

A Regular Meeting of the Otsego City Commission was held Monday, December 4, 2017.

The meeting was called to order by Mayor Trobeck at 7:00 p.m. with the following Commissioners present: Nick Breedveld, Tom Gilmer, Stacey Withee, and Jim Misner. Absent: None. Also present: Fire Chief, Brandon Weber; Interim City Manager/Finance Director Storbeck and Interim City Manager/Police Chief Konkle.

The audience joined the Commission in the Pledge of Allegiance.

The Regular Meeting Minutes of November 16, 2017, were approved.

**I. PRESENTATIONS:**

**II. PUBLIC HEARING:**

**III. PLANNING AND ZONING:**

**IV. ORDINANCES:**

**V. REQUESTS:**

**VI. AGREEMENTS:**

**VII. RESOLUTIONS:**

**A. CONSIDERATION OF RESOLUTION NO. 2017-36 - A RESOLUTION OF THE CITY OF OTSEGO RELATING TO PUBLIC ACT 152 OF 2011 – THE PUBLICLY FUNDED HEALTH INSURANCE CONTRIBUTION ACT**

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

**CITY OF OTSEGO  
ALLEGAN COUNTY, MICHIGAN**

**RESOLUTION NO. 2017-36**

**A RESOLUTION OF THE CITY OF OTSEGO RELATING TO PUBLIC ACT 152 OF 2011 – THE PUBLICLY FUNDED HEALTH INSURANCE CONTRIBUTION ACT**

WHEREAS, the Publicly Funded Health Insurance Contribution Act or Public Act 152 of 2011, (PA 152) mandated certain cost-sharing obligations for public employee health insurance premiums and costs for medical benefit plan coverage years beginning after January 1, 2012; and

WHEREAS, if the City of Otsego (City) fails to comply with the mandates of PA 152, then the state treasurer is required to reduce by 10% each Economic Vitality Incentive Program (EVIP) payment received under 2011 PA 63; and

WHEREAS, the City has modified its Health Insurance Plans in an effort to meet the hard cap requirements of PA 152; and

WHEREAS, effective January 1, 2012, the City and its employees moved to a “high deductible health insurance plan,” and all City employees contribute twenty percent of their health care premiums, effective July 1, 2012; and

WHEREAS, Section 8 of the Act permits the “governing body” of “a local unit of government (which includes a city) to exempt itself from the requirements of this act for the next succeeding year.”

WHEREAS, even though the City intends to meet the requirements of PA 152 within the year, to avoid any possibility of a 10% reduction of Economic Vitality Incentive Program payments, the City of Otsego does, by a vote of 2/3 of its members, exempt itself from the provisions of PA 152 for one year beginning January 1, 2015, and

THEREFORE, BE IT RESOLVED that the City exempt itself from the requirements of PA 152 for one year beginning January 1, 2015, and pursuant to the Act no exemption beyond December 31, 2015, is intended or implied by this resolution, and

THEREFORE, BE IT FURTHER RESOLVED, pursuant to the Economic Vitality Incentive Program (EVIP) provisions of Public Act 63 of 2011, the City of Otsego City did produce a plan for implementing new compensation standards for, among other things, health insurance premium cost sharing by May 1, 2012, as required by Public Act 63.

YEAS: Commissioners: Cyndi Trobeck, Tom Gilmer, Nick Breedveld, Stacey Withee, Jim Misner.

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None.

ABSENT: Commissioners: None

RESOLUTION DECLARED ADOPTED.

**B. CONSIDERATION OF RESOLUTION NO. 2017-37 - A RESOLUTION REGARDING SCHEDULING THE 2018 MEETINGS OF CITY OF OTSEGO CITY COMMISSION**

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

**CITY OF OTSEGO  
ALLEGAN COUNTY, MICHIGAN**

**RESOLUTION NO. 2017-37**

**A RESOLUTION REGARDING SCHEDULING THE  
2018 MEETINGS OF CITY OF OTSEGO CITY COMMISSION**

**Whereas**, pursuant to Section 5(2) of Act 266 of 1976, the Open Meetings Act, the Otsego City Commission must establish and post notice of its regularly scheduled meetings; and

**Whereas**, Regular City Commission meetings are held at 7:00 PM local time, on the first and third Monday nights in the City Of Otsego Chambers located at 117 E. Orleans Street, Otsego, MI 49078, unless otherwise stated; and

**Whereas**, a regular meeting may be re-scheduled or a special meeting scheduled upon eighteen (18) hours posted notice; and

**Whereas**, questions regarding meetings should be directed to the City Clerk at 117 E. Orleans Street, Otsego, MI 49078, 269-692-3391;

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

That the City of Otsego Commission Regular Meetings for 2018, are scheduled for the following dates:

January	3 and	15
February	5 and	19
March	5 and	19
April	2 and	16
May	7 and	21
June	4 and	18
July	2 and	16
August	6 and	20
September	4 and	17
October	1 and	15
November	5 and	19
December	3 and	17

YEAS: Commissioners: Cyndi Trobeck, Tom Gilmer, Nick Breedveld, Stacey Withee, Jim Misner.

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None.

ABSENT: Commissioners: None

RESOLUTION DECLARED ADOPTED.

**C. RESOLUTION NO. 2017-38 - A PERFORMANCE RESOLUTION REQUIRED BY THE MICHIGAN DEPARTMENT OF TRANSPORTATION**

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

**CITY OF OTSEGO  
ALLEGAN COUNTY, MICHIGAN**

**RESOLUTION NO. 2017-38**

**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. 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/Interim City Manager
2. Michael Bosch, DPW Supervisor
3. Gordon Konkle, Street Administrator/Interim City Manager
4. C2AE, City's Engineering Firm

YEAS: Commissioners: Cyndi Trobeck, Tom Gilmer, Nick Breedveld, Stacey Withee, Jim Misner.

