



**City of New Buffalo
224 W. Buffalo Street
New Buffalo MI 49117
SPECIAL CITY COUNCIL MEETING AGENDA
February 28, 2020 at 4:00 PM**

1. Call Meeting to Order & Pledge of Allegiance
2. Roll Call
3. Approval of Agenda
4. Consent Agenda
 - a. City Council Minutes: February 18, 2020
5. Public Comment
6. Old Business
 - a. Ozinga Energy CNG Facility Site Plan Review at 825 S. Whittaker
7. New Business
 - a. North Whittaker Street Flooding Control
8. Appointments
 - i. Board of Review- Jack Kennedy
 - ii. Board of Review- Julie Westergren
 - iii. Board of Review- Vanessa ThunVacancies
 - i. Zoning Board of Appeals (May 2021)
9. Updates
10. Correspondence
11. Council Comments
12. Adjournment

The Regular Meeting for February 18, 2020 of the New Buffalo City Council was called to order by Mayor Lou O'Donnell at 6:32 p.m. in the City Council Chambers at New Buffalo City Hall, 224 W. Buffalo Street, New Buffalo, MI 49117.

The Pledge of Allegiance was led by the City Council.

Roll Call

Present: Mayor O'Donnell, Council Members Kroll, Robertson, Spirito

Absent: Council Member Ennis

Motion by Mayor O'Donnell to excuse Council Member Ennis because she is recovering from surgery, seconded by Council Member Robertson.

Unanimous 4-0, Motion Carried

Staff present: City Manager, Richards; Clerk, Amy Fidler; Deputy Clerk, Nancy Griffin; Water Superintendent, Ken Anderson; Treasurer, Kate Vyskocil; Chief Killips; Parks Superintendent, Kristen D'Amico; Jack Kennedy

Approval of Agenda

Motion by Council Member Robertson, seconded by Council Member Kroll to approve the agenda.

Unanimous 4-0, Motion Carried

Approval of Consent Agenda

Motion by Council Member Robertson, seconded by Council Member Kroll to approve the consent agenda as presented.

- a. Approve City Council Minutes – January 27, 2020, Closed Session January 27, 2020
- b. Receive monthly reports: Police, Fire, Water, Streets, Parks, and Treasurer
- c. Pay bills for the month
- d. Receive monthly minutes- January Library Board Minutes

Unanimous 4-0, Motion Carried

Public Comment & Presentations/Recognition

Public Comment: Jerome Wiener, Robert Kemper, Blagica Bottigliero, William Geisler Jr., Katie Maroney, Steven Cimino, Russ Dusek, Dan Peterson.

Presentations

Kate Mell – Little Free Library

The Friends of Library would like to have a little library at the corner of Merchant and Whittaker Street. The Friends of the Library will maintain the little library. Kate Mell went into details of how the little library will look and the Friends of the Library would like to have it up in the month of April.

Motion by Mayor O'Donnell to have the city attorney write up an agreement with the friends of the library, seconded by Council Member Spirito.

Unanimous 4-0, Motion Carried.

Abonmarche – Beach Improvement Updates

Mike Huber went over the key findings of the survey results and the public charettes.

New Business

7.a., Resolution 20.07 Over/Under

Motion by Council Member Kroll, seconded by Council Member Spirito to approve Resolution 20.07 Over/Under Administrative Fees.

Unanimous 4-0, Motion Carried.

7.b., Resolution 20.08 Budget Amendment

Motion by Council Member Robertson to approve Resolution 20.08 Budget Amendments.

Unanimous 4-0, Motion Carried.

7.c., Relocation of Beach Parking Lot Trees

The persistent high water has damaged the planters holding the beach parking lot trees and threatens the longevity of at least four of the five trees. The Streets and Parks Department has proposed to move the trees to Lions Park and plant them along the southerly property line. Streets and Parks will accomplish the project at their discretion as weather allows improving the view along the river front, enhancing the environment of the park and hopefully increasing the life of the trees.

Motion by Council Member Kroll seconded by Council Member Robertson to approve relocation of Beach Parking Lot Trees.

Unanimous 4-0, Motion Carried.

7.d., Repair and Paint Transient Marina Restrooms.

The Parks Department is requesting replacement of the transient marina showers, minor repairs, and cleaning and painting of the mold which has become a critical problem. The cost of the project as quoted by E.I. Construction is \$6,400.00. Funds available in the Park Improvement Fund.

Discussion: Mayor O'Donnell added that he would like the City to get bids for cleaning and painting the marina docks.

Motion by Council Member Kroll, seconded by Council Member Spirito to approve repairing and painting the Transient Marina Restrooms in the amount of \$6400.00.

Unanimous 4-0, Motion Carried.

7.e, Ozinga Energy CNG Facility Site Plan Review at 825 S. Whittaker

City Manager Richards informed the council that a complaint was filed against Ozinga and Smith Trucking Company and the City needed to investigate the complaints.

Motion by Mayor O'Donnell to table the Ozinga Energy CNG Facility Site Plan Review at 825 S. Whittaker until the City looks into the complaints, seconded by Council Member Robertson.

Unanimous 4-0, Motion Carried.

7.f., GRSD Settlement Proposal

City Manager Richards explained that the City was aware of discrepancies in the GRSD billing process in the beginning of 2017. The City's Treasurer determined invoices were modified, payments missing, and amounts due were double counted on GRSD statements. Credits due to the City over previous GRSD billing errors were not reflected in the GRSD system, and the billing arrangement agreed to between the GRSD Board and the City was not consistently followed. Moreover, the readings of sewage flows from the City were exorbitant and eventually proved in error.

To summarize, the City and GRSD arrived at the following resolution.

1. The flow overage surcharge penalties were waived since they were a result of the GRSD's faulty meter.
2. The City's engineers, GRSD engineers, the City Treasurer and a third-party auditor worked together to determine correct flow and billing amounts.
3. The GRSD agreed to compensate the City for a portion of engineering expenses related to investigating the issue.

