS

Earl Street	Lincoln - end	\$110,000	Local Streets
S. Lake Street	Division - Ann	\$98,600	Local Streets
East Street	State - North	\$75,600	Local Streets
Trees		\$15,000	Local Streets

MAIN STREET

\$10,000 DDA

WATER/WASTEWATER

Sewer Main repair	\$50,000	Wastewater
Water main repair	\$50,000	Water

MOTOR POOL

Replace tractor with blower	\$40,000	Motor Pool
Loader	\$80,000	Motor Pool

FYE 2010 SUMMARY

GENERAL FUND	\$2,238,000
MAJOR STREETS FUND	\$970,000
LOCAL STREETS FUND	\$299,200
MAIN STREET	\$10,000
WATER/WASTEWATER FUND	\$100,000
MOTOR POOL	\$120,000
<b>GRAND TOTAL</b>	<b>\$3,737,200</b>

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

**CAPITAL IMPROVEMENT PLAN - FYE 2011  
FYE 2010/2011**

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

GENERAL SERVICES

\$5,000

General Services

SIDEWALK CONSTRUCTION

\$42,000

Sidewalk Construction

PUBLIC BUILDINGS

New Cy Hall

\$2,000,000

Public Buildings

CEMETERY

Fence/ road/ Miscellaneous

\$15,000

Cemetery

POLICE

Miscellaneous

\$5,000

Police

FIRE

Set aside for fire truck replacement

\$20,000

Fire

<u>PROJECT/DEPARTMENT</u>	<u>PROJECT COST</u>	<u>FUNDING SOURCE</u>
<u>AMBULANCE</u>		
Set-aside for ambulance replacement	\$20,000	Ambulance
<u>AIRPORT</u>		
Site work	\$10,000	Airport
<u>PARKS/RECREATION</u>		
Capital outlay	\$5,000	Parks/Recreation
Avalanche - Site work	\$10,000	Parks/Recreation
Old City Park Site work	\$10,000	Parks/Recreation
Peninsula Beach development	\$10,000	Park/Recreation
Riverside Park site work	\$5,000	Parks/Recreation
Rotary Park site work	\$10,000	Parks/Recreation
Sunset Park site work	\$5,000	Parks/Recreation
Tannery park site work	\$1,000	Parks/Recreation
Veterans Park site work	\$10,000	Parks/Recreation
Road ends site work	\$5,000	Parks/Recreation
Non-motorized trails site work	\$5,000	Parks/ Recreation
<u>MARINA</u>		
Miscellaneous small equipment	\$5,000	Marina
<u>MAIN STREET</u>		
SITE WORK	\$10,000	DDA
<u>MAJOR STREETS</u>		

<u>PROJECT/DEPARTMENT</u>	<u>PROJECT COST</u>	<u>FUNDING SOURCE</u>
Pleasant Ave Storm Trent – Ann	\$42,900	Major Streets
Pleasant Ave Storm Ann - Prospect	\$84,500	Major Streets
Pleasant Avenue Prospect to City Limits	\$216,000	Major Streets
Main Street - East to Boyne Avenue	\$83,000	Major Streets
Trees	\$15,000	Major Streets

LOCAL STREETS

N. East Street North – Vogel	\$123,600	Local Streets
Court Street Park – Lynn	207,600	Local Streets
Trees	\$15,000	Local Streets

WATER/WASTEWATER

Sewer Main repair	\$50,000	Wastewater
Water Main repair	\$50,000	Water

MOTOR POOL

5Yd Dump Truck	\$95,000	Motor Pool
Pick up Truck	\$35,000	Motor Pool
DPW Facility	\$1,500,000	Motor Pool DDA

FYE 2011 SUMMARY

GENERAL FUND	\$2,198,000
MAJOR STREETS FUND	\$441,400
LOCAL STREETS FUND	\$346,200
MAIN STREET	\$10,000
WATER/WASTEWATER FUND	\$100,000
MOTOR POOL	\$1,630,000
<b>GRAND TOTAL</b>	<b>\$4,725,600</b>

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

**CAPITAL IMPROVEMENT PLAN - FYE 2012  
FYE 2011/2012**

<u>PROJECT/DEPARTMENT</u>	<u>PROJECT COST</u>	<u>FUNDING SOURCE</u>
<u>GENERAL SERVICES</u>		
	\$5,000	General Services
<u>SIDEWALK CONSTRUCTION</u>	\$42,000	Sidewalk Construction
<u>PUBLIC BUILDINGS</u>		
	\$10,000	Public Buildings
<u>CEMETERY</u>		
	\$15,000	Cemetery
<u>POLICE</u>		
Car	\$25,000	Police
Miscellaneous	\$5,000	Police
<u>FIRE</u>		
Set aside for fire truck	\$20,000	Fire
<u>AMBULANCE</u>		

