

A Regular Meeting of the Otsego City Commission was held Tuesday, January 3, 2017.

The meeting was called to order by Mayor Trobeck at 7:00 p.m. with the following Commissioners present: Tom Gilmer, Nick Breedveld and Ryan Wieber. Absent: Kathy Misner. Also present City Manager Beard and Brandon Weber; Fire Chief.

The audience joined the Commission in the Pledge of Allegiance.

The Regular and Special Meeting Minutes of December 19, 2016, were approved as submitted.

Commissioner Gilmer moved to excuse Commissioner Misner, seconded by Commissioner Wieber. CARRIED.

Commissioner Gilmer moved to add under Requests - B) Consideration Of The Request Of The Main Street/DDA Board to Remove Member Sherry Cunningham as a Board Member; C) Consideration of Request to Set a Public Hearing to Establish Single Premise Assessments For Delinquent Charges For City Services; and under Appointments - B) Consideration of the Mayor's Appointment of Stacy Withee to Fill the Unexpired Term of Sherry Cunningham on the Main Street/DDA Board, Term Expiring July 1, 2019, seconded by Commissioner Wieber. CARRIED UNANIMOUSLY.

REMARKS FROM THE AUDIENCE REGARDING AGENDA ITEMS

None.

I. PRESENTATIONS:

II. PUBLIC HEARING:

III. PLANNING AND ZONING:

A. CONSIDERATION OF APPROVAL OF A SPECIAL LAND USE PERMIT TO SELL USED VEHICLES IN A COMMERCIAL DISTRICT, AT 541 WEST ALLEGAN STREET, SUBMITTED BY ANDREW HESS

Manager Beard explained that the Planning Commission held a Public Hearing and reviewed the Special Land Use Permit. He explained that the parent lot is in the process of being split into two parcels. Manager Beard commented that the south visual barrier should be included as a requirement for the Special Use Permit. He stated that the applicant, Andrew Hess was in attendance, if the Commission had any questions. Commissioner Breedveld moved to approve the Special Land Use Permit to sell used vehicles in a Commercial District at 541 West Allegan Street, submitted by Andrew Hess, with the stipulation that a visual barrier will be placed on the south-side of the property, seconded by Commissioner Wieber. CARRIED UNANIMOUSLY

B. CONSIDERATION OF APPROVAL OF A SITE PLAN SUBMITTED BY ANDREW HESS FOR 541 WEST ALLEGAN STREET

Commissioner Wieber moved to approve the Site Plan submitted by Andrew Hess, for 541 West Allegan Street, seconded by Commissioner Gilmer. CARRIED UNANIMOUSLY

IV. ORDINANCES:

V. REQUESTS:

- A. CONSIDERATION OF TRANSFER STATION COUPON PROGRAM - DISTRIBUTION OF COUPONS BEGINNING IN FEBRUARY - COUPONS EXPIRING DECEMBER 31, 2017

Commissioner Breedveld moved to authorize the 2017 Transfer Station Coupon Program with the distribution of the coupons to begin in February and coupons to expire on December 31, 2017, seconded by Commissioner Gilmer. CARRIED UNANIMOUSLY

- B. CONSIDERATION OF THE REQUEST OF THE MAIN STREET/DDA BOARD TO REMOVE MEMBER SHERRY CUNNINGHAM AS A BOARD MEMBER

Manager Beard explained that the member has been unable to attend meetings for the last six months, due to health issues. It was communicated to Member Cunningham that she is more than welcome to rejoin the board, in the future. Commissioner Wieber moved to grant the Main Street/DDA Board's request to remove Member Sherry Cunningham from the Main Street/DDA Board, seconded by Commissioner Gilmer. CARRIED UNANIMOUSLY

- C. CONSIDERATION OF REQUEST TO SET A PUBLIC HEARING TO ESTABLISH SINGLE PREMISE ASSESSMENTS FOR DELINQUENT CHARGES FOR CITY SERVICES

Manager Beard explained that this is done each year to give property owners a notice and opportunity to address the City Commission or pay the delinquent charges before the charges are placed as a lien on the property. Commissioner Breedveld moved to grant the request to set a Public Hearing to Establish Single Premise Assessments for Delinquent Charges for City Services, seconded by Commissioner Gilmer. CARRIED UNANIMOUSLY

VI. AGREEMENTS

VII. RESOLUTIONS:

- A. CONSIDERATION OF RESOLUTION NO. 2017-01 - A PERFORMANCE RESOLUTION REQUIRED BY THE MICHIGAN DEPARTMENT OF TRANSPORTATION

Commissioner Gilmer offered the following Resolution and moved for its adoption, supported by Commissioner Wieber.