As a result, these were the terms of the proposal:

1. The City will pay \$175,000.00 in two installments due March 31 and May 31 2022.
2. The monthly invoices due from 2019 will be paid by June 30, 2020 at which time the City will be current with invoices due to the GRSD.
3. A third party will continue to review the GRSD invoices as confirmed by Prein/Newhof for GRSD and Abonmarche for the City until such time as the City is satisfied the invoices are accurate.
4. GRSD will explain why the City received inaccurate and double billings and how the corrected billings of 2019 were calculated.
5. GRSD will pay all engineering costs incurred by the City in determining the source of the inaccurate readings.
6. New meters will be installed at the earliest possible date but not after July 21, 2020.
7. These terms will be reduced to a settlement agreement signed by both parties.

Motion by Council Member Robertson, seconded by Council Member Kroll to approve the GRSD Settlement Proposal as the outlining terms proposed to the board.

Unanimous 4-0, Motion Carried.

7. g., Resolution 20.02 US 12 Road Diet

City Manager Richards explained the resolution was needed to approve the temporary road diet. MDOT is willing to start the trial period of the Road Diet in July 2020. MDOT would need another resolution in December of 2020 to make it a permanent road diet.

Motion by Council Member Robertson seconded by Council Member Spirito to deny Resolution 20.02 US 12 Road Diet.

Ayes- Council Members Robertson, Spirito

Nays- Council Members Kroll, O'Donnell

Absent: Council Member Ennis

2-2, FAILED

Discussion: City Council discussed the road diet in detail.

Motion by Council Member Kroll seconded by Mayor O'Donnell to approve the road diet trial.

Ayes- Mayor O'Donnell, Council Member Kroll

Nays- Council Member Robertson, Spirito

Absent: Council Member Ennis

Absent 2-2, FAILED

7. h., Resolution 20.03 Poverty Exemption Income Guidelines and Asset level test

Motion by Council Member Kroll, seconded by Council Member Spirito to approve Resolution 20.03 Poverty Exemption Income Guidelines and Asset level test.

Unanimous 4-0, Motion Carried.

7. i., Resolution 20.04 to Set an Alternate Date for the December Board of Review 2020

Motion by Council Member Kroll, seconded by Council Member Spirito to approve Resolution 20.04 to Set an Alternate Date for the December Board of Review 2020.

Unanimous 4-0, Motion Carried.

7.j, Resolution 20.05 to Set an Alternate Date for the July Board of Review 2020

Motion by Council Member Kroll, seconded by Council Member Spirito to approve Resolution 20.05 to Set an Alternate Date for the July Board of Review 2020.

Unanimous 4-0, Motion Carried

7.K., Resolution 20.06 Annual Act 51 Map

Motion by Council Member Kroll, seconded by Council Member Robertson to approve Resolution 20.06 to correct the Annual Act 51 map.

Unanimous 4-0, Motion Carried

7. l., Resolution 20.09 Performance Resolution for Governmental Agencies

Motion by Council Member Kroll, seconded by Council Member Robertson to approve Resolution 20.09 Performance Resolution for Governmental Agencies.

Unanimous 4-0, Motion Carried

7.m., Reith Riley Change Order #1 and Pay Request #2 for Street Re-Surfacing

City Manager Richards reported that Reith-Riley has submitted Change Order #1 in the amount of - \$70,000.00 due to final balancing of contract items and extras. Also, is Payment Request #2 in the amount of \$378,119.73 for work completed through December 13, 2019. With the current contract amount is \$549,662.62 with a previous payment of \$115,964.06 and a retainage of \$30,999.31 to secure completion.

Motion by Council Member Robertson, seconded by Council Member Spirito to approve Reith Riley Change Order #1 and Pay Request #2 for Street Re-Surfacing.

Unanimous 4-0, Motion Carried.

8. Miscellaneous

None

9. Appointments/Resignations

None

10. Updates: LRSB, Cemetery Bd., The Pokagon Fund & Subsequent Council Action

The Pokagon Fund has a new Executive Director, Dan Peterson.

11. Correspondence

None

12. Council Comments

Mayor O'Donnell reminded everyone that New Buffalo is having the first annual St. Patrick's Day Parade on March 7, 2020.

13. Adjournment

Motion by Mayor O'Donnell, seconded by Council Member Robertson to adjourn the City Council Meeting at 8:14 p.m.

Unanimous 4-0, Motion Carried.



STAFF REPORT

Ozinga Energy

Meeting Date: January 7, 2020

Project Number: 11.27.19

Project Name: Ozinga Energy CNG Facility Site Plan Review

Applicant: Jason Van Den Brink, Ozinga Energy, 19001 Old LaGrange Road, Mokena, IL 60448. 708-326-3600

Property Location: 825 S. Whittaker Street, New Buffalo, MI 49117, #11-62-8200-0307-02-8

Owner: Same as above

Dimensions: 278'x264' (92,975 SF)

Proposed Use: Construction of a compressed natural gas fueling station for private and public use

Zoning: 825 S. Whittaker Street – General Industry (I-1)

Action Requested: Site Plan Review.

OVERVIEW

The applicant requests approval of a Site Plan to allow construction and use of a compressed natural gas facility for fueling of Ozinga trucks and public use. An above ground pump is planned for Ozinga's S. Whittaker Street truck entrance with substantial landscaping improvements as indicated in the site plan. Commercial gasoline fueling stations are permitted by right in Section 13-2. and the Zoning Administrator is allowed the discretion to approve similar uses. Section 19-2 of the City's Zoning Ordinance specifies site plan review standards.

Section 19-6, A, General Information

The application submitted is complete.

Section 19-6, B, Site Analysis/Project Impact

The drawings as submitted satisfy the requirements of this section.

