

VILLAGE OF LAKE ODESSA

MINUTES
REGULAR COUNCIL MEETING
January 22, 2018
PAGE MEMORIAL BUILDING

Meeting called to order at 7:00pm by President Banks.

Pledge of Allegiance.

Council present: Janet Thomas, Karen Banks, Mike Rudisill, Mike Brighton, Mel McCloud, Charles Jaquays, Brandy Walkington

Absent: None

Staff present: Pearl Goodemoot, Brenton Listerman, Jesse Trout, Chris Bailey

Visitors present: Bonnie Mattson of J-Ad Graphics, Judy Scheidt, Vito Fraccarolli, Brent Merritt, Daryl and Kay Hartzler

Motion by McCloud, support by Thomas to approve the agenda as presented. Motion carried.

PUBLIC COMMENT

There was no public comment on agenda items.

MINUTES

Motion by McCloud, support by Walkington to approve minutes of December 18, 2017 and special meeting minutes for January 8, 2018. Motion carried.

BILLS

Motion by Thomas, support by Jaquays to approve expenditures equal to or less than \$3,000.00 for the period 12/1/2017 thru 12/31/2017. Motion carried.

Motion by McCloud, support by Thomas to approve payment of invoices in excess of \$3,000.00 items as follows:

- a) USDA - \$80,207.83 – Bond Interest
- b) Fishbeck, Thompson, Carr & Huber - \$7,649.82 – 2016 Cap. Imp.
- c) Fishbeck, Thompson, Carr & Huber - \$29,092.70 – 2016 Cap. Imp.
- d) Miller, Johnson, Snell & Cummiskey, PLC - \$9,049.76 – Legal Services

Motion carried.

CONSENT AGENDA

Motion by McCloud, support by Walkington to approve the consent agenda, as follows:

- a) Zoning Administrator Report for December 2017
- b) Planning Commission meeting minutes for August 15 and December 5, 2017

Motion carried.

STAFF REPORTS

Police Report: Listerman reported that a new part-time officer will begin this week. Listerman also reported that the police budget is on track discussed the sale of the 2008 Impala.

DPW Report: Trout informed council that the DPW staff is cross training and installing water meters. Trout also stated the DPW budget is looking good.

Finance Report: Goodemoot stated the draft budget is almost completed and will be available soon.

COMMITTEE REPORTS:

Personnel/Finance Committee: Banks reported that the handbook review is being completed and employee performance reviews are currently being conducted. Banks also updated council on the Little Free Library agreement that was sent to the Library to review.

Recreation/Special Projects Committee: There was no update.

UNFINISHED BUSINESS

Council reviewed Interim Manager resumes. President Banks gave council the Personnel Committee recommendation of contracting with Jim Valentine to review the operations and functions of the village and giving

council guidance with the village manager and police chief position. Council recessed at 7:16pm to review Interim Manager applications.

Council reconvened at 7:28pm to discuss the Interim Manager position.

Motion by Walkington, support by Thomas to approve the weekly consultant and guidance offer from Jim Valentine. Motion carried.

NEW BUSINESS

Trout discussed an additional water meter purchase. Motion by Thomas, support by Jaquays to approve additional water meter purchase not to exceed \$10,000.00. Motion carried.

Motion by Rudisill, support by Jaquays to adopt MDOT Performance Resolution #2018-2. Motion carried with the following roll call vote: Yes: McCloud, Jaquays, Thomas, Brighton, Rudisill, Walkington, Banks; No: None. The resolution is as follows:

RESOLVED WHEREAS, the (city, village, township, etc.) 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 utilities 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 a 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 provided 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.

Title and/or Name: Jesse Trout, DPW Superintendent

RESOLUTION DECLARED ADOPTED.

Motion by Rudisill, support by Brighton to adopt Street Administrator Resolution #2018-3. Motion carried with the following roll call vote: Yes: Brighton, Rudisill, Walkington, McCloud, Jaquays, Thomas, Banks; No: None. The resolution is as follows:

WHEREAS, Section 13(9) of Act 51, Public Acts of 1951 provided that each incorporated city and village to which funds are returned under the provisions of this section, that, "the responsibility for street improvements, maintenance, and traffic operations work, and the development, construction, or repair of off-street parking facilities and construction or repair of street lighting shall be coordinated by a single administrator to be designated by the governing body who shall be responsible for and shall represent the municipality in transactions with the State Transportation Department pursuant to this act."

THEREFORE, BE IT RESOLVED, that this Honorable Body designate Jesse Trout, DPW Superintendent as the single Street Administrator for the City or Village of in all transactions with the State Transportation Department as provided in Section 13 of the Act.

RESOLUTION DECLARED ADOPTED.

Motion by Rudisill, support by McCloud to adopt PA 152 Resolution #2018-4. Motion carried with the following roll call vote: Yes: McCloud, Jaquays, Thomas, Brighton, Rudisill, Walkington, Banks; No: None. The resolution is as follows:

WHEREAS, on September 27, 2011 the Publicly Funded Health Insurance Contribution Act, Public Act 152 of 2011 ("Act 152"), became effective in the State of Michigan; and

WHEREAS, Act 152 establishes standards and a process with respect to medical benefit plans offered by public employers; and

WHEREAS, the Village of Lake Odessa has historically recognized, in its role as steward for the public funds entrusted to it, that it must efficiently manage those limited resources; and

WHEREAS, the Village of Lake Odessa constantly engages in a review of expenditures in order to maximize the value it receives for goods and services; and

WHEREAS, the Village Council of the Village of Lake Odessa believes that, as the elected representatives for the Village and answerable directly to the Village's voters, it is best positioned to determine what benefits (including medical benefits) ought to be offered in order to attract and retain the best qualified employees at the lowest overall cost; and

WHEREAS, the Village Council of the Village of Lake Odessa further believes that compensation determinations for Village employees are most properly the responsibility of the Village's elected representatives, and not the State of Michigan or its officials; and

WHEREAS, to express its support for home rule government and to recognize that it is the Village Council's duty to manage Village affairs in order to be most responsive to Village voters, taxpayers and residents;

NOW, THEREFORE, IT IS RESOLVED that pursuant to Section 8 of Act 152, the Village of Lake Odessa hereby exempts itself from the requirements of Act 152 in 2018.

BE IT FURTHER RESOLVED that all resolutions and parts of resolutions in conflict herewith are, to the extent of such conflict, repealed.

RESOLUTION DECLARED ADOPTED.

MISCELLANEOUS CORRESPONDENCE
There was no miscellaneous correspondence.

TRUSTEE COMMENTS
Brighton had no comment.

Rudisill had no comment.

Walkington had no comment.

McCloud had no comment.

Jaquays had no comment.

Thomas said the DPW did a good job removing snow.

Banks had no comment.

PUBLIC COMMENT
Daryl Hartzler stated he appreciated council and staff.

Judy Scheidt commented on the beach parking lot lighting, asked council to revisit the lifeguards and perhaps have security at the beach.

Motion by Rudisill, support by Jaquays to adjourn the meeting at 7:43pm.

Respectfully submitted,

Pearl Goodemoot
Village Clerk / Treasurer