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None.

ABSENT: Commissioners: None

RESOLUTION DECLARED ADOPTED.

**D. RESOLUTION NO. 2017-39 – A RESOLUTION TO AMEND THE 2017-2018 ANNUAL APPROPRIATIONS BILL**

Interim City Manager Storbeck explained that the funds will be used to cap three artisan wells, on property that the City currently owns and is preparing to sell. He commented that the property will be more marketable if the wells are capped by the City. He stated that the funds will be recouped when the property is sold. He answered questions of the Commission. Commissioner Misner offered the following resolution and moved for its adoption, seconded by Commissioner Gilmer.

CITY OF OTSEGO  
ALLEGAN COUNTY, MICHIGAN  
RESOLUTION NO. 2017-39

RESOLUTION TO AMEND THE 2017-2018 ANNUAL APPROPRIATIONS BILL

WHEREAS, the Otsego City Commission approved the 2017-2018 Annual Appropriations Bill which limited amounts for expenditures and anticipated revenues for the 2017-2018 fiscal year; and

WHEREAS, certain activities and/or revenue sources will exceed previous projections; and

WHEREAS, the Otsego City Commission wishes to formally amend the annual appropriations bill in acknowledgement of the need for revisions,

THEREFORE, BE IT RESOLVED, that the Otsego City Commission hereby approves the following increases and decreases to the 2017-2018 Annual Appropriations Bill:

Water Fund Revenues		
591-000-699.805	Transfers in - Special Assessment Fund	\$34,000.00
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	Net Increase/(Decrease)	\$34,000.00

Water Fund Expenditures		
591-551-802.000	Water Pumping Contracts	\$34,000.00
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	Net Increase/(Decrease)	\$34,000.00

Special Assessment Capital Improvement Fund Expenditures		
805-991-999.591	Transfer to Water Fund	\$34,000.00
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	Net Increase/(Decrease)	\$34,000.00

YEAS: Commissioners: Cyndi Trobeck, Tom Gilmer, Nick Breedveld, Stacey Withee, Jim Misner.

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None.

ABSENT: Commissioners: None

RESOLUTION DECLARED ADOPTED.

**VIII. APPOINTMENTS:**

**IX. DISCUSSION ITEMS:**

**A. MEDICAL MARIHUANA – ATTORNEY, KEN LANE**

The City's Attorney, Ken Lane was in attendance to make a presentation and answer questions regarding medical marihuana. He explained the history and the pros and cons of the City

adopting an ordinance to either “opt in” or “opt out” or do nothing at this time, which is like opting out. He explained that marijuana is still illegal under Federal law. A lengthy discussion took place regarding: the types of facilities allowed; licensing fees; each municipality has its own unique ordinance, calling out specifics; current Home Occupation Ordinance; ability for the facilities to get insurance, do banking, and purchase property; and testing of drivers. Attorney Lane stated that it will take many years to get all of the rules and regulations in place. Mayor Trobeck asked that each Commissioner ponder what was presented and the subject will be revisited in January.

## **MANAGER'S REPORT**

1. The Interim Managers answered questions of the Commission at this time.

## **COMMUNICATIONS**

None.

## **REMARKS FROM THE AUDIENCE**

Karen McCarty, 200 W Allegan Street – she asked questions of Attorney Ken Lane regarding the Application process. He stated that it is dependent on the local ordinance, and each process is community specific. She asked if background checks were required. He indicated that background checks are done at the State level, and the Local level would be dependent on the specific local ordinance requirements. She asked questions regarding insurance and he stated that he didn't know the specifics of the insurability of the facilities.

Gale Dugan, County Commissioner – he gave his County Commission Report. He asked the Commission if they wanted him to pursue funding to assist with the clean-up of the loose asbestos at the Rock-Tenn facility. It was the consensus of the Commission that he pursue funding. The Commission thanked him for his report.

## **COMMISSIONERS' COMMENTS**

Commissioner Breedveld – he thank Attorney Lane for the presentation. He commented that it is not a decision that they have to make today. He stated that the Commission should look at all of the options and talk about them, as it is going to be a tough decision. He stated that they have to look at what is good for the community.

Commissioner Gilmer – he thanked Attorney Lane for the presentation, as it was very useful. He commented he has a whole lot to think about. He commented that the larger cities can deal with it better than smaller cities. He stated that it was a brilliant idea to have one final leaf pick-up. He commented that with all of the leaves out it is apparent that the residents are reading the Shopper's Guide, the City Website, and the City's Facebook page.

Commissioner Withee – she thanked Attorney Lane for the presentation. She commented that the Commission needs more information to make a definite answer. She concurred with Commissioner Gilmer's comments regarding leaf pick-up.

Commissioner Misner – he concurred with the other Commissioner's comments. He thanked Attorney Lane. He commented that it was a lot of information that will lead to a lot of questions. He stated that everyone is happy about the final leaf pick-up.

Mayor Trobeck – she thanked Attorney Lane for the presentation. She commented that there are going to be a lot of issues to take into consideration. She commented that she is going to continue to do research. She thanked everyone who came to the Hometown Christmas event. She stated that it was a wonderful event and a wrap-up meeting is scheduled for tomorrow.

The meeting was adjourned on a motion by Commissioner Misner, seconded by Commissioner Gilmer. CARRIED – 8:22 p.m.

Angela M. Cronen, MMC  
City Clerk