Section 19-6, C, and 19-9, Site Plan Information and Approval Standards

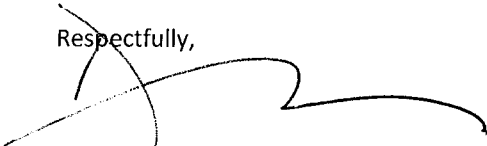
The drawings as submitted satisfy the requirements of this section and have been reviewed by a third party.

FINDINGS/RECOMMENDATION

- An electric charging station is included in future phases of the project.
- In previous discussions a sound barrier was discussed but is not include in the plan.
- The site plan is not signed and sealed and the engineers license expired in November of 2019.
- The City's attorney is investigating the need to combine the parcels involved in the project.
- Both the Police and Fire Chief are reviewing the site plan for any concerns.

After review of the application materials, confirmation of the facts reported, site inspections and evaluation of the site plan review criteria, it is recommended the Site Plan application for Project #11.27.19, referred to as Ozinga Energy CNG Facility be approved.

Respectfully,



David Richards, City Manager

CITY OF NEW BUFFALO

PLANNING COMMISSION/ ZONING BOARD OF APPEALS APPLICATION



City Staff Use Only	Project Name
	Project Number
	Review Fee Paid
	Escrow Fee Paid

APPLICATION TO: PLANNING COMMISSION ZONING BOARD OF APPEALS

224 W Buffalo St, New Buffalo, MI 49117 City Hall: 269-469-1500 Building Dept: 269-469-7144 Facsimile: 269-469-7917

Instructions: Fill-in all blanks and 'X' applicable boxes (). Incomplete applications cannot be processed.

I. Applicant and Owner Information

A) Applicant(s) principal contact:

E) Property owner(s) principal contact:

Name Jason Van Den Brink, Ozinga Energy
 Address 19001 Old LaGrange Road
Mokena, Illinois, 60448
 Telephone 708.326.3600

Name Jason Van Den Brink, Ozinga Energy
 Address 19001 Old LaGrange Road
Mokena, Illinois, 60448
 Telephone 708.326.3600

B) Applicant(s) secondary contact:

F) Architect (if applicable):

Name _____
 Address _____
 Telephone _____

Name _____
 Address _____
 Telephone _____

C) Agent or Attorney (if applicable):

G) Engineer (if applicable):

Name _____
 Address _____
 Telephone _____

Name Bryan Rieger, V3 Companies, Ltd.
 Address 7325 Janes Ave
Woodridge, Illinois, 60517
 Telephone 630.724.9200

D) Is the property held in Trust*:

H) Applicant is (check one):

Yes - Answer below No - Skip below

Property owner

Name of Trust _____

Attorney

Address _____

Agent

Telephone _____

Engineer

Other: _____

* Trusts: Provide an attached statement from the trustee verifying the names of all the beneficial owners.

CITY OF NEW BUFFALO
Date 11/27/2019 9:17:27 AM
Ref 825 S. WHITTAKER
Receipt 76291
Amount \$350.00

II. Purpose of Application

A) This application is a request for the following action:

- Rezoning of Property Subdivision Approval Site Plan Approval
- Rezoning Amendment Variance(s) Approval Special Use Approval
- Lot Split – Subdivision or Land Division Other: _____

B) The reasons for the requested action(s) are as follows:

Ozinga Energy proposing to construct a compressed natural gas fueling station on their property located at 825 S. Whittaker Street.

C) The specific section(s) of the City Zoning Ordinance or City General Ordinances which addresses the amendment, variance, or other action which is being requested:

City of New Buffalo, MI Zoning Ordinance Appendix A, Article 13, Section 13-3, Subsection A.

D) The following two questions are only for applications which contain a request for a zoning variance:

1. Are the conditions which prevent the development of the property the result of action by an individual who has or had a property interest in the subject property: Yes No

2. If the conditions were self-imposed (not hardship), explain why the variance should be granted:

III. Site and Surrounding Property Information

A) Common address or property location of subject property:

825 S. Whittaker Street

New Buffalo, Michigan

49117

B) Legal description (attach an additional sheet if necessary):

SEE SURVEY ATTACHED

C) Permanent Real Estate Tax Identification Number:

11-42-8200-0307-02-8

SEE SURVEY ATTACHED

D) Parcel Size: 92,975 Square feet

2.13 Acres

278 ft Dimension of lot frontage

264 ft Dimension of lot depth

E) What are the current land uses and zoning on the property and the adjoining properties:

	Current zoning	Current land use
1. On Site:	<u>I-1 General Industry</u>	<u>I-1 General Industry</u> <u>R-1 Single Family Residential</u>
2. Adjoining property:	<u>R-1 Single Family Residential</u>	<u>R-1 Single Family Residential</u>
a) North of Site	<u>GCD General Commercial District</u>	<u>R-1 Single Family Residential</u>
b) South of Site	<u>Berrien County</u>	<u>Berrien County (Commercial)</u>
c) East of Site	<u>R-1 Single Family Residential</u>	<u>Undeveloped</u>
d) West of Site	<u>S. Whittaker Rd. (GCD across road)</u>	<u>S. Whittaker Rd. (GCD across road)</u>

F) Describe any existing structures or other improvements and physical attributes of the site:

At the location of the proposed compressed natural gas fueling station there are two existing driveways, a lawn, and a former single family residence.

IV. Description of the Proposed Development

A) Please describe the proposed use of the land and/or building assuming approval of the request:

The proposed compressed natural gas fueling station would have a single pump and related underground equipment. The two existing driveways would be repaved and connected with a loop and the lot will be landscaped. The existing fence and gates to the Ozinga property would also be reconfigured to allow public access to the fueling area, while maintaining security to the concrete plant. The single family residence will be demolished.

