

A Regular Meeting of the Otsego City Commission was held Monday, May 20, 2019.

The meeting was called to order by Mayor Trobeck at 7:00 p.m. with the following Commissioners present: Stacey Withee, Lauri Krueger, Brent Milhiem, and Nick Breedveld. Absent: None. Also present City Manager Mitchell; Finance Director Storbeck; Police Chief Konkle, WWTP Supervisor Keyzer, and Fire Chief Weber.

The audience joined the Commission in the Pledge of Allegiance.

The May 6, 2019, Regular Minutes were approved as submitted.

Commissioner Withee moved to amend the agenda to add Resolution No. 2019-14 – a Presentation and Recommended Commission Action on Litigation, seconded by Commissioner Milhiem. CARRIED. Abstain – Commissioner Breedveld.

REMARKS FROM THE AUDIENCE REGARDING AGENDA ITEMS

None.

I. PRESENTATIONS:

A. FIRE DEPARTMENT CPR SAVE RECOGNITION

Fire Chief Brandon Weber introduced the Regional Ascension- Borgess EMS Director, Ryan Cronk. Mr. Cronk announced that nine Otsego Firefighters and Police Officer Brady Roberts received their Field Save Award, resulting from a cardiac call in January 2019. He gave a brief overview of the call and stated that the patient was stabilized within ninety-two minutes of the initial call. Chief Weber presented the following firefighters with their pin: Collin Ailes; Michael T. Bush; Nate Bush; Todd Campbell; Alexis Greenman; Collin Dutton; David Kranz; Scott Parsons; and William McKim. Mr. Cronk also presented Chief Weber and the Otsego Fire Department a 2018 Mission - Lifeline-EMS Gold Award from the American Heart Association. This is a great honor for the Otsego Fire Department, as only five departments received this award in the State of Michigan.

B. COUNTY COMMISSIONER GALE DUGAN UPDATE

Commissioner Dugan gave an update on the most recent County Commission activities and the May 9th County Commission Meeting.

C. PRESENTATION OF FINAL 2019-2020 ANNUAL APPROPRIATIONS BILL

Finance Director, Matthew Storbeck presented and briefly reviewed the final 2019-2020 Annual Appropriations Bill. Finance Director Storbeck explained a few minor changes that were made after the Workshop Meetings. He reviewed the Millage Rate and stated that the Headlee Rollback changed the operating millage rate from 12.0600 to 11.6283; Solid Waste 1.9089; Public Safety 1.9243; making the total millage 15.4615. He briefly discussed the Truth in Taxation Act and the Fine and Fee Schedule.

II. PUBLIC HEARING:

A. BUDGET HEARING FOR 2019-2020 ANNUAL APPROPRIATIONS BILL

Mayor Trobeck opened the Public Hearing at 7:18 p.m. There being no comments, the Public Hearing was closed at 7:19 p.m.

III. PLANNING AND ZONING:

IV. ORDINANCES:

V. REQUESTS:

VI. AGREEMENTS

VII. RESOLUTIONS:

**A. CONSIDERATION OF RESOLUTION NO. 2019-13 - A RESOLUTION TO
ADOPT THE 2019-2020 ANNUAL APPROPRIATIONS BILL**

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

**CITY OF OTSEGO
ALLEGAN COUNTY, MICHIGAN
RESOLUTION NO. 2019-13**

**RESOLUTION ADOPTING THE ANNUAL APPROPRIATIONS BILL
JULY 1, 2019 - JUNE 30, 2020**

WHEREAS, it is necessary for the Otsego City Commission to adopt a budget, for fiscal year 2019-2020 to appropriate money for the City's operations and to set the millage levy; and

WHEREAS, the City Commission of the City of Otsego did give notice of the time and place when a public budget hearing would be held in conformity with the provisions of the Michigan Uniform Budgeting and Accounting Act, Michigan Compiled Law (MCL) 141.412. Proof of publication of the Public Notice of Hearing for the 2019-2020 Budget is now on file, and which a public hearing was duly held pursuant to said notice and in conformity therewith; and