<u>PROJECT/DEPARTMENT</u>	<u>PROJECT COST</u>	<u>FUNDING SOURCE</u>	
Ambulance	\$100,000	Ambulance	
<u>AIRPORT</u>			
	\$15,000	Airport	
<u>PARKS/RECREATION</u>			
Rotary	\$10,000	Parks/Recreation	
Veterans Park	\$5,000	Parks/Recreation	
Avalanche	\$5000	Parks/Recreation	
Old City Park	\$5,000	Parks/ Recreation	
Peninsula Beach	\$10,000	Parks/creation	
Tannery Park	\$1,000	Parks/ Recreation	
Riverside Park	\$7,000	Parks/Recreation	
Road ends	\$5,000	Parks/ Recreation	
Non-motorized trails	\$5,000	Park/Recreation	
<u>MARINA</u>			
Miscellaneous small equipment	\$5,000	Marina	
<u>MAJOR STREETS</u>			
S. East	Water - Main	\$284,400	Major Streets
N. Lake	Vogel - W. Michigan	\$175,000	Major Streets
Trees		\$15,000	Major Streets
<u>LOCAL STREETS</u>			
Court Street	Robinson - Charlevoix	\$164,400	Local Street
Court	Charlevoix - Lynn	\$138,700	Local Streets
Trees		\$15,000	Local Streets

<u>PROJECT/DEPARTMENT</u>	<u>PROJECT COST</u>	<u>FUNDING SOURCE</u>
<u>MAIN STREET</u>		
Site Development	\$10,000	DDA
<u>WATER/WASTEWATER</u>		
Wastewater	\$50,000	Wastewater
Water	\$50,000	Water
<u>MOTOR POOL</u>		
Replace 5 yard dump truck	\$100,000	Motor Pool
Mower	\$45,000	Motor Pool
 <u>FYE 2012UMMARY</u>		
GENERAL FUND		\$,295,000
MAJOR STREETS FUND		\$474,400
LOCAL STREETS FUND		\$318,100
MAIN STREET		\$10,000
WATER/WASTEWATER FUND		\$ 100,000
MOTOR POOL		\$145,000
<b>GRAND TOTAL</b>		<b>\$1,342,500</b>

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

**CAPITAL IMPROVEMENT PLAN - FYE 2013  
FYE 2012/2013**

<u>PROJECT/DEPARTMENT</u>	<u>PROJECT COST</u>	<u>FUNDING SOURCE</u>
<u>GENERAL SERVICES</u>		
Computer upgrades	\$5,000	General Services
<u>SIDEWALK CONSTRUCTION</u>	\$50,000	Sidewalk Construction
<u>PUBLIC BUILDINGS</u>		
Buildings	\$10,000	Public
<u>CEMETERY</u>	\$15,000	Cemetery
<u>POLICE</u>		
Equipment	\$5,000	Police
<u>FIRE</u>		
Set aside for fire truck replacement	\$20,000	Fire
<u>AMBULANCE</u>		

<u>PROJECT/DEPARTMENT</u>	<u>PROJECT COST</u>	<u>FUNDING SOURCE</u>
Set-aside for ambulance replacement	\$20,000	Ambulance
<u>AIRPORT</u>		
	\$15,000	Airport
<u>PARKS/RECREATION</u>		
Rotary	\$10,000	Parks/Recreation
Veterans Park	\$5,000	Parks/Recreation
Avalanche	\$5000	Parks/Recreation
Old City Park	\$5,000	Parks/ Recreation
Peninsula Beach	\$10,000	Parks/Recreation
Sunset Park	\$1,000	Parks/Recreation
Tannery Park	\$1,000	Parks/ Recreation
Riverside Park	\$7,000	Parks/Recreation
Road ends	\$5,000	Parks/Recreation
Non-motorized trail	\$5,000	Parks/ Recreation
<u>MARINA</u>		
Miscellaneous small equipment	\$5,000	Marina
<u>MAJOR STREETS</u>		
Main Harris - Kunert	\$199,000	Major Streets
Division Front - Second	\$250,000	Major Streets
Trees	\$15,000	Major Streets
<u>LOCAL STREETS</u>		
Collings Park - Jefferson	\$80,400	Local Streets
S. Park Street Main to Pine Streets	\$60,900	Local Streets

