

VILLAGE OF LAKE ODESSA

MINUTES
REGULAR COUNCIL MEETING
January 28, 2019
PAGE MEMORIAL BUILDING

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

Pledge of Allegiance.

Council present: Karen Banks, Mike Brighton, Mike Rudisill, Brandy Walkington, Kay Hartzler, Charles Jaquays, Mel McCloud

Absent: None

Staff present: Pearl Goodemoot, Jesse Trout, Julie Salman, Kendra Backing, Lisa Kirby

Visitors present: Jesse Morgan and Haley Savola with Hubbell, Roth and Clark, Inc., Darryl Hartzler, Bonnie Mattson of J-Ad Graphics

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

PUBLIC COMMENT

There was no public comment.

Chief Backing introduced part-time officer Lisa Kirby. Lisa Kirby informed council of previous law enforcement experience.

MINUTES

Motion by McCloud, support by Hartzler to approve minutes of December 17, 2018 and special meeting minutes for January 21, 2019. Motion carried.

Motion by Rudisill, support by Walkington to approve closed session meeting minutes from January 21, 2019. Motion carried.

Motion by Walkington, support by Rudisill to approve special meeting minutes from January 24, 2019. Motion carried.

Motion by Jaquays, support by Brighton to approve closed meeting minutes from January 24, 2019. Motion carried.

BILLS

Motion by McCloud, support by Jaquays to approve expenditures equal to or less than \$3,000.00 for the period 12/1/2018 thru 12/31/2018. Motion carried.

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

- a) Homeworks - \$3,978.25 – Iron Removal Plant (*paid*)
- b) C & D Hughes - \$564,462.42 – 2017 MEDC ICE (*paid*)
- c) SLC Meter - \$3,686.50 – Water Meters

CONSENT AGENDA

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

- a) Zoning Administrator report for December 2018
- b) Downtown Development Authority meeting minutes for November 8, 2018

STAFF REPORTS

Manager's Report: Salman updated council on the general fund budget.

DPW Report: Trout updated council on the snow removal.

Police Report: Backing updated council on the no parking ordinance and stated she was excited to have Kirby with the department.

COMMITTEE REPORTS:

Personnel/Finance Committee: There was no update.

Recreation/Special Projects Committee: There was no update.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

Motion by Rudisill, support by McCloud to adopt MDOT Performance Resolution #2019-1. Motion carried with the following roll call vote: Yes: McCloud, Jaquays, Hartzler, 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 Jaquays, support by Rudisill to adopt Street Administrator Resolution #2019-2. Motion carried with the following roll call vote: Yes: McCloud, Jaquays, Hartzler, Brighton, Rudisill, Walkington, 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 McCloud, support by Walkington to approve the 2019 meeting change correction with the budget workshop being held on Monday, February 11, 2019. Motion carried.

Motion by Brighton, support by Walkington to ratify the following appointments by President Banks: Mel McCloud as President Pro-Tem for a term to expire October 2019; Mike Brighton and Karen Banks to the Personnel/Finance Committee for terms to expire October 2019; Mel McCloud and Charles Jaquays to the Recreation/Special Projects Committee for terms to expire October 2019; Kendra Backing as the Marina Director; Nancy Mattson, Judith Rodriguez and Lindsay Farrell to the Arts Commission for terms to expire October 2021; Mel McCloud to the Tree Board for a term to expire October 2019; Scott Beglin to the Jordan Lake Board for term to expire December 31, 2019 and Daryl Hartzler to the Downton Development Authority for a term to expire October 2022. Motion carried.

Motion by Brighton, support by Rudisill to appoint Mel McCloud to the Zoning Board of Appeals for a term to expire October 2021. Motion carried.

Motion by Jaquays, support by McCloud to appoint Mike Rudisill to the Lakewood Wastewater Authority for a term to expire December 31, 2021. Motion carried.

Motion by Brighton, support by McCloud to table the Page Building carpet replacement for discussion at the budget workshop. Motion carried.

Motion by Rudisill, support by Jaquays to adopt Bill #19-1, a proposed ordinance to amend the zoning ordinance re: Marijuana Establishments. Motion carried with the following roll call vote: Yes: McCloud, Jaquays, Hartzler, Brighton, Rudisill, Walkington, Banks; No: None. The ordinance will take effect as Ordinance 2019-1.

Motion by Rudisill, support by McCloud to adopt Bill #19-2, a proposed ordinance to amend the zoning ordinance re: swimming pools. Motion carried with the following roll call vote: Yes: McCloud, Jaquays, Hartzler, Brighton, Rudisill, Walkington, Banks; No: None. The ordinance will take effect as Ordinance 2019-2.

Motion by Rudisill, support by McCloud to approve the purchase of streetscape banners in the amount of \$2,819.00 from the General Fund for new spring and summer banners for Jordan Lake Avenue. Motion carried.

Motion by Walkington, support by McCloud to approve the budget amendments as presented. Motion carried.

MISCELLANEOUS CORRESPONDENCE
There was no miscellaneous correspondence.

TRUSTEE COMMENTS
McCloud told everyone to enjoy the weather.

Jaquays had no comment.

Hartzler had no comment.

Brighton had no comment.

Rudisill had no comment.

Walkington had no comment.

Banks had no comment.

PUBLIC COMMENT
There was no public comment.

Motion by Jaquays, support by Rudisill to adjourn the meeting. Motion carried. Meeting adjourned at 7:40 p.m.

Respectfully submitted,

Pearl Goodemoot
Village Clerk / Treasurer