

August 8, 2018

The Board of County Road Commissioners met at 9:00 a.m. for a regular meeting at 1250 S. M-33 West Branch, Michigan

Members present: Chairman Van Sheltroun, Commissioner Mark Williams, Commissioner Dan Winter, Managing Director Pat Reinke and Board Clerk Brand Curtis

Guests: Gary Kaiser, County Foreman; Bruce Reetz, Ogemaw County Commissioner; Jerry Weiss, Klacking Township Trustee; Pauline Johnson, Klacking Township Resident; Gary Lyp, Hill Township Resident from Island Lake/Ogemaw Road

Additions: MERS Defined Benefit Plan Adoption Agreement
2019 State Road Federal Funding
Logan Twp Contract-Beach Road
Ogemaw Township-Minzer Court

Motion to approve the additions to the agenda by Williams, supported by Winter. Motion carried.

Commissioner Sheltroun called the meeting to order at 9:00 a.m.

Past minutes for July 25, 2018, were reviewed. There being no corrections, the minutes stand as submitted.

Motion by Winter, supported by Williams, to approve and pay payroll voucher #1844 and payable voucher #1845 in the total amount of \$152,515.46. Motion carried by the following roll call vote: Ayes: Sheltroun, Williams, Winter. Nays: None. Motion carried.

Reinke updated the Board on attorney correspondence regarding Highway by User statute in reference to Ogemaw Road in the Plat of Island Lake Resort, Hill Township. Public comment was received. The Board requested Reinke to contact Patrick Allen, MDOT Transportation Engineer, explain the Island Lake/Ogemaw Road situation with Mr. Allen and inquire on his recommendation. After contact with Mr. Allen, the Board requested Reinke to follow up with Mr. Zimostrad and report to the Board.

Reinke informed the Board a Certified Insurance Appraisal through Deyo/Stone Associates has not been conducted on the inventory of buildings and contents at the Ogemaw County Road Commission main facility since 2012. After discussion, Sheltroun requested Reinke to contact Kevin Elliot with Diebold Insurance Agency and verify if the Road Commission's current building insurance policy with Diebold Insurance Agency offers a detailed Certified Insurance Appraisal on buildings and contents as part of the Road Commission's insurance package. The Board was in concurrence, if Diebold Insurance Agency does not furnish this type of insurance appraisal and Mr. Elliot recommended the appraisal completed through Deyo/Stone Associates, Reinke contact Deyo/Stone Associates and request their services.

Chairman Sheltroun recessed the regular meeting at 9:30 a.m. to hold a public hearing for the adoption of a reasonable policy regarding fees pursuant to MCL 224.19b and amendment to the permit policy for safely allowing limited communication service provider facilities access within the Ogemaw County Road Commission right-of-ways.

Motion by Williams, supported by Winter, to open the public hearing for the adoption of a reasonable policy regarding fees pursuant to MCL 224.19b and amendment to the permit policy for safely allowing limited communication service provider facilities access within the Ogemaw County Road Commission right-of-ways. Motion carried.

Reinke reviewed the permit fee schedule and amendment to the permit policy for safely allowing limited communication service provider facilities access within the right-of-ways.

The meeting was opened to public comment.

Motion by Williams, supported by Winter, to close the public hearing and return to regular session at 9:38 a.m. Motion carried.

Resolution 2018-05

Resolution to Adopt Ogemaw County Road Commission Reasonable Policy Regarding Fees Pursuant to MCL 224.19b

Commissioner Williams offered the following resolution and moved its adoption, supported by Winter:

WHEREAS, the Board of County Road Commissioners for the County of Ogemaw is a body corporate created by MCL 224.9 to formulate policy and to perform those official duties imposed by law or delegated by the Ogemaw County Board of Commissioners; and

WHEREAS, a person, partnership, association, corporation, or governmental entity shall not construct, operate, maintain, or remove a facility or perform any other work within the right-of-way of a county road, except sidewalk installation and repair, without first obtaining a permit from the county road commission having jurisdiction over the road and from the township, city, or village in which the county road is located when a permit is required by ordinance of the township, city, or village, under the authority conferred by section 29 of article VII of the state constitution of 1963; and

WHEREAS, MCL 224.19b(1) requires any person, partnership, association, corporation or governmental entity to obtain a permit from the Road Commission (and the applicable township, city or village if required by those entities) before constructing, operating, maintaining or removing any facility or performing any work within a county highway right-of-way; and

WHEREAS, pursuant to MCL 224.19b(2), the Road Commission has discretion to adopt reasonable permit requirements and a schedule of fees sufficient to cover the necessary and actual costs for the issuance of the permit and for review of the proposed activity, inspection and related expenses; and

WHEREAS, the Road Commission may adopt a schedule of civil fines that can be imposed on a provider that performs work in a right-of-way without obtaining a permit as required under this section or that fails to maintain a security bond, right-of-way bond, or irrevocable letter of credit as required under this section during construction work within the right-of-way; and

WHEREAS, the Road Commission deems it in the public health, welfare, safety and best interest to adopt a policy such as the one attached hereto and entitled "Telecommunication and Video Service Provider Policy and Fees" (Exhibit A) reflecting the actual and necessary costs directly related to issuance of permits to Providers as defined under MCL 224.19b(13) to the extent recoverable under the law.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby that the attached policy is hereby adopted and made effective forthwith.

Motion carried by the following roll call vote: Ayes: Winter, Sheltroun, Williams. Nays: None. Motion carried.