<u>PROJECT/DEPARTMENT</u>	<u>PROJECT COST</u>	<u>FUNDING SOURCE</u>
Forest Street - Marl to end of Forest Street	\$ 8,000	Local Streets
Marl Street - East Main to Forest Street	\$4,000	Local Streets
Trees	\$15,000	Local Streets
<u>MAIN STREET</u>		
Site work	\$10,000	DDA
<u>WATER/WASTEWATER</u>		
Water repairs	\$50,000	Water
Sewer main repairs	\$50,000	Wastewater
<u>MOTOR POOL</u>		
Pick up Truck	\$25,000	Motor Pool
Grader	\$110,000	Motor Pool
<u>FYE 2013 SUMMARY</u>		
GENERAL FUND		\$199,000
MAJOR STREETS FUND		\$464,000
LOCAL STREETS FUND		\$168,300
MAIN STREET		\$10,000
WATER/WASTEWATER FUND		\$ 100,000
MOTOR POOL		<u>\$135,100</u>
<b>GRAND TOTAL</b>		<b>\$1,764,000</b>

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

**CAPITAL IMPROVEMENT PLAN - FYE 2014**

**FYE 2013/2014**

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

GENERAL SERVICES

Computer upgrades

\$5,000

General Services

SIDEWALK CONSTRUCTION

\$50,000

Sidewalk Construction

PUBLIC BUILDINGS

\$10,000

General Services

CEMETERY

\$15,000

Cemetery

POLICE

Car  
Equipment

\$30,000  
\$5,000

Police  
Police

<u>PROJECT/DEPARTMENT</u>	<u>PROJECT COST</u>	<u>FUNDING SOURCE</u>
<u>FIRE</u>		
Set aside for fire truck replacement	\$20,000	Fire
<u>AMBULANCE</u>		
Set-aside for ambulance replacement	\$20,000	Ambulance
<u>AIRPORT</u>		
Site work	\$15,000	Airport
<u>PARKS/RECREATION</u>		
Rotary	\$10,000	Parks/Recreation
Veterans Park	\$5,000	Parks/Recreation
Avalanche	\$5000	Parks/Recreation
Old City Park	\$5,000	Parks/ Recreation
Peninsula Beach	\$10,000	Parks/Recreation
Road ends	\$5,000	Park/ Recreation
Sunset Park	\$1,000	Parks/Recreation
Tannery Park	\$1,000	Parks/ Recreation
Riverside Park	\$7,000	Parks/Recreation
Non-motorized trails	\$5,000	Parks/Recreation
<u>MARINA</u>		
Miscellaneous small equipment	\$5,000	Marina
<u>MAJOR STREETS</u>		
River Lake - Park	\$198,400	Major Streets

<u>PROJECT/DEPARTMENT</u>	<u>PROJECT COST</u>	<u>FUNDING SOURCE</u>
Air Industrial Park Dr	\$39,600	Major Streets
Lexamar Dr	\$20,800	Major Streets
Altair Dr	\$17,000	Major Streets
Trees	\$15,000	Major Streets
<u>LOCAL STREETS</u>		
North East -Jefferson	\$45,000	Local Streets
Call Vogel - end	\$45,000	Local Streets
Ann First - Second	\$27,500	Local Streets
Spring Jefferson - end	\$93,200	Local Streets
Trees	\$15,000	Local Streets
<u>MAIN STREET</u>		
Site work	\$10,000	DDA
<u>WATER/WASTEWATER</u>		
Water plant renovations	\$30,000	Water
<u>MOTOR POOL</u>		
Replace 5 yard dump truck	\$100,000	Motor Pool
Pick up Truck	\$36,000	Motor Pool
<u>FYE 2014 SUMMARY</u>		
GENERAL FUND		\$229,000
MAJOR STREETS FUND		\$290,800
LOCAL STREETS FUND		\$225,700
MAIN STREET		\$10,000
WATER/WASTEWATER FUND		\$ 100,000
MOTOR POOL		\$136,000
<b>GRAND TOTAL</b>		<b>\$991,500</b>

