

**AUGUST 27, 2019
REGULAR MEETING**

RECORD OF THE PROCEEDINGS OF THE REGULAR BOYNE CITY COMMISSION MEETING DULY CALLED AND HELD AT BOYNE CITY HALL, 319 NORTH LAKE STREET, ON TUESDAY AUGUST 27, 2019

CALL TO ORDER

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

Present: Mayor Tom Neidhamer, Commissioners Hugh Conklin, Sally Page and Dean Solomon

Absent: Mayor Pro-Tem Grunch

Staff: Jane Halstead, Scott McPherson, Michael Cain, Mark Fowler, Tim Faas, Jeff Gaither, John Lamont, Kevin Spate, John Lamont and Patrick Kilkenny

Others: There were 9 citizens in attendance, including a representative from the Petoskey News Review.

**Excuse Mayor Pro Tem
Grunch
MOTION**

2019-08-100
Moved by Neidhamer
Second by Solomon

To excuse Mayor Pro Tem Grunch from today's meeting

Ayes: 4
Nays: 0
Absent: 1
Motion carried

**CONSENT AGENDA
MOTION**

2019-08-101
Moved by Conklin
Second by Page

Approval of the August 13, 2019 City Commission regular meeting minutes as presented
Approval of the August 20, 2019 City Commission work session minutes as presented
Approval to purchase five sets of Fire Dec fire gear in the amount of \$11,580 and authorize the City Manager to execute the documents
Approval to award a purchase order contract for road deicing salt to Compass Minerals of 9900 West 10th Street, Suite 600 Overland, KS 66210 in an amount not-to-exceed \$47,766 per the State of Michigan bids and authorize the City Manager to execute the documents

Ayes: 4
Nays: 0
Absent: 1
Motion carried

CITIZENS COMMENTS

Michelle Cortright of 221 Water Street announced that Harbor House will be hosting an open house on September 20th from 1:00 to 6:00 p.m. to celebrate their 50th anniversary. They have been operating

in Boyne in since 1984.

CORRESPONDENCE

None.

**CITY MANAGERS
REPORT**

City Manager Cain reported:

- Work on the Boyne Mountain - M-75 force main project continues. Pressure testing takes place this week.
- Work on the dental office across the street and on the surgery center on Moll Drive continues as anticipated.
- The road construction project on Cedar and Terrace Streets is progressing.
- Resurfacing of the tennis courts at Rotary Park has begun. Additional milling has slowed down the project. We are waiting to get the updated schedule.
- Great Lakes Energy has completed the demolition of the interior of the old Carters building. The remainder of the building will come down soon.
- The grant agreement with the MEDC for the Veterans Park Pavilion for \$408,415 was executed this week. We will meet with the architect and contractor to review the plans. The work will begin after Labor Day.
- The Michigan DNR and Urban Forestry Program awarded Boyne City a \$3000 DTE tree planting grant. We were one of 19 communities to get the maximum amount.
- The Planning Commission approved the site plan from Lake View Village for an additional 22 units. They still need to get approval from the State.
- At a City Commission Work Session last week a work group was set up to determine the options available to get community input on the Marijuana laws.
- Pavement marking began on Monday with parking space striping.
- The new picnic shelter at Avalanche has been completed by DPW staff.
- Tree trimming and removal throughout the City was completed this week by the contractor.
- An ad for the Chief of Police position will be placed this week.
- Brian O'Brien Council General of Ireland will visit Boyne City on September 4th. Details forthcoming. This is a follow-up to our twinning efforts.
- The fall rubbish collection begins tomorrow.
- September 13th and 14th is the Hazardous Waste Collection. The County will start taking reservations on September 5th.
- The fire suppression water line for the new wine bar on Water Street will be installed next week. The work will involve sidewalk and street removal.
- City Manager Cain is looking into an alternate and simpler method for hooking up media sources in the meeting rooms at City Hall.

Commissioner Conklin asked if there was any update on the Lofts on Lake Street. Cain responded that the developer is working on the utilities and getting plans finalized. It seems to moving forward as it

should. Conklin also asked if there would be a mobi-mat at the new pavilion at Avalanche. Cain answered no, not at this time. The Parks and Recreation Board will need to determine the next step – possibly a sidewalk.

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

The July, 2019 Financial Statement was received and filed.

OLD BUSINESS

None.

NEW BUSINESS

Edwin Street Vacation

Planning Director Scott McPherson discussed the application for the vacation of Edwin Street which was submitted by the Law Offices of Daniel Harris representing Charles Johnson of 410 Jefferson Street. Mr. Johnson is no longer represented by Mr. Harris.