WHEREAS, the City Manager of the City of Otsego did on the twentieth day of May 2019, prepare and furnish to the City Commission an annual estimate of expenditures and revenues for the period of July 1, 2019 through June 30, 2020, hereinafter referred to as the Annual Appropriations Bill, as provided for in Section 7, Chapter 8 of the Charter of the City of Otsego, which is now on file; and

WHEREAS, the City Commission has given due consideration to the proposed Annual Appropriations Bill, the operational requirements of the City, the proposed millage levies, the proposed Otsego City Fee and Fine Schedule and the comments made at the public hearing. NOW THEREFORE, BE IT RESOLVED, the General Fund expenditures for the fiscal year, commencing July 1, 2019, and ending June 30, 2020, are hereby estimated and appropriated on a departmental and activity total basis as follows:

City Commission	\$	27,940
City Manager	\$	86,145
City Clerk	\$	67,630
Board of Review	\$	1,285
City Treasurer/Finance Director	\$	192,410
Assessing	\$	41,500
Elections	\$	24,765

City Hall Building & Grounds	\$	49,845
Cemetery Services	\$	46,900
Department Of Public Works	\$	66,280
General Services	\$	228,720
Ambulance Services	\$	9,010
Planning Commission	\$	3,550
Economic Development	\$	36,525
Parks & Recreation	\$	142,640
<u>Transfers Out</u>	\$	<u>911,460</u>
Total Appropriations	\$	1,936,605

BE IT FURTHER RESOLVED, General Fund revenues for the 2019-2020 fiscal year are estimated as follows:

Taxes, Collection Fees & Interest	\$	1,121,470
Local Community Stabilization Fund	\$	125,000
State Shared Revenue	\$	419,000
<u>Other Revenue</u>	\$	<u>91,040</u>
Total Estimated Revenues	\$	1,756,510

NOW THEREFORE, BE IT RESOLVED, the Major Street Fund expenditures for the fiscal year, commencing July 1, 2019, and ending June 30, 2020, are hereby estimated and appropriated on a departmental and activity total basis as follows:

Surface Maintenance	\$	40,000
Right of Way Maintenance	\$	31,615
Trees & Shrubs	\$	20,235
Drainage	\$	20,130
Bridge Maintenance	\$	8,760
Traffic Signs & Signals	\$	9,865
Winter Maintenance	\$	39,995
Administration	\$	13,520
M-89 Surface Maintenance	\$	4,095
M-89 Trees & Shrubs	\$	3,125
M-89 Drainage	\$	4,875
M-89 Traffic Signs & Signals	\$	1,520
M-89 Snow Plowing	\$	3,475
M-89 Snow Hauling	\$	5,210
Capital Improvements	\$	36,700
<u>Transfers Out</u>	\$	<u>0</u>
Total Appropriations	\$	243,120

NOW THEREFORE, BE IT RESOLVED, the Local Street Fund expenditures for the fiscal year, commencing July 1, 2019, and ending June 30, 2020, are hereby estimated and appropriated on a departmental and activity total basis as follows:

Surface Maintenance	\$	46,935
Right Of Way Maintenance	\$	26,915

Trees & Shrubs	\$	24,200
Drainage	\$	22,385
Traffic Signs & Signals	\$	5,810
Winter Maintenance	\$	28,115
Administration	\$	11,370
Capital Improvements	\$	92,525
<u>Transfers Out</u>	\$	0
Total Appropriations	\$	258,255

NOW THEREFORE, BE IT RESOLVED, the Public Safety Fund expenditures for the fiscal year, commencing July 1, 2019, and ending June 30, 2020, are hereby estimated and appropriated on a departmental and activity total basis as follows:

Police Department	\$	842,090
Fire Department	\$	360,430
Building Inspection Departments	\$	34,455
<u>Transfers Out</u>	\$	8,880
Total Appropriations	\$	1,245,855

NOW THEREFORE, BE IT RESOLVED, the Solid Waste and Recycling Fund expenditures for the fiscal year, commencing July 1, 2019, and ending June 30, 2020, are hereby estimated and appropriated on a departmental and activity total basis as follows:

Recycling Services	\$	149,855
Rubbish Collection/Disposal	\$	81,490
Debt Service	\$	0
<u>Transfers Out</u>	\$	0
Total Appropriations	\$	231,345