CITY OF OTSEGO
ALLEGAN COUNTY, MICHIGAN

RESOLUTION NO. 2017-01

A PERFORMANCE RESOLUTION REQUIRED BY THE MICHIGAN
DEPARTMENT OF TRANSPORTATION

This Performance Resolution is required by the Michigan Department of Transportation for purposes of issuing to a municipal utility an "Individual Permit for Use of State Highway Right of Way," or an "Annual Application and Permit for Miscellaneous Operations within State

Highway Right of Way.’’

RESOLVED WHEREAS, the City of Otsego hereinafter referred to as the "GOVERNMENTAL AGENCY," periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," for permits, referred to as "PERMIT," to construct, operate, use and/or maintain utility or other facilities, or to conduct other activities, on, over, and under State Highway right of way at various locations; within and adjacent to its corporate limits;

NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT, the GOVERNMENTAL AGENCY agrees that:

1. Each party to this Agreement shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this Agreement, as provided by law. This Agreement is not intended to increase either party's liability for, or immunity from, tort claims, nor shall it be interpreted, as giving either party hereto a right of indemnification, either by Agreement or at law, for claims arising out of the performance of this Agreement.
2. If any of the work performed for the GOVERNMENTAL AGENCY is performed by a contractor, the GOVERNMENTAL AGENCY shall require its contractor to hold harmless, indemnify and defend in litigation, the State of Michigan, the DEPARTMENT and their agents and employee's, against any claims for damages to public or private property and for injuries to person arising out of the performance of the work, except for claims that result from the sole negligence or willful acts of the DEPARTMENT, until the contractor achieves final acceptance of the GOVERNMENTAL AGENCY. Failure of the GOVERNMENTAL AGENCY to require its contractor to indemnify the DEPARTMENT, as set forth above, shall be considered a breach of its duties to the DEPARTMENT.
3. Any work performed for the GOVERNMENTAL AGENCY by a contractor or subcontractor will be solely as a contractor for the GOVERNMENTAL AGENCY and not as a contractor or agent of the DEPARTMENT. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the GOVERNMENTAL AGENCY, or their subcontractors or any other person not a party to the PERMIT without the DEPARTMENT'S specific prior written consent and notwithstanding the issuance of the PERMIT. Any claims by any contractor or subcontractor will be the sole responsibility of the GOVERNMENTAL AGENCY.
4. The GOVERNMENTAL AGENCY shall take no unlawful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities, and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission a right to seek and obtain any

necessary relief or remedy, including, but not by way of limitation, a judgment for money damages.

5. The GOVERNMENTAL AGENCY will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State Highway Right of Way resulting from the installation construction, operation and/or Maintenance of the GOVERNMENTAL AGENCY'S facilities according to a PERMIT issued by the DEPARTMENT.
6. With respect to any activities authorized by PERMIT, when the GOVERNMENTAL AGENCY requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.
7. The incorporation by the DEPARTMENT of this resolution as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.
8. This resolution shall continue in force from this date until cancelled by the GOVERNMENTAL AGENCY or the DEPARTMENT with no less than thirty (30) days prior written notice to the other party. It will not be cancelled or otherwise terminated by the GOVERNMENTAL AGENCY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED, that the following position(s) are authorized to apply to the DEPARTMENT for the necessary permit to work within State Highway Right of Way on behalf of the GOVERNMENTAL AGENCY.

1. Angela M. Cronen, City Clerk
2. Michael Bosch, DPW Supervisor
3. Thad Beard, City Manager
4. C2AE, City's Engineering Firm

YEAS: Commissioners: Cyndi Trobeck, Tom Gilmer, Ryan Wieber, Nick Breedveld.