Mr. Johnson is requesting the west 150.6' section of Edwin Street between be vacated. He is currently using this portion of Edwin Street for his driveway. The house was built in 1992 and it is significantly different from the plot plan which was submitted with the original approved zoning permit. Mr. Johnson purchased the home in 1994 and the survey from that time shows the house and driveway as it is currently configured. The existing structure is an illegal non-conforming structure and it encroaches the North lot line. The portion of the street that is proposed to be vacated borders two other properties and these owners have not signed the petition for the application. Approximately 200' of the east end of Edwin Street is developed which provides access to two homes and City infrastructure is located in the developed portion of the street. The street is plowed by the City. The proposal has been reviewed by City Department Heads, and given the potential future use of the street for access and utilities, the request is not supported by City Staff.

The Planning Commission also reviewed this request at their regular meeting on July 15, 2019 and they recommend the street vacation as requested be denied.

Citizens Comments:

Charles Johnson of 410 Jefferson Street reviewed the history of his property. He was the first buyer of the house after it was built. He agrees there are two problems with the property - the driveway is placed in the middle of a platted road and a 2 car garage built almost to the property line which is a setback issue. These problems were visible 26 years ago and were not addressed. The building permit process is to ensure that the buyer gets a trouble free home. Mr. Johnson reviewed various building and zoning permits from the project. Some of the paperwork filed during construction was incomplete or incorrect. The people responsible for performing inspections on a new building did not do their job. There is no indication the building went through the inspection process. Mr. Johnson also stated that in 1992 Union and Edwin Street did not exist. He stressed that he is innocent victim in this situation and did not do a single thing wrong.

Staff Comments: City Manager Cain stated that we are here to discuss the vacation of Edwin Street. Much of the information Mr.

Johnson presented is not relevant. We have to look at the best long term interests of the community. There is potential for development or a thru street on Edwin Street. The Planning Commission and the Staff recommend this not go forward. The question today is whether to go forward with the vacation request.

Board Discussion:

Commissioner Conklin asked what the options are for Mr. Johnson and if there is a possible compromise.

City Manager Cain stated that that is a whole different discussion.

Commissioner Page asked if Mr. Johnson knew this was a street and Mr. Johnson indicated he had not seen a survey.

Commissioner Solomon said this does not meet the criteria to vacate a road right of way. Vacation is not the correct remedy.

Mayor Neidhamer concurred that vacating the street is not the way to go - explore other solutions.

Commissioner Page asked if Mr. Johnson would have to take out the driveway and City Manager indicated that there is no action the City is looking for Mr. Johnson to take at this time.

Mayor Neidhamer stated that we understand Mr. Johnson's situation but I am not for a vacation – we would land lock property. We are not going to solve this today.

The Commissioners agreed that vacation was not the right remedy for this situation.

MOTION

2019-08-102

Moved by Solomon

Second by Conklin

To not proceed with the street vacation request for Edwin Street.

Ayes: 4

Nays: 0

Absent: 1

Motion carried

Balsam Street Vacation

Consideration of a street vacation from Thomas Stockbridge requesting the entirety of Balsam Place be vacated from Woodland Drive to Shady Lane.

Planning Director Scott McPherson reviewed the application for the vacation of Balsam Street by Barron & Engstrom representing Thomas Stockbridge of 639 Woodland Drive. The application is requesting the entirety of Balsam Place be vacated from Woodland Drive to Shady Lane. All adjacent property owners have signed the application. It has been reviewed by Department Heads and given that there is City infrastructure there the City Staff did have some reservations about vacating this street. The Planning Commission reviewed the request at their July 15th, 2019 meeting and found that the street is a dead end, there is no future development potential, it will improve safety at the location and will eliminate maintenance costs. The Planning Commission recommended the City proceed with requested street vacation.

Citizens Comments: Edward Engstrom, the attorney for Mr. Stockbridge, stated that there is no public benefit for any people in the community other than the property owners adjacent to property. The street as it is creates a safety issue. All property owners on Balsam Place signed the application for vacation. No property owners within 300 feet objected. The five property owners paid to pave the road.

Staff Comments: City Manager Cain stated that this is the first time we have a vacation request for a paved street with utilities under it. It will be necessary to create easements for the water and sewer lines if we go forward. There will be potential savings. I recommend we go to the next step of having a public hearing.

Citizens Comments: Bill Bender of 631 Woodland has owned a home here for 22 years. We paved the road to reduce the gravel. There have been instances where safety is an issue – people speed along here.

Dick Sarchet of 645 Woodland state that the street is a boundary between the township and the City. There is a blind spot on the curve from Woodland to Glenwood Beach and there is brush on the edge that blocks the sightline.