B) What is the proposed time frame for the build-out of this development: December 2019 - March 2020

C) For each intended use please fill-in the number of buildings, square footage of each building, the total square footage of the development, and the required number of parking spaces; as well as the number and size of the water and the sewer connections:

Building Use	Number of Buildings	Building Area (sq ft)	Total Building (sq ft)	Required Parking Spaces	Water Connections and Sizes	Sewer Connections and Sizes
Single Family R-1						
Two Family R-2						
Mufti-Family R-3						
Central Business CBD						
Gen. Commercial GCD						
Waterfront Marina WM						
General Industrial I-1						
TOTAL						

D) If this application is for a development please provide information concerning the amount of traffic and the proposed road configuration it will have:

- 1) Average daily traffic count for the proposed development: N/A
- 2) Peak traffic flow count for the proposed development: N/A
- 3) How many lineal feet of roadway is proposed to be developed: N/A
- 4) How many cul-de-sacs will be constructed as part of this project: N/A
- 5) How many curb cuts to City, County or State roads are proposed: N/A

E) Does the request contemplated in this application concern any hazardous materials:

No Yes – describe the type and quantity of materials (attach extra pages if necessary):

V. Attachments

- A) Plat of Survey with legal description.
- B) Site plan of proposed use of project showing traffic patterns, parking locations and court, drainage patterns including detention areas, landscaping plans, exterior lighting locations and illumination pattern, building facade portrait and building size and location dimensions.
- C) Floodplain map (engineer's drawing or FEMA map showing location of subject property).
- D) Application fee in the amount of \$ 850.00.
- E) High Risk Dune Area Designation and/or Soil Conservation Analysis (if applicable).
- F) Application for permits (specify type):
 - 1) Michigan DOT _____
 - 2) County Road Commission _____
 - 3) County Health Department _____
 - 4) State Dept. of Public Health _____
 - 5) Michigan DEQ _____
 - 6) Others _____
- G) Sand Dune Permit for Construction (if applicable).

VI. Additional Information - Please describe the reasons this petition should be granted and include any additional comments or pertinent information (attach additional pages if necessary):

VII. Signature and Declaratory Statement

A) Required attendance at public hearing(s) and/or meeting(s): The Planning Commission and Zoning Board of Appeals (ZBA) have established a policy requiring the applicant or a designated representative of the applicant to be present at any meeting or public hearing at which their application is to be considered. Failure of the applicant or designee of the applicant to appear may postpone consideration of the application by the Planning Commission or ZBA.

B) Declaratory Statement:

I, JASON VAN DEN BRINK, hereby certify that all information contained in this application and accompanying documentation is true and correct to the best of my knowledge and further, I acknowledge the required attendance of the applicant as set forth in paragraph A above. I furthermore grant permission for identified members of the City of New Buffalo's Planning Commission or Zoning Board of Appeals to visit the site(s) referenced in this application.

C) Applicant Signature: [Signature] Date: 11/13/19

D) Notary Public Certification Statement:

I, Patricia L. Tellano, Notary Public in and for the State of Michigan this 13th day of November, 2019 the above captioned applicant appeared before me and under oath, stated that all matters contained in this application are true.

My commission expires: 7-09-2020

Patricia L. Tellano



VIII. City Staff Review

A) Fire Department approval of Site and Building Plans, except for single family dwellings: This application and associated documentation must be reviewed by the Fire Chief or his designee, which can be arranged by calling the Fire Department: 269-469-4993.

Review Date: _____

Approval: Yes No Signature: _____

Conditions: Attached None Title: _____

B) Note to applicant: The original application must be filed in the Office of the Zoning Administrator, where the following signatures are required for verification that this is a complete and valid application to be considered by the Planning Commission or the Zoning Board of Appeals.