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None.

ABSENT: Commissioners: Kathy Misner.

RESOLUTION DECLARED ADOPTED.

**B. CONSIDERATION OF RESOLUTION NO. 2017-02 – A RESOLUTION TO
MOVE MARCH 2017 BOARD OF REVIEW STARTING DATE**

Commissioner Breedveld offered the following resolution and moved for its adoption, seconded

by Commissioner Gilmer.

CITY OF OTSEGO
ALLEGAN COUNTY, MICHIGAN
RESOLUTION NO. 2017-02

RESOLUTION TO MOVE MARCH 2017 BOARD OF REVIEW START DATE

WHEREAS, the City Assessor will be unable to attend the established start date for the 2017 march Board of Review which is the second Monday of March, March 13, 2017; and

WHEREAS, Michigan Compiled Law 211.30(2) allows the governing body of a city to authorize an alternative starting date of the Tuesday or Wednesday following the second Monday of March;

THEREFORE, BE IT RESOLVED, THAT THE Otsego City Commission hereby approves the starting date of the 2017 March Board of Review as Tuesday, March 14, 2017.

YEAS: Commissioners: Cyndi Trobeck, Tom Gilmer, Ryan Wieber, Nick Breedveld.

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None.

ABSENT: Commissioners: Kathy Misner.

RESOLUTION DECLARED ADOPTED.

VIII. APPOINTMENTS:

- A. CONSIDERATION OF APPOINTMENT OF BOARD OF REVIEW MEMBERS
– LINDA ELDRED, RICHARD DELONG, AND AMBER MILANI TERMS TO EXPIRE DECEMBER 31, 2017

Mayor Trobeck commented that Gary Trobeck recently resigned from the Board. She stated that Amber Milani, who has experience in the real estate field, will be a good fit for the Board of Review. Commissioner Wieber moved to confirm the Mayor's appoint of Linda Eldred, Richard DeLong, and Amber Milani to the Board of Review, terms to expire December 31, 2017, seconded by Commissioner Breedveld. CARRIED UNANIMOUSLY.

- B. CONSIDERATION OF THE MAYOR'S APPOINTMENT OF STACY WITHEE
TO FILL THE UNEXPIRED TERM OF THE SHERRY CUNNINGHAM ON
THE MAIN STREET/DDA BOARD, TERM EXPIRING JULY 1, 2019

Commissioner Gilmer moved to confirm the Mayor's appointment of Stacy Withee to fill the unexpired term of Sherry Cunningham on the DDA/Main Street Board, term to expire July 1, 2019, seconded by Commissioner Wieber. CARRIED UNANIMOUSLY.

IX. DISCUSSION ITEMS:

MANAGER'S REPORT

1. He gave updates on the following: 2016 Building Permit statistics; Co-Gen property sale; Mr. Bleeker has begun construction; Fire Department improvements, Main Street/DDA payment of loan; Phase Two of the South Farmer Street project; and the Fire Department's future needs.

COMMUNICATIONS

Mayor Trobeck read a letter from the Michigan Association of Municipal Clerks, announcing that City Clerk, Angela Cronen had met all of the educational qualifications to re-new her Certified Michigan Municipal Clerk certification.

REMARKS FROM THE AUDIENCE

None.

COMMISSIONERS' COMMENTS

Commissioner Gilmer – he encouraged everyone to stop at the library and see the lifesize Candy Land game. He commented that over one thousand people have gone through it and it is receiving a lot of positive publicity for Otsego. He commented that it is nice to see three houses being constructed in Eley Acres.

Mayor Trobeck – she stated that she had recently visited all of the City Departments and attended the City's luncheon. She commented that they are an amazing group of employees, who are very supportive of the City and each other. Manager Beard gave kudos to the Water Department and WWTP Superintendent Keyzer, for receiving a 2015 Fluoride Quality Award.

The meeting was adjourned on a motion by Commissioner Breedveld, seconded by Commissioner Gilmer. CARRIED – 7:49 p.m.

Angela M. Cronen, MMC
City Clerk