Board Discussion: All are in agreement with the recommendation

MOTION

2019-08-103
Moved by Conklin
Second by Page

To proceed with the requested street vacation and direct staff to schedule and notice the required public hearing.

Ayes: 4
Nays: 0
Absent: 1
Motion carried

TOMMBA Agreement

Consideration to approve entering into an agreement with TOMMBA for the development, maintenance and use of a portion of the city property on Old Horton Bay Road for the purpose of completing the Boyne Forest Trail System, and authorize the City Manager to execute the documents.

Tim Faas, the Director of Public Works, reviewed the agreement with TOMMBA. This agreement will complete the third of three parts required to build the Boyne Forest Trail System which is a collaboration between the City of Boyne City, the Walloon Lake Association and Conservancy and the Boyne City School Forest Trails. This would involve the use of 80 acres owned by the City located off of Old Horton Bay Road. The trails will be multi-use with some limitations. The Parks and Recreation Commission supported the request by TOMMBA to have the City Commission enter into an agreement for the development, maintenance and use of the trails and trail head property. There has been discussion with TOMMBA

regarding minimizing the environmental impact and the number of trees cut. TOMMBA requested a ten year term on the agreement but our City Charter limits us to a 3 year agreement. If the Commission decides to move forward, the agreement would be reviewed by TOMMBA and the City's legal counsel.

Citizens Comments: Michelle Cortright of 221 Water Street stated that the one kind of trail we are missing in the area are the miles and miles of expert level trail. This would give us that missing component. A second trail head off of Old Horton Bay Road would be very helpful.

Board Discussion: Commissioner Solomon had questions on some of the language in the agreement including the language regarding TOMMBAS role on informing and educating on the property rules. Solomon also wants to make sure we don't limit our opportunities for other recreational uses. We need to look at our resources. It would be worth our while to have a resource professional look at the property and sustainability of the long term for the property. We should develop a longer vision for the property.

Commission Conklin would like to specify multi use trails and not make the agreement specific to biking. If TOMMBA doesn't do the maintenance does it become the responsibility of the City? Has a timber harvest review been done? No according to City Manager Cain. Is the trail for advanced riders only? Mike Cortright answered no – most of the trail is accessible to 90 to 95% of the riders. The 30 day termination clause was discussed.

Commissioner Page is excited about the trails. Could there be a traffic problem if the trails are multi use?

Mayor Neidhamer: We should learn from history. We did not forest Avalanche because it was a preserve and now we have a lot of downed Ash trees which causes problems. Hope we could explore that, not hinder TOMMBA and keep a natural looking canopy. In full favor of moving forward.

Commission Solomon: We have brought up a number of concerns regarding the text of the agreement. Should we clarify before we move forward? We don't want to place too many boundaries on potential uses and opportunities. We need a stewardship plan to help us sustain our resources.

Staff Comments: City Manager Cain stated that we may need to get our own resource to look at the property and we may want them to look at all of properties including Avalanche.

Timber harvesting was discussed. If we decide to do that it needs to be done before the trails are built.

Mike Cortright indicated that it would be about one year before TOMMBA would be building trails on the City's property.

Rod Cortright agreed that the City should do an inventory of the property at some time. It does not need to be done immediately.

The Board discussed and agreed to postpone approving the agreement to clarify some of the issues and refine the agreement.

MOTION

2019-08-104
Moved by Conklin
Second by Solomon

To table the approval of the agreement with TOMMBA for the development, maintenance and use of a portion of the city property on Old Horton Bay Road for one month to clarify issues and have TOMMBA review.

Ayes: 4
Nays: 0
Absent: 1
Motion carried

**Softball Field Material
Purchase
Recommendation**

Consideration to award a purchase order contract for 167 tons of Washington Ball Mix from Stonequest of 6245 State Street, Saginaw MI, 48603 in an amount not-to exceed \$17,200 and authorize the City Manager to execute the documents.

Tim Fass, the Director of Public Works, reported that a newly formed user group recently evaluated the softball and baseball fields. There are 5 people in the user group including Faas and they are evaluating the condition of the softball and baseball fields in the City and prioritizing projects. It was determined that the 2 main softball fields, which are the most heavily used, lack a proper playing surface on the infield for a safe and enjoyable experience. The City has not replaced the infield material for the better part of a decade. There are sufficient funds remaining in the Parks and Recreation budget for purchasing this material. Faas has reached out other user groups such as the school district and the little league group for donations to help offset some of the cost. We would like to get this installed prior to the fall ball season.

Staff Comments: None

Citizens Comments: None

Board Discussion: Commissioner Conklin asked who the primary users of the fields are and Faas stated the schools and leagues were the main users. It seems normal that the school would provide a contribution. Faas stated that the school district does do much of the physical maintenance of the fields.