Building Inspector: _____

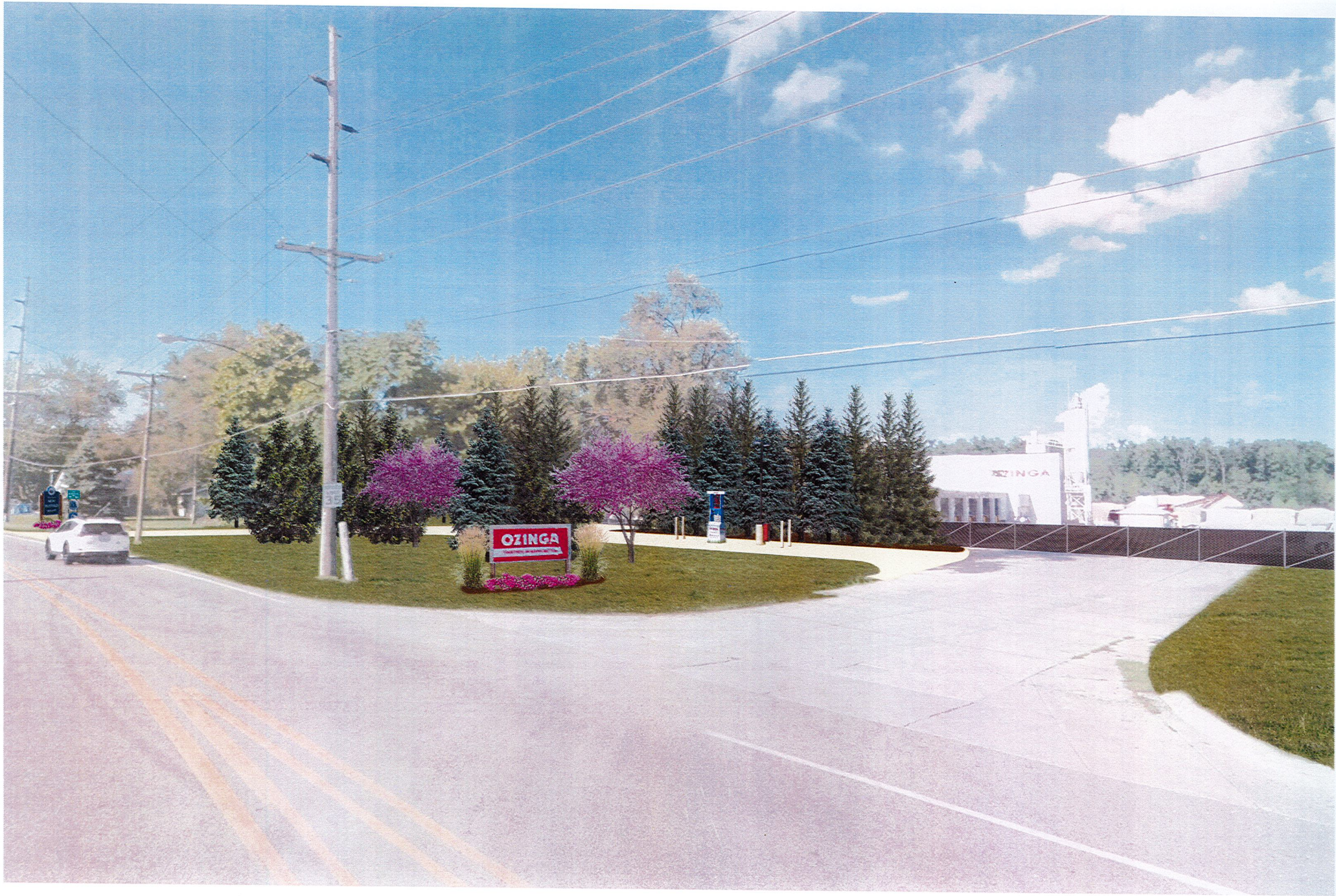
Date: _____

Zoning Administrator: _____

Date: _____

Initial meeting date: _____





Dave Richards

From: Rich Killips
Sent: Friday, December 13, 2019 9:05 AM
To: Tony McGhee; Fire Department; Fire Department (newbuffalocityfire@hotmail.com)
Cc: Dave Richards
Subject: Re: Final CNG Memo

Good morning,

Chris Huston and I reviewed the plans from a public safety viewpoint and had no major issues. Chris had two requests for this project.

- Would like to see a rendering of the actual locations of the NG main and the nearest shutoff outside of the ones on the plans which are both inside of the "hot zones" for the fueling station.
- A knock box be placed somewhere onsite that will allow firefighters access to the NG shutoff inside of the secured fence area.

If you have any questions please let us know

Rich Killips
Chief of Police

New Buffalo City Police Department
224 W. Buffalo St. New Buffalo Mi. 49117
269-469-1593 Office
269-469-2110 Fax



From: Tony McGhee <tmcghee@abonmarche.com>
Sent: Friday, December 13, 2019 8:08 AM
To: Nick Curcio <ncurcio@curciofirm.com>
Cc: Dave Richards <manager@cityofnewbuffalo.org>; Rich Killips <rkillips@cityofnewbuffalo.org>
Subject: Re: Final CNG Memo

thank you Nick.

Sent from my iPhone

On Dec 13, 2019, at 7:55 AM, Nick Curcio <ncurcio@curciofirm.com> wrote:

Tony,

In answer to your question for me below, there's no need for a formal lot combination. The zoning ordinance defines the term "lot" to mean "A parcel of land, *or contiguous parcels of land under one ownership* described within fixed boundaries, of sufficient size and configuration to meet the site development requirements of this ordinance and having access to a public road or approved private road."

-Nick

From: Tony McGhee <tmcghee@abonmarche.com>
Date: Tuesday, December 10, 2019 at 11:46 AM
To: David Richards <manager@cityofnewbuffalo.org>
Cc: 'Rich Killips' <rkillips@cityofnewbuffalo.org>, Nick Curcio <ncurcio@curciofirm.com>
Subject: Final CNG Memo

Dave,

We have reviewed the site plans submitted for the proposed CNG facility and provided feedback in the attached memo. I have copied Chief and Nick as there are a couple things they would be good to weigh in on for the City below. For you, there are a few things you've asked about that are in the memo but I want to point out here as well.

- They do have an electric charging station in the project but it is not until a future undefined phase which means it may or may not get added down the road
- When you met with them they talked about how they build a block wall around the pumping station itself in Indiana for aesthetics and a sound barrier. They said they would do one here but does not appear to be shown on the plans
- The plans are not signed and sealed and based on the signature box the engineer who prepared the plans license expired in November 2019. It may have been renewed by now but they should be signed and sealed by a licensed professional per the zoning ordinance.

Nick,

There are four (4) different parcels with common ownership being used for the proposed site plan. Each of the independent parcels for the purpose of the proposed improvements cannot stand alone as the improvements shown require flow through drives etc that utilize all of the parcels. Are you ok with the four separate parcels being used collectively for the purposes of meeting the City's zoning requirements or if they have to be combined into one parcel for consideration of the proposed CNG facility being placed on the Ozinga facility?

Chief,

In terms of traffic maintenance, I was not sure if you wanted in/out signs on the drives and if you wanted to limit which drives could do what (this is item #18 on page 5 of the memo)

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City of New Buffalo Planning Commission Regular Meeting was called to order by Chair, Paul Billingslea, at 7:03 pm in the City Hall Council Chambers at New Buffalo City Hall, 224 West Buffalo Street, New Buffalo, MI 49117.

The Pledge of Allegiance was led by the Commission.

Roll Call:

Present: Chair, Paul Billingslea; Members: Mark Joseph, Roxanne Lauer, Don Stoneburner

Absent: Bill McCollum

Staff Present: City Manager, David Richards; City Clerk, Amy Fidler; Deputy Clerk, Nancy Griffin;
Councilmember, Mark Robertson

Approval of Agenda

Motion by Member Lauer, seconded by Member Joseph to approve the agenda.
Unanimous 4-0, Motion Carried.