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

**CAPITAL IMPROVEMENT PLAN - FYE 2015**

**FYE 2014/2015**

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

GENERAL SERVICES

Computer upgrades

\$5,000

General Services

SIDEWALK CONSTRUCTION

\$50,000

Sidewalk Construction

PUBLIC BUILDINGS

\$10,000

General Services

CEMETERY

\$15,000

Cemetery

<u>PROJECT/DEPARTMENT</u>	<u>PROJECT COST</u>	<u>FUNDING SOURCE</u>
<u>POLICE</u>		
Car	\$30,000	Police
Equipment	\$5,000	Police
<u>FIRE</u>		
Set aside for fire truck replacement	\$20,000	Fire
<u>AMBULANCE</u>		
Set-aside for ambulance replacement	\$20,000	Ambulance
<u>AIRPORT</u>		
Site work	\$15,000	Airport
<u>PARKS/RECREATION</u>		
Rotary	\$10,000	Parks/Recreation
Veterans Park	\$5,000	Parks/Recreation
Avalanche	\$5000	Parks/Recreation
Old City Park	\$5,000	Parks/ Recreation
Peninsula Beach	\$10,000	Parks/Recreation
Road ends	\$5,000	Park/ Recreation
Sunset Park	\$1,000	Parks/Recreation
Tannery Park	\$1,000	Parks/ Recreation
Riverside Park	\$7,000	Parks/Recreation
Non-motorized trails	\$5,000	Parks/Recreation
<u>MARINA</u>		
Miscellaneous small equipment	\$5,000	Marina

<u>PROJECT/DEPARTMENT</u>	<u>PROJECT COST</u>	<u>FUNDING SOURCE</u>
<u>MAJOR STREETS</u>		
N Lake North - Vogel	\$75,000	Major Streets
Lakeshore Dr	\$78,000	Major Streets
Trees	\$15,000	Major Streets
<u>LOCAL STREETS</u>		
Edmund St Hull - end	\$26,700	Local Streets
Harris Brockway - Main	\$122,400	Local Streets
Trees	\$15,000	Local Streets
<u>MAIN STREET</u>		
Site work	\$10,000	DDA
<u>WATER/WASTEWATER</u>		
Water plant renovations	\$30,000	Water
<u>MOTOR POOL</u>		
Loader	\$100,000	Motor Pool
One Ton Truck	\$50,000	Motor Pool

**FYE 2015 SUMMARY**

GENERAL FUND	\$229,000
MAJOR STREETS FUND	\$168,000
LOCAL STREETS FUND	\$164,100
MAIN STREET	\$10,000
WATER/WASTEWATER FUND	\$ 100,000
MOTOR POOL	<u>\$150,000</u>
<b>GRAND TOTAL</b>	<b><u>\$821,100</u></b>

PROJECT/DEPARTMENT

PROJECT COST

FUNDING SOURCE

**2008-2015 CAPITAL IMPROVEMENT PLAN TOTALS**

FYE 2008		\$
FYE 2009		\$
FYE 2010		\$
FYE 2011		\$
FYE 2012		\$
FYE 2013		\$
FYE 2014		\$
FYE 2015		\$
<b>SIX YEAR GRAND TOTAL</b>		<b>\$</b>

## CITY OF BOYNE CITY

**To:** Chair Jane MacKenzie and fellow Planning Commissioners

**From:** Scott McPherson, Planning Director

**Date:** February 18, 2013

**Subject:** Ordinance Section 4.40(A)(6)



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### Background Information

Section 4.40(A)(6) of the Boyne City Zoning Ordinance regulates a minimum roof pitch for dwellings in the TRD. The section is as follows:

*The minimum pitch of the roof of any building shall be five to twelve (5:12) and the maximum pitch of the roof of any building shall be twelve to twelve (12:12), except that additions to existing dwelling units may be constructed with a pitch that matches any roof pitch of the existing dwelling unit. Additionally, the roof pitch of a dormer, turret or similar architectural feature may not exceed twenty-four to twelve (24:12) and the roof pitch of a covered porch may be flat whenever the roof of such a porch is also considered to be the floor of a second story deck.*

It appears this requirement was first incorporated into the regulations in 2001 with the adoption of the new zoning ordinance. The immediate effect of this ordinance was to make approximately 25% of the homes in the TRD district non conforming. Since that time the ordinance has been enforced with relatively few problems. From time to time applicants question the logic for the requirements need to alter plans to conform to the regulation.

Last December the Zoning Board of Appeals heard a variance that requested relief from this particular requirement. In this instance It was an existing house with a non-conforming roof that was to be moved to a new vacant lot. The board had considerable discussion about this issue but did not grant the variance as the Board could not find that the application met all the mandated stipulations to grant a variance. Given the discussion staff decided this issue should be submitted to the Planning Commission for review and discussion.

### Process

The ordinance is being provided to the Planning Commission for review and discussion only at this time.

### Recommendation

Determine if the ordinance should remain unchanged or amended and direct staff to take any necessary actions.