Commissioner Solomon likes that user groups are involved and the ideas of groups making financial contributions. We are successful when we have partners.

Mayor Neidhamer likes that an inventory of the fields and a comprehensive study is being done. It is a good collaboration.

All are in agreement with the recommendation.

MOTION

2019-08-105
Moved by Page
Second by Solomon

To approve a purchase order contract for 167 tons of Washington Ball Mix from Stonequest of 6245 State Street, Saginaw MI, 48603 in an amount not-to exceed \$17,200 and authorize the City Manager to execute the documents

Ayes: 4
Nays: 0
Absent: 1
Motion carried

Tub Grinder Rental

Consideration to award a purchase order contract for rental of a tub grinder to Vermeer Midwest of 1098 Franklin Street, Marne MI 49943 in an amount not-to-exceed \$59,000 and authorize the City Manager to execute the documents.

Department of Public Works Director Tim Faas reported that the yard waste program at the North Boyne Compost Facility has been very successful. That has resulted in a large amount of debris at the site. Last year Team Elmers was hired to grind up the brush. Staff recommends that this year we rent a grinder and take care of the brush ourselves. We also need to figure out what to do with the wood chips as we already have a considerable amount of chips. We have to get them off site within 3 years per DEQ regulations.

Staff Comments: None

Citizens Comments: None

Board Discussion: Commissioner Page says it saves money overall, she is for it.

Commissioner Solomon asked if we want to think about our policy options to reduce the amount of waste we have to process. Faas stated that there is no gate and disposal is not policed. He is thinking about options for next year.

Commissioner Conklin asked if the change would save money and Faas indicated that last year Elmers did not process everything on site because of the dollar amount. This should save money.

Commissioners are in agreement with the recommendation,

MOTION

2019-08-106
Moved by Conklin
Second by Solomon

To approve to award a purchase order contract for rental of a tub grinder to Vermeer Midwest of 1098 Franklin Street, Marne MI 49943 in an amount not-to-exceed \$59,000 and authorize the City Manager to execute the documents.

Ayes: 4
Nays: 0
Absent: 1
Motion carried

Memorial Bench Policy

Consideration to adopt the City Commission adopt Public Works Policy & Procedure PW_001 entitled "Memorial Benches, Trees & Landscape Rock" as presented.

Department of Public Works Director Tim Faas reported that the Parks and Recreation Commission reviewed a draft of this policy to lay out what kind of memorials the city will accept for memorials. This was done for two reasons – to establish a process for handling requests and to address the fact that we have a lot of benches throughout our parks. We would like to encourage donations other than benches such as trees and rocks. Currently we have six requests for memorials pending.

Staff Comments: Police Chief Jeff Gaither agreed it is prudent to have a policy so that we don't end up with individual tributes taking up public space.

Citizens Comments: None

Board Discussion: Commissioner Solomon thinks the policy is a good idea. Do we have a policy about memorializing existing structures in the City? Cain indicated no we don't have a policy. Commission Conklin asked how the process works. Faas indicated that the policy will give us some discretion on what we accept for donations. Conklin also asked if we have a site plan. Faas stated that is a task to be completed.

Commissioner Page asked if people requested specific locations for their donation. Sometimes, yes according to Faas. Mayor Neidhamer is in full support.

Commissioners are in agreement with the recommendation,

2019-08-107
Moved by Solomon
Second by Page

MOTION

To adopt Public Works Policy & Procedure PW_001 entitled "Memorial Benches, Trees & Landscape Rock" as presented.

Ayes: 4
Nays: 0
Absent: 1
Motion carried

Good Of The Order

None.

**CLOSED SESSION
MOTION**

2019-08-108
Moved by Neidhamer
Second by Conklin

To approve the request of the City Manager to go into closed session with our attorney regarding Attorney/Client Privilege document as provided in MCL 15.268 (h) of the Michigan Open Meetings Act (PA 267 of 1976) at 2:25 p.m.

Ayes: 4
Nays: 0
Absent: 1
Motion carried

**RETURN TO OPEN
SESSION
MOTION**

2019-08-109
Moved by Neidhamer
Second by Conklin

To return to Open Session at 3:49 p.m.

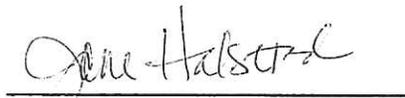
Ayes: 4
Nays: 0
Absent: 1
Motion carried

ADJOURNMENT

Motion by Mayor Neidhamer, second by Commissioner Conklin to adjourn the Regular City Commission meeting of Tuesday, August 27, 2019 at 3:50 p.m.



Tom Neidhamer
Mayor



Jane Halstead
Recording Secretary