

**JUNE 26, 2018
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 JUNE 26, 2018

CALL TO ORDER

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

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

Absent: Commissioner Conklin

Staff: Michael Cain, Cindy Grice, Barb Brooks, Scott McPherson, John Lamont, Kelsie King-Duff, Andy Kovolski, Dennis Amesbury and Patrick Kilkenny

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

**EXCUSE
COMMISSIONER
CONKLIN**

2018-06-074
Moved by Neidhamer
Second by Solomon

To excuse Commissioner Conklin from attending today's meeting.

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

**CONSENT AGENDA
MOTION**

2018-06-075
Moved by Grunch
Second by Page

Approved of the June 12, 2018 City Commission regular meeting minutes as presented
Approved to purchase eight sets of Fire-Dex fire gear in the amount of \$18,080 and authorize the City Manager to execute the documents

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

CITIZENS COMMENTS

None

CORRESPONDENCE

None

**CITY MANAGERS
REPORT**

- City Manager Cain reported:
- The pavement marking crew is in town
 - Soil borings will be taking place in the Fochtman parking lot
 - Absentee Ballots for the August primary are now available

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

1st Reading Rezoning

The May, 2018 Financial Statement received and filed.

Consideration of a first reading for a conditional rezoning for Parcel #15-051-250-019-00 from Traditional Residential District to Professional Office District and schedule a second reading for August 14, 2018

Planning Director Scott McPherson discussed the written request from Ron and Kyle Mills for conditional rezoning for property owned by Christopher Kinner to rezone parcel 15-051-250-019-00 from Traditional Residential District (TRD) to Professional Office District (POD). The offer has been attached for your review. The parcel is located at 402 State Street which is on the southeast corner of State and Jefferson Streets. The parcel is 60' x 132 with 60' of frontage on State Street and 132' of frontage on Jefferson Street. The properties adjacent on all sides are zoned TRD with the parcels to the south, east and west and being used for single family dwellings. The properties to the north are being used for a church and a pre-existing nonconforming commercial use. The subject parcel has an existing vacant 20' x 28' structure that was previously used for a nonconforming commercial use that has been abandoned.

The subject parcel has been unused for many years and the existing building has not been maintained and is in need of significant repair. While the property does have a history of commercial use, any associated nonconforming rights with that use have clearly been abandoned. Over the years there have been several inquiries about potential uses for the structure and property. These inquiries were mostly for some type of commercial activity that could not be permitted due to the current zoning. The conditional zoning offer stipulates that the existing building will be repaired and renovated but will not be enlarged in any way. The property will be used for a professional office featuring insurance, finances, investments and similar services. If the property is transferred to another owner, a similar professional office use may continue or the parcel will be converted to residential use. If the conditional zoning is approved a development plan specifically detailing all site improvements to include building improvements, landscaping, storm water runoff, parking, and site access would need to be submitted for approval by Planning Commission.

The future land use plan designation for the property is Neighborhood Residential and the goals of the master plan do not appear to specifically support this request. The City Commission should keep in mind that the master plan is intended to serve as a guide that should be used to help determine land uses and development policies that affect the community's physical development. It defines general planning goals, policies and action plans that provide a philosophical base for use by the City as it guides future growth and land use in Boyne City. Because it is a guide, the master plan is not intended to be rigidly administered, changing conditions in the community may affect the goals and philosophy established when the plan was originally developed.

However, the City should consider amending the master plan to reflect significant policy changes that are not currently supported by the plan.

In accordance with the Michigan Zoning Enabling Act and the Boyne City Zoning Ordinance Section 2.40 Amendment Procedures, a public hearing was held by the Planning Commission on June 18, 2018 and after reviewing the Amendment Criteria as required by the Boyne City Zoning Ordinance Section 2.50 C, the Planning Commission recommended approval of the proposed conditional zoning ordinance amendment. The proposed amendment is now being presented to the City Commission for a first reading. As required by the Boyne City Charter, ordinances cannot be adopted until at least one month after the meeting it is introduced. The next available City Commission meeting that meets this requirement would be August 14, 2018.

Staff Comments: None

Citizens Comments: None

Board Discussion: Commissioner Solomon felt the letter of intent from Mr. Mills is insufficient and thinks it should show how the issues would be resolved. Why a conditional rezone at all? It looks like a spot zone. It is inconsistent with the master plan. He added that he doesn't think this is ready yet.

MOTION

2018-06-076

Moved by Grunch

Second by Page

To approve the first reading for a conditional rezoning for Parcel #15-051-250-019-00 from Traditional Residential District to Professional Office District and schedule a second reading for August 14, 2018

Ayes: 3

Nays: 1, Commissioner Solomon

Absent: 1, Commissioner Conklin

Motion carried

Tobacco Free Regulation Options

Consideration to consider the matter and determine what, if any action appropriate regarding smoking and/or tobacco related uses in City parks or other public properties and act accordingly.