Approval of Previous Meeting Minutes

Motion by Member Stoneburner, seconded by Member Lauer to approve the Special meeting minutes of December 3, 2019.
Unanimous 4-0, Motion Carried.

Public Comment: None

Public Hearing

- a. Site Plan Review/Special Land Use Application, 1112 E. Clay
 - 11-62-8200-0203-04-4
 - 11-62-8200-0206-02-7
 - 11-62-8200-0207-04-0
 - 11-62-8200-0207-02-3

Evan LaDuc of Abonmarche Associates, representing New Buffalo Area Schools presented the variance request in detail to the Commission, including a new STEAM (Science, Technology, Engineering, Arts, Mathematics) building, retention pond, pavilion with restrooms, additional pickleball courts and parking and updates to the basketball court, tennis courts, skateboard park, parking etc. New Buffalo Area Schools is requesting for 68% of the property be hard surface.

- b. Site Plan Review/Special Use Permit, 19 N. Whittaker
 - 11-62-0340-0237-00-5

Patrick Warner presented the plan to the Commission, regarding the expansion of the patio outside seating area and a fence including the addition of seven tables and 28 chairs.

Old Business

None

New Business

- a. Site Plan Review/Special Land Use Application, 1112 E. Clay
 - 11-62-8200-0203-04-4
 - 11-62-8200-0206-02-7
 - 11-62-8200-0207-04-0
 - 11-62-8200-0207-02-3

Motion by Member Stoneburner, seconded by Member Joseph to approve the site plan review/special land use application, 1112 E. Clay allowing for additional lot coverage.

Unanimous 4-0, Motion Carried.

- b. Site Plan Review/Special Use Permit, 19 N. Whittaker
 - 11-62-0340-0237-00-5

Motion by Member Lauer, seconded by Member Joseph to approve the site plan review/special use permit, 19 N. Whittaker for the expansion of the patio with a fence.

Unanimous 4-0, Motion Carried.

- c. Site Plan Review, 825 S. Whittaker
 - 11-62-8200-0307-02-8

Jason Vandenbrink and Bryan Rieger, representing Ozinga, presented the site plan in detail to the Commission. The plan is to build a compressed natural gas (CNG) station in front of the existing Ozinga location, for motor vehicles that are powered by methane in order to fill a gap in the Department of Energy's MtoM (Michigan to Montana) corridor. The station will use the existing entrance along with an additional entrance/exit with landscaping and fencing allowing vehicles to enter and exit without going through the city. The station will NOT have any outside storage tanks or a convenience store. It will operate on a 24-hour basis and be unattended for use with credit cards or fleet cards only. Fire extinguishers and shutoffs will be available to the Police and Fire Departments in case of an emergency. Ozinga confirmed the plan was approved by the Police and Fire Departments who requested additional shutoffs. Providing electric charging stations is part of a future plan. City Manager, Richards, commented the public would be disappointed if the charging stations were not included.

Motion by Member Joseph, seconded by Member Lauer to approve the site plan review for 825 S. Whittaker for the building of a CNG station.

Unanimous 4-0, Motion Carried.

Commissioner Comments

None

Adjournment

Motion by Member Joseph, seconded by Member Stoneburner to adjourn the meeting at 7:43 pm.

Unanimous 4-0, Motion Carried.

NG.

Paul Billingslea, Chair

Ann M. Fidler, City Clerk



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Get [Outlook for Android](#)



Ozinga Energy, LLC
19001 Old LaGrange Road, Mokena, IL 60448
888.656.0141

Mr. Mayor and Members of City Council,

Ozinga is proposing to install a new Compressed Natural Gas (CNG) facility in the front of our Ready-Mix plant located at Whitaker Street in New Buffalo, MI. To that end, Ozinga had received a unanimous recommendation of the site plan from the New Buffalo Plan Commission and City Staff. We then were required to present at the next City Council meeting.

The first City Council meeting was continued due to concerns about the sound from the proposed CNG compressor unit. In response to the concerns, Ozinga hosted a site visit on February 5 to our Gary ready-mix plant, which contains a public CNG station. The attendees at the site visit included the Fire Chief, the Police Chief, a City Council Member, a City Staff member, and 2 nearby residents (Rodgers). The attendees were able to witness a demonstration of the CNG dispensing unit. Everyone seemed to be interested in how the dispenser worked since CNG is a relatively new product. The group agreed that the noise level of the gas being dispensed is quite low.

After a few minutes of filling the truck's CNG tank, the CNG compressor turned on to assist with filling the truck's tank. None of the attendees seemed to notice that the CNG compressor had turned on, in fact, I had to point out that the compressor had turned on. At that point, the attendees walked over to get a closer look at the compressor unit. I offered the option of walking a distance of 400', then of 900' from the compressor to illustrate the sound levels at the residents adjacent to the New Buffalo site. No one took me up on the offer.

The CNG compressor at the Gary facility is a different size and manufacturer than the CNG compressor proposed for the New Buffalo facility. The Gary compressor is an ANGI compressor and measured at 85 decibels. The proposed New Buffalo compressor will be a Bauer compressor and is rated at 75 decibels. The increase in decibels is not linear to the actual sound. While the difference in decibels between the two compressors is 10, the sound of the Gary compressor is actually twice as loud as the compressor proposed at New Buffalo. Ozinga purchased a decibel meter to determine what the background level is at the New Buffalo site. The background level within the plant is roughly 55-60 decibels. The background level at the edge of Whitaker Street is between 50-55 decibels. The meter reading when a mid-sized sedan drove by increased to 75 decibels, which is equivalent to the sound generated from proposed compressor unit. To further mitigate any sound concerns, Ozinga has agreed to enclose the compressor equipment behind a concrete block wall, similar in character to the block wall currently along the northwest property line at the Ozinga ready-mix plant. The CNG equipment at the Gary facility is also enclosed in a concrete block wall, and the decibel meter read a 20 decibel drop from the inside to the outside of the wall. The sound generated from the CNG compressor at the New Buffalo facility will be negligible to any of the surrounding residents.

