

A Regular Meeting of the Otsego City Commission was held Monday, December 3, 2018.

The meeting was called to order by Mayor Trobeck at 7:00 p.m. with the following Commissioners present: Brent Milhiem, Stacey Withee, Lauri Krueger and Nick Breedveld. Absent: None. Also present City Manager Mitchell.

The audience joined the Commission in the Pledge of Allegiance.

The November 19, 2018, minutes were approved as submitted.

REMARKS FROM THE AUDIENCE REGARDING AGENDA ITEMS

I. PRESENTATIONS:

A. GALE DUNGAN, COUNTY COMMISSIONER

He gave a Solid Waste update. He stated that there is additional information on the County's website, which included special events and recycling reports.

B. NEW COMMISSIONER ORIENTATION - ATTORNEY MARSHALL GRATE

Marshall Grate, the City's attorney gave a brief orientation to the new Commissioners and review for the other Commissioners. He presented each Commissioner with a handout which summarized the duties of a commissioner. Attorney Grate answered questions of the Commission. Mayor Trobeck thanked Attorney Grate for the presentation and commented that it was a very nice presentation.

II. PUBLIC HEARING:

III. PLANNING AND ZONING:

IV. ORDINANCES:

A. 1ST READING OF ORDINANCE NO. 163 - AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF OTSEGO BY ADDING A NEW SECTION WHICH NEW SECTION SHALL BE DESIGNATED AS SECTION V OF CHAPTER 14 OF SAID CODE AND BY ADDING A NEW SECTION WHICH NEW SECTION SHALL BE DESIGNATED AS SECTION 97 OF CHAPTER 46 OF SAID CODE

Mayor Trobeck presented Ordinance No. 163 - an Ordinance to amend the code of ordinances of the City Of Otsego by adding a new section which new section shall be designated as Section V of Chapter 14 of said Code and by adding a new Section which the new Section shall be designated as Section 97 of Chapter 46 of said Code. Manager Mitchell stated that the addition of a new section in the City's Ordinances, will allow for the City to ban any marijuana business from opening, "opting out". He commented that at this time, there is a lot of uncertainty of what the new law entails and a public hearing will be scheduled to hear the comments from the community. A lengthy discussion took place regarding the new law. Attorney Grate answered questions of the Commission in relation to the City's "opting in or opting out" and indicated that Recreational and Medical marijuana have no correlation.

V. REQUESTS:

VI. AGREEMENTS

VII. RESOLUTIONS:

A. CONSIDERATION OF RESOLUTION NO. 2018-23 - A RESOLUTION OF THE CITY OF OTSEGO RELATING TO PUBLIC ACT 152 OF 2011 – THE PUBLICLY FUNDED HEALTH INSURANCE CONTRIBUTION ACT

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

**CITY OF OTSEGO
ALLEGAN COUNTY, MICHIGAN**

RESOLUTION NO. 2018-23

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, Stacey Withee, Nick Breedveld, Lauri Krueger, Brent Milhiem.

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None.

ABSENT: Commissioners: None.

RESOLUTION DECLARED ADOPTED.

B. CONSIDERATION OF RESOLUTION NO. 2018-24 - A RESOLUTION REGARDING SCHEDULING THE 2018 MEETINGS OF CITY OF OTSEGO CITY COMMISSION

Manager Mitchell stated that each year the City is required to adopt a Meeting Schedule.

Commissioner Milhiem offered the following resolution and moved for its adoption, seconded by Commissioner Withee.

**CITY OF OTSEGO
ALLEGAN COUNTY, MICHIGAN**

RESOLUTION NO. 2018-24

**A RESOLUTION REGARDING SCHEDULING THE
2019 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 2019, are scheduled for the following dates:

January	7 and	21
February	4 and	18

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

YEAS: Commissioners: Cyndi Trobeck, Stacey Withee, Nick Breedveld, Lauri Krueger, Brent Milhiem.

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None.

ABSENT: Commissioners: None.

RESOLUTION DECLARED ADOPTED.

C. CONSIDERATION OF RESOLUTION NO. 2018-25 - A PERFORMANCE RESOLUTION REQUIRED BY THE MICHIGAN DEPARTMENT OF TRANSPORTATION

Manager Mitchell stated that a new Michigan Department of Transportation resolution is required when the Commission changes, since we have a contract with them.

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

CITY OF OTSEGO
ALLEGAN COUNTY, MICHIGAN

RESOLUTION NO. 2018-25

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
2. Michael Bosch, DPW Supervisor
3. Aaron Mitchell, City Manager
4. C2AE, City's Engineering Firm

YEAS: Commissioners: Cyndi Trobeck, Stacey Withee, Nick Breedveld, Lauri Krueger, Brent Milhiem.

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None.

ABSENT: Commissioners: None.

RESOLUTION DECLARED ADOPTED.

VIII. APPOINTMENTS:

IX. DISCUSSION ITEMS:

A. CONSIDERATION OF SALE OF REAL PROPERTY

Manager Mitchell stated that he had been approached by a resident to purchase real property from the City. He commented that the resident currently maintains the unbuildable property and would like the property for storage. A lengthy discussion took place regarding the specifications of the property and the potential sale of the property. The Commission asked Manager Mitchell to contact the other property owner to see if they have an interest in the property.

MANAGER'S REPORT

1. He gave updates on the following: Hometown Christmas; Ron Lytle's funeral on December 12th; and Scout House/Community Center improvements.

2. He thanked all of the churches that participated in the Hometown Christmas event and thanked them for the use of their buildings. He also thanked the Lynx Golf Course for the Christmas tree that they donated to the City.
3. He asked for further questions or comments regarding his written Manager's report submitted to the Commission in their weekly packet.

COMMUNICATIONS

None.

REMARKS FROM THE AUDIENCE

None.

COMMISSIONERS' COMMENTS

Commissioner Breedveld – he inquired about a dumpster on Eley Street. He commented that the picking up of leaves should be reevaluated. He asked if the weekly Police report could specify the certain type of blight that was on the report. He asked if the new City Logo was discussed and voted on. Mayor Trobeck stated that the Commission had approved it.

Commissioner Krueger – she asked if the City had a Jake Brake Ordinance. Mayor Trobeck indicated that there is not one in the City. She commented that the downtown looks beautiful. She thanked her daughter Grace for coming to the meeting.

Commissioner Withee – she thanked everyone that participated and volunteered for the Hometown Christmas event, even though it was cold and rainy. She stated that there was a record turnout at the Santa breakfast and the new Chili Cook-off event raised over \$300 for the Rotary. She gave a special thank you to the City, Churches, Chamber, Department of Public Works, and the Band.

Commissioner Milhiem – he echoed Commissioner Withee's comments regarding Hometown Christmas. He commented that he enjoyed walking in the parade and handing out candy. He thanked the volunteers who regulated the crowds with the caution tape in the downtown. He thanked Attorney Grate for his presentation and orientation packet. He stated that public comment is important and he is here to serve the community and encourages the public to attend the public hearing on the recreational marijuana and voice your opinions.

Mayor Trobeck – she thanked Attorney Grate for his presentation. She thanked the Department of Public Works for their assistance with Hometown Christmas and for putting up the Christmas tree. She thanked Grace Krueger for attending the meeting. She thanked the following for their assistance and support of Hometown Christmas: Chamber, Main Street, volunteers, the churches, Otsego Public Schools, Otsego Rotary, and the Lynx for the donation of the Christmas tree.

The meeting was adjourned on a motion by Commissioner Breedveld, seconded by Commissioner Milhiem. CARRIED – 7:59 p.m.

Angela M. Cronen, MMC
City Clerk