City Manager Cain stated that at our May 22nd meeting the City Commission received correspondence and entertained conversation regarding the possibility of regulating tobacco use related matters in City parks. At the end of that discussion staff was requested to look into the matter and bring it back to the City Commission for further consideration. After researching this matter he communicated with other communities and regional and state public health agencies.

Several cities around us have adopted resolutions or similar items to declare their selected areas as tobacco free. Some have included vaping and marijuana type items as well. A copy of the resolution passed by Petoskey was provided. Similar tools were used in East Jordan and Charlevoix as well. Such tools are advisory in nature with no enforcement mechanism. In other words they do not compel anyone to not use such products in the designated areas. The City of Port Huron has taken it a step further and last month adopted the attached ordinance with the new wording highlighted in yellow. This type of measure can be enforced if necessary, just like our other City ordinances.

In talking with the State they, who directed me to Port Huron, also provided a sample multipage ordinance which is also attached. That one seemed overly complicated to me and did not really achieve more than what Port Huron's does.

In communicating with the City Managers from these four communities all of them said the steps they took, although different, were well received in their communities and have not caused any significant problems.

Ultimately the City Commission needs to determine whether there is an issue here that needs to be addressed and if so what the proper tool for addressing it is. Just because another community deals with an issue in one way or another does not mean that it is right for Boyne City. For example, many communities do not allow alcohol in their parks, but we do with almost no problems. Other communities chose to ban ATV off all or most of their streets when the law changed a few years ago. We chose not to and see if problems arose that needed to be addressed. To this point they have not. The point here is that in recent years we take action or regulate things when there is a reason to do so and not just in anticipation of a possible problem or issue. In some ways that has given us a competitive advantage. We have a reputation of not saying no just for the sake of saying no.

Other than some Facebook posts about smoking occurring in the parks during the Fourth of July I am not aware of other complaints. We do frequently find significant numbers of cigarette butts on City properties that have been discarded and need to be picked up. Lots of those are collected during Buff Up Boyne. The public's interactions with smoking has evolved greatly over the years as the science regarding the matter has evolved. Not that long ago smoking was pretty much a cultural norm and allowed everywhere. With the banning of smoking in restaurants and bars in Michigan a few years ago that norm has flipped nearly 180 degrees. Now smoking is banned more places than not and that is the new norm.

Three general options were provided for the City Commission: 1) Remain with the status quo and do nothing; 2) Adopt a resolution similar to the one adopted in Petoskey; or 3) Create an ordinance (preferably similar to the one adopted by the City of Port Huron). There could be variations on items 2) and 3) above that the Commission might want to consider as well, such as creating an

ordinance that only regulated smoking and similar matters only during major public events or gatherings. Before drafting a possible ordinance it would be helpful for me to get further direction from the City Commission.

Staff Comments: None

Citizens Comments: Missy Casper said she will reiterate information provided earlier. The health department states that 80% of the population is non-smoking. She wants something done and doesn't think we should protect the other 20%. It's what the majority of what our future generation wants to see. Tobacco butts take 15 years to decompose. Michele Carter said she is here to support an ordinance of some type for tobacco free zones. Cindy Banner agrees with a smoke free policy. A representative from the Health Department said they fully support this and will also provide signage.

Board Discussion: Commissioner Page said she does feel a bit for people that do smoke but would like to see something done. Mayor Pro-Tem Grunch said he likes what Petoskey has done. A resolution is a good start. Commissioner Solomon said he can see compliance without a heavy handed approach. Mayor Neidhamer said he agrees with everything people have said. Not all smokers litter. He has never smoked but is sympathetic to those who do. It's a fine line. Are we regulating too much? He wants to find a balance and agrees a resolution is a first step.

MOTION

2018-06-077

Moved by Grunch

Second by Solomon

To adopt the following resolution regarding tobacco free parks:
 WHEREAS, the City of Boyne City believes that tobacco use in the proximity of children, teens and adults engaging in or watching outdoor recreational activities at city parks is detrimental to their health and wellbeing; and
 WHEREAS, the designation of Tobacco Free Parks can create and sustain an environment that supports a non-tobacco norm through proper signage, education and adult-peer role modeling; and
 WHEREAS, parents, coaches, leaders and officials involved in recreation are role models for youth and can have a positive effect on the life style choices that children and teens make; and
 WHEREAS, the City Commission has determined that designating tobacco free zones at city parks serves to protect the health, safety and welfare of its constituents:

Ayes: 4

Nays: 0

Absent: 1, Commissioner Conklin

Motion carried

RRC Parking Study Team Introduction

City Manager Cain introduced representatives from Rich & Associates who will be conducting a parking study. They will create

a demand database, will provide recommendations to use parking we have, provide overall parking management tools and recommendations for future needs and uses.

Good of the Order

None

ADJOURNMENT

Motion by Mayor Neidhamer seconded by Commissioner Grunch to adjourn the Regular City Commission meeting of Tuesday, June 26, 2018 at 1:26 p.m.



Tom Neidhamer
Mayor



Cindy Grice
Clerk / Treasurer