The second City Council meeting was continued due to concerns raised from the neighbors directly northwest of the New Buffalo City. The concerns were included in a letter from the neighbors to the City and forwarded to Ozinga on February 12, 2020. At the time of receipt, it was Ozinga's

understanding that we were to come prepared to discuss the concerns at the meeting. The concerns are split into three categories: dust, water and sound.

- Dust

- There are two separate operations and property owners by the Ozinga facility. Ozinga owns and operates the concrete plant along Whitaker Street. Kenneth Smith Trucking owns and operates the area in the back of the concrete plant. Ozinga does not have any direct input to the operations of Kenneth Smith Trucking, so we are not familiar with how they run other than providing access to the facility.
- Ozinga owns and operates several ready-mix concrete plants around the country and we take dust control very seriously. All of the working surfaces within the Ozinga property is paved with concrete. This produces much less dust than if the surface were gravel, stone or dirt. The surfaces are frequently swept with a yard broom and before sweeping, the surfaces are pre-soaked to avoid kicking up of any dust.
- The managers of the New Buffalo Ready-Mix concrete plant were asked if any complaints were raised from the residents nearby. To Ozinga's knowledge, there has only been once complaint regarding dust since we have been in business in New Buffalo. That event involved a cement collection bag at the top of the plant breaking, which spilled dust into the air. The plant was shut down immediately and the bag was fixed in order to control any dust formed by the process.
- There was one other complaint that the managers were aware of, but that was related to Kenneth Smith Trucking sweeping portions of their property without pre-soaking the surface. Again, Ozinga has no control over the operations of Kenneth Smith Trucking.

- Water

- Ozinga purchased the property in 1995 and has done no improvements within the right-of-way directly north and west of the property. The area within the right-of-way is a low area where water ponds and always has ponded. About 6 or 7 years ago, the electric service company had tree trimmers go through the area and trim trees. Nothing was done at that time to affect the grades or drainage patterns in the area.
- The concrete block walls were originally installed at the request of the State of Michigan storm water inspector. The request was intended to keep as much of the surface runoff from the Ozinga property on the Ozinga property. This was a requirement from the State of Michigan.
- The concrete block walls do not provide an impermeable wall since there are cracks between the blocks. Water is able to migrate through the wall to reach the low point in the area. Whenever water ponds within the right-of-way area directly north of the block walls, water also ponds within the Ozinga driveway. Again, this is due to the fact that the area within the Ozinga driveway and the right-of-way directly northwest of the wall is a low-lying area. There is no place for the water to go.
- The area where the proposed CNG facility is going to be located drains east and south and will not impact the water settling in the right-of-way area previously mentioned.

- Sound

- The neighbors expressed their concern about noise, specifically the banging of dump truck gates at 4:00 am. The banging trucks are from the Kenneth Smith Trucking facility

when they dump their loads for transfer. As they empty their material, the gate of the truck closes and creates a specific noise. Concrete trucks within the Ozinga plant do not create this noise.

- The Ozinga Ready-Mix plant is located in an industrial zoning district and does not create a “noise disturbance”, which is described in the City of New Buffalo Code as “Any sound which endangers or injures the safety or health of persons or animals; or would be unreasonably loud and disturbing to the average member of the community of normal sensitivities under the circumstances; that is louder than and would disrupt any part of a normal conversation between two people or endangers or injures persons or real property”. The concrete block wall surrounding the property is 12 feet in height and further reduces any noise generated from the ready-mix concrete plant.

Ozinga is a family owned business, so our businesses reputation is very important. We desire to be great neighbors to all of the residents living near all of our Ready-Mix plants that we own and operate around the country. Specifically, in New Buffalo, Ozinga has worked to address any of the concerns that have been raised to them. In the recent past, Ozinga placed two additional two foot blocks on top of the wall to elevate it to 12 feet. The neighbors thanked Ozinga while we were installing the blocks.

All of the concerns raised within the letter from the adjacent residents are unrelated to the Site Plan approval request for the CNG facility. The CNG facility will not adversely impact any of the surrounding neighbors. Ozinga is proposing to install the CNG facility so that we can provide cleaner, quieter, new CNG vehicles to this location in the future. The concrete trucks that run on CNG produce significantly fewer emissions than similar diesel trucks, even than the newer more efficient diesel vehicles. Also, CNG trucks are on average 10 decibels quieter than comparable diesel vehicles. Ozinga sees this as ultimately a benefit for the surrounding community.

Regarding timing, the grant that is allowing Ozinga to construct the CNG facility in this location runs out in the end of June of this year. We really need to start construction as soon as we possibly can. To that end, we request that a special City Council meeting be held in the next couple of weeks to contemplate the approval of this project to allow construction to start. Ozinga has provided all of the information that is required to date and more.

Thank you for your time.

Jason van den Brink

Operations Officer

Ozinga Energy

708-326-3618

jasonvandenbrink@ozinga.com

MEMORANDUM

DATE: February 27, 2020

TO: City of New Buffalo

FROM: Tony McGhee

RE: Shoreline Protection Quotes

The City of New Buffalo requested that Abonmarche solicit quotes for various options to protect the Whittaker Street roadway and associated utilities north of the bridge from high water levels causing erosion to the land between the river and the roadway. Below is an overview of each quote with a few pros and cons for each option along with the cost.

Tamis Barriers

Description: These are plastic barriers 6' long and 42" high filled with water.

