

A Regular Meeting of the Otsego City Commission was held Monday, March 19, 2018.

The meeting was called to order by Mayor Pro-Tem Gilmer at 7:00 p.m. with the following Commissioners present: Nick Breedveld, Stacey Withee. Absent: Jim Misner & Cyndi Trobeck.

Also present: Fire Chief, Brandon Weber; DPW Supervisor, Mike Bosch; City Manager, Aaron Mitchell.

At this time, Otsego Brownie Troop #80057, conducted a flag ceremony followed by the audience joining in the Pledge of Allegiance.

Commissioner Withee moved to excuse Commissioner Misner and Mayor Trobeck, seconded by Commissioner Breedveld. CARRIED

The Special March 8, 2018, Meeting Minutes were approved.

I. PRESENTATIONS:

A. SWEARING IN OF CITY MANAGER AARON MITCHELL BY THE CITY CLERK

At this time, Clerk Cronen swore in City Manager Aaron Mitchell.

B. PRESENTATION BY COUNTY CLERK BOB GENETSKI

County Clerk Genetski presented and reviewed with the Commission the County Clerk-Register of Deeds Annual Report. He announced that he will be running for the State Senate.

II. PUBLIC HEARING:

III. PLANNING AND ZONING:

IV. ORDINANCES:

V. REQUESTS:

A. CONSIDERATION OF A ONE YEAR AGREEMENT WITH M.N.S LAWN CARE FOR LAWN CARE SERVICES

Manager Mitchell gave a brief overview of the proposed agreement. A lengthy discussion took place regarding the agreement with comments from the Commissioners and the DPW Supervisor. DPW Supervisor Bosch explained that he had reviewed the agreement with the Finance Director and the agreement was within the City's standard and it was not required to go out to bid. Commissioner Withee moved to approve a one year agreement with MnS Lawn Care for lawn services, seconded by Commissioner Breedveld. Yes: Commissioner Gilmer & Commissioner Withee. No: Commissioner Breedveld. NOT CARRIED.

VI. AGREEMENTS:

VII. RESOLUTIONS:

A. CONSIDERATION OF RESOLUTION NO. 2018-07 - A PERFORMANCE RESOLUTION REQUIRED BY THE MICHIGAN DEPARTMENT OF TRANSPORTATION – NAMING CITY MANAGER AARON MITCHELL AS THE CITY’S STREET ADMINISTRATOR

Commissioner Withee offered the following Resolution and moved for its adoption, supported by Commissioner Breedveld.

**CITY OF OTSEGO
ALLEGAN COUNTY, MICHIGAN**

RESOLUTION NO. 2018-07

A PERFORMANCE RESOLUTION REQUIRED BY THE MICHIGAN DEPARTMENT OF TRANSPORTATION – NAMING STREET ADMINISTRATOR

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. Any work performed for the GOVERNMENTAL AGENCY will be solely as 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 its specific prior written consent and notwithstanding the issuance of the PERMIT. Any claims 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 will be the sole responsibility of the GOVERNMENTAL AGENCY.

3. 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.

4. The GOVERNMENTAL AGENCY It 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 MDOT 2207B (10/11) Page 2 of 2 5. 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.

5. 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.

6. 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.

7. 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. Aaron Mitchell, City Manager – Street Administrator
3. Michael Bosch, DPW Supervisor
4. C2AE, City's Engineering Firm

YEAS: Commissioners: Tom Gilmer, Stacey Withee, and Nick Breedveld.

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None.

ABSENT: Commissioners: Cyndi Trobeck and Jim Misner.

RESOLUTION DECLARED ADOPTED.

VIII. APPOINTMENTS:

A. CONSIDERATION OF THE MAYOR'S APPOINTMENT OF MANAGER MITCHELL AS THE CITY'S HEALTH OFFICER

Commissioner Breedveld moved to approve the Mayor's appointment of Manager Mitchell as the City's Health Officer, seconded by Commissioner Withee. CARRIED UNANIMOUSLY.

IX. DISCUSSION ITEMS:

MANAGER'S REPORT

1. Manager Mitchell gave an update on the following: his first week; March Board of Review; zoning questions – 212 E Allegan Street; Rock-Tenn tour; and the Kalamazoo River Greenway Project.
2. Manager Mitchell answered questions of the Commission at this time.

COMMUNICATIONS

None.

REMARKS FROM THE AUDIENCE

Gale Dugan, County Commissioner – he presented his County Commission Report.

Robert Alway, 1012 Barton – he welcomed Manager Mitchell.

Dick DeLong, 728 Ruby – he thanked Finance Director Storbeck and City Assessor Harris for their guidance and assistance, as the Board of Review had hard decisions to make. He also thanked fellow board members Linda Eldred and Amber Malani. Mr. DeLong commented that he would like to see residents clean-up their properties.

COMMISSIONERS' COMMENTS

Commissioner Withee – she welcomed Manager Mitchell. She commented that the City has a great group of employees. She thanked the audience for attending.

Commissioner Gilmer – he gave an update on Commissioner Misner, commenting that he is glad he is on his way to recovery. He commented that the group investigating the concerns regarding cancer in our community is going to get a lot of publicity. He stated that the group is being respectful and that we and all others should do their part and assist them.

The meeting was adjourned on a motion by Commissioner Withee, seconded by Commissioner Breedveld. CARRIED – 7:52 p.m.

Angela M. Cronen, MMC
City Clerk