Resolution 2018-06

Amendment to Definitions Section of Ogemaw County Road Commission Permit Policy for Safely Allowing Limited Communication Service Provider Facilities Access Within the Ogemaw County Road Right-of-Ways

Commissioner Winter offered the following resolution and moved its adoption, supported by Williams:

2. Definitions

2.1. For the purposes of this Policy, the following terms, phrases, words, and their derivations shall have the meaning given in this section. Unless otherwise expressly stated, words not defined in this title shall be construed consistent with Title 47 of the United States Code and Chapter 484 of the Michigan Compiled Laws. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law are renumbered, then the reference shall be read to refer to the renumbered provision. References to laws, ordinances or regulations shall be interpreted broadly to cover government actions, however nominated, and include laws, ordinances and regulations now in force or hereafter enacted or amended. "Applicant" means any person applying for a right-of-way permit who is a "Communication Service Provider."

2.2. "Commercial Service Provider" and related "Facilities" as used herein, may include any person or entity who provides broadband or wireless services, along with related infrastructure, in order to provide voice, video, and/or data, to the public or other end users, specifically including but not limited to wireless antennas, radios and those related support structures, all as deemed necessary and as specifically approved by the Commission in its written right-of-way permit if and when issued. The following are excluded from the definition of "Provider" for purposes of this Policy:

2.2.1. Telecommunications Providers. A "Telecommunication Provider" means a person that for compensation provides 1 or more "telecommunication services."

"Telecommunication services" include regulated and unregulated services offered to customers for the transmission of 2-way interactive communication and associated usage. A telecommunication service is not a public utility service. Telecommunication provider does not include a provider of commercial mobile service as defined in section 332(d)(1) of the telecommunications act of 1996, 47 USC 332.

2.2.2. Video Service Providers. A "Video Service Provider" means a person authorized by MCL 484.3301, et seq., to provide "video service," including video programming, cable services, IPTV, or OVS provided through facilities located at least in part in the public rights-of-way without regard to delivery technology, including internet protocol technology. This definition does not include any video programming provided by a Commercial Mobile Service Provider defined in 47 USC 332(d) or provided solely as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public internet.

2.3. A person that operates under written agreement with a Communication Service Provider to provide communication services over a communications service facility or to install communications service facilities, shall be treated as a Communication Service Provider for purposes of this Policy. A copy of all such agreement(s) shall be furnished upon application for a permit under this policy.

2.4. "Right-of-way" means the area on, below, or above any land acquired or dedicated for public roads, highways, streets, alleys, easements, or waterways, to the extent the Road Commission has jurisdiction and the ability to grant the rights set forth herein. Right-of-way does not include a federal, state, or private right-of-way.

2.5. "Person" means an individual, partnership, cooperative, association, private corporation, public corporation, utility, personal representative, receiver, trustee, assignee, governmental entity or other legal entity.

2.6. "Right-of-way permit" as used herein means the Ogemaw County Road Commission's legal authorization, terminable as defined in the permit, to use a particular, discrete, and limited portion of the public right-of-way to construct, operate, or repair a Communication Service Provider Facility, including any permit special terms and conditions. The term "right-of-way permit" shall not mean or include:

2.6.1. Any other permit, authorization, agreement or franchise required for the privilege of transacting and carrying on a business within the applicable city, village or township required by state or local law;

2.6.2. Any other permit, authorization or agreement required in connection with operations on public streets or property.

2.6.3. Any other permits, authorization or agreements required for occupying any public or private property to which access is not specifically granted by the right-of-way permit, including, but not limited to, permits for placing devices on or in poles, conduits, other structures, or on railroad easements owned by any public or private entity.

Motion carried by the following roll call vote: Ayes: Williams, Sheltroun, Winter. Nays: None. Motion carried.

Resolution 2018-07

Commissioner Williams offered the following resolution and moved its adoption, supported by Winter:

WHEREAS, the Ogemaw County Road Commission recognizes the value of selling their Federal Aid dollars;

WHEREAS, the Ogemaw County Road Commission is planning on selling \$350,017 of Federal Aid dollars in 2019 construction season;

NOW THEREFORE BE IT RESOLVED that the Board of Commissioners for the Ogemaw County Road Commission agrees to begin negotiations with potential Road Commission buyers of Federal Aid dollars for the 2019 construction season.

Motion carried by the following roll call vote: Ayes: Williams, Sheltroun, Winter. Nays: None. Motion carried.

Resolution 2018-08
MERS Defined Benefit Plan Adoption Agreement

Chairman Sheltroun offered the following resolution and moved its adoption, supported by Williams:

RESOLVED: That as of August 8, 2018, the Board of Ogemaw County Road Commission amend MERS Defined Benefit plan document to reflect an increase in employee contributions from 5% to 6% for all compensation over \$4,200 a year effective July 1, 2018 and authorize manager to sign agreement.
Motion carried by the following roll call vote: Ayes: Williams, Winter, Sheltroun. Nays: None. Motion carried.

A township agreement was received from Logan Township for the gravel and ditching of Beach Road at an estimated cost of \$57,146.78, the Township's portion is estimated at \$28,573.39. Motion by Williams, supported by Winter, to approve and sign contract. Motion carried by the following roll call vote: Ayes: Sheltroun, Winter, Williams. Nays: None. Motion carried.

Reinke informed the Board he had received a reimbursement in the amount of \$250 from MCRCSIP for attending the Special Harassment Training during the 2018 MCRSIP annual meeting.

Sheltroun informed the Board of a complaint he received from Ogemaw Township Supervisor, Denis Stephens, regarding ditching on Minzer Court in Ogemaw Township. Reinke and Kaiser will follow up with Mr. Stephens.

Reinke updated the Board on construction status to date. Reinke and Kaiser answered questions of the Board.

The next MTA meeting is scheduled for August 9, 2018, Ogemaw Township. Williams will attend.

There being no further business, meeting adjourned at 10:05 a.m.

Signed: _____
Van Sheltroun, Chairman

Countersigned: _____
Brandy Curtis, Board Clerk