Cost: \$15,531 (includes freight)

Pros: Light weight (100 lbs. empty) so easy to move and position. With water, they weigh 1,528 pounds. Come in natural colors such as green and beige so don't look so "hard".

Cons: Weigh less than half of their concrete counter parts meaning a higher likelihood of being pushed around in heavy storm situations creating opportunities for water to come through.

American Eagle Precast

Description: These are concrete barriers 10' -12' long and 32" high

Cost: \$11,550 (does not include freight, anticipate another \$1,800 - \$2,600)

Pros: At 4,800 lbs. per block will be much harder for storm surge situations to move them around

Cons: These are used so they may appear dinged up and worn (not as aesthetically attractive as other options). Heavy and will require equipment the city may not own to move and position. Actually more expensive than buying new ones.

Mack Industries

Description: These are concrete barriers 10' long and 32" high

Cost: \$11,200 (does not include freight, anticipate another \$1,800 - \$2,600)

Pros: At 4,800 lbs. per block these will be much harder for storm surge situations to move them around. The barriers interlock well to prevent water from seeping through space between the blocks. They have some resale potential when done with them.

Cons: Heavy and will require equipment the city may not own to move and position

Ozinga – New Buffalo Operation

Description: These are concrete blocks with hooks that are 2x2x6 and weigh approximately 4,000 lbs.

Cost: \$2,360 (59 blocks @ \$40 each). Delivery of the blocks by Burkholder Excavating to the beach parking lot would be an additional \$1,200. If the City wished Burkholder to place the blocks along the shoreline the work would increase the cost by \$1,800. Under this approach, the purchase of the blocks and contracting their delivery and installation would cost \$5,360.

Pros: Lower cost and good weight to resist water forces

Cons: These blocks do not interlock as well as precast barriers above meaning water may have an easier time penetrating and blocks pushed around. 2' height may not be high enough and if so a second course will need to be added doubling cost and creating a 4' high barrier along the river. Heavy and will require equipment the city may not own to move and position

If you have any questions or need additional information, please contact me at (269) 252-8980 or via email at tmcghee@abonmarche.com





REC'D

DEC 11 2019

CITY OF NEW BUFFALO

Application for Appointment
City of New Buffalo Boards and Commissions

Name: Jack Kennedy

Home Address: 231 S. Norton

Home Phone: 269-469-3413 Cell Phone:

Email:

Education:

Occupation:

Board or Commission for which you are applying: Board of Review

Are you re-applying for a position that you currently hold? YES NO

If yes, when does your term expire? each year

Why would you like to be appointed or re-appointed to this board or commission? it's interesting

What skills could you bring to this position? (i.e., education, certifications, life skills)

List membership, participation, or other governmental committees, boards, or community organizations on which you have served.

Signature Jack Kennedy Date 12-11-19

By signing this application, you acknowledge that most of this information will be public information and subject to the Freedom of Information Act 442 of 1976.

Please complete this form in its entirety and return to the City of New Buffalo, 224 W. Buffalo St., New Buffalo, MI 49117, Fax: (269)469-7917, or email: clerk@cityofnewbuffalo.org. If additional space is necessary, please attach additional sheets. If you have any questions, please call (269)469-1500.

2/25/20 - JACK CAN ATTEND ON 2/25/20 @ 4:00pm. NG.



Application for Appointment
City of New Buffalo Boards and Commissions

REC'D
JAN 09 2020
CITY OF NEW BUFFALO

Name: JULI WESTERGREEN
Home Address: 501 N. WHITTAKER ST #17
Home Phone: 269-469-9890 Cell Phone: 219-331-5133
Email: VINOSHACK@COMCAST.NET
Education: BSBM - CARLOW COLLEGE
Occupation: PROPERTY MANAGER

Board or Commission for which you are applying:
BOARD OF REVIEW

Are you re-applying for a position that you currently hold? YES NO

If yes, when does your term expire? _____

Why would you like to be appointed or re-appointed to this board or commission?
I would like to continue contributing to the community in a positive manner.

What skills could you bring to this position? (i.e., education, certifications, life skills)
I believe my education, work experience and analytical skills have been beneficial to the review process.

List membership, participation, or other governmental committees, boards, or community organizations on which you have served.
NBBA

Signature Julianne Westergren Date 1-9-20

By signing this application, you acknowledge that most of this information will be public information and subject to the Freedom of Information Act 442 of 1976.

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2/25/20 - Juli can attend on 2/28/20 @ 4:00pm. NG.



Application for Appointment
City of New Buffalo Boards and Commissions

RECVD

DEC 18 2019

CITY OF NEW BUFFALO

Name: Vanessa Thun
Home Address: 25 S Harrison
Home Phone: - Cell Phone: 269-612-0161
Email: Vanessa@a-cleangetaway.com
Education: 3.5 years of college
Occupation: Business Owner

Board or Commission for which you are applying:
Board of Review

Are you re-applying for a position that you currently hold? YES NO

If yes, when does your term expire? 2020

Why would you like to be appointed or re-appointed to this board or commission?
I really enjoy working on this board and am greatly familiar with almost all property in New Buffalo.

What skills could you bring to this position? (i.e., education, certifications, life skills)
20 years of rentals, cleaning, real estate and a life long resident of New Buffalo makes me very familiar with all property in our city

List membership, participation, or other governmental committees, boards, or community organizations on which you have served.
President of the Railroad Museum, Election Committee 4 years and Board of Review 3 years

Signature Vanessa Thun Date 12/12/19

By signing this application, you acknowledge that most of this information will be public information and subject to the Freedom of Information Act 442 of 1976.

Please complete this form in its entirety and return to the City of New Buffalo, 224 W. Buffalo St., New Buffalo, MI 49117, Fax: (269)469-7917, or email: clerk@cityofnewbuffalo.org. If additional space is necessary, please attach additional sheets. If you have any questions, please call (269)469-1500.

2/25/20 - left msg. NA.