NOW THEREFORE, BE IT RESOLVED, the Downtown Development/Main Street Fund expenditures for the fiscal year, commencing July 1, 2019, and ending June 30, 2020, are hereby estimated and appropriated on a departmental and activity total basis as follows:

DDA / Main Street District	\$	350,200
Capital Improvements	\$	200,000
Debt Service	\$	0
<u>Transfers Out</u>	\$	0
Total Appropriations	\$	550,200

NOW THEREFORE, BE IT RESOLVED, the Capital Projects Fund expenditures for the fiscal year, commencing July 1, 2019, and ending June 30, 2020, are hereby estimated and appropriated on a departmental and activity total basis as follows:

Capital Improvements	\$	50,000
<u>Transfers Out</u>	\$	69,670
Total Appropriations	\$	119,670

NOW THEREFORE, BE IT RESOLVED, the Sewer Fund expenditures for the fiscal year, commencing July 1, 2019, and ending June 30, 2020, are hereby estimated and appropriated on a departmental and activity total basis as follows:

Sewer Mains	\$	219,940
Sewer Treatment	\$	692,375
Sewer Administration	\$	62,100
Capital Improvements	\$	50,000
<u>Debt Service</u>	\$	<u>86,875</u>
Total Appropriations	\$	1,111,290

NOW THEREFORE, BE IT RESOLVED, the Water Fund expenditures for the fiscal year, commencing July 1, 2019, and ending June 30, 2020, are hereby estimated and appropriated on a departmental and activity total basis as follows:

Water Mains	\$	390,020
Water Pumping	\$	173,345
Water Fund Administration	\$	61,170
Capital Improvements	\$	0
<u>Debt Service</u>	\$	<u>0</u>
Total Appropriations	\$	624,535

NOW THEREFORE, BE IT RESOLVED, the Motor Pool Fund expenditures for the fiscal year, commencing July 1, 2019, and ending June 30, 2020, are hereby estimated and appropriated on a departmental and activity total basis as follows:

Motor Pool Operations	\$	201,380
<u>Capital Improvements</u>	\$	<u>52,000</u>
Total Appropriations	\$	253,380

BE IT FURTHER RESOLVED, the city commission hereby approves total estimated appropriations by fund for the period July 1, 2019, through June 30, 2020, as follows:

Street & Bridge Fund	\$	60,600
Equipment Debt Fund	\$	0
Equipment Replacement Fund	\$	30,000
Special Assessment Capital Improvement Fund	\$	0

BE IT FURTHER RESOLVED, that the City Commission does hereby levy a tax of 11.6283 mills for the period of July 1, 2019, through June 30, 2020, on all real and personal taxable property in the City of Otsego, according to each property's taxable valuation. This tax is levied for the purpose of defraying the general operating expense and liability of the City of Otsego, and is levied pursuant to Section 5, Chapter 8 of the Charter of the City of Otsego. The maximum authorized levy according to the City Charter of 12.5000 mills is permanently reduced by provisions of the General Property Tax Act, MCL 211.34d, to 11.6283 mills for the 2019 Tax Year.

BE IT FURTHER RESOLVED, that the City Commission does hereby levy a tax of 1.9089 mills for the period of July 1, 2019, through June 30, 2020, on all real and personal taxable property in the City of Otsego, according to each property's taxable valuation. This tax is levied for the purpose of defraying the balance of the operating expense of the Otsego City Refuse Transfer Station and Recycling Center not funded by the revenues received through the Allegan County Recycling Surcharge Program. This tax is levied pursuant to Otsego City Commission

Resolution 95-20, which authorizes a millage levy in accordance with provisions of the Garbage Disposal Plants Act, MCL 123.261, for the purpose of collecting and disposing of solid waste. The maximum authorized levy according to MCL 123.261 of 3.0000 mills is permanently reduced by provisions of the General Property Tax Act, MCL 211.34d, to 2.8446 mills for the 2019 Tax Year.

BE IT FURTHER RESOLVED, that the City Commission does hereby levy a tax of 1.9243 mills for the period of July 1, 2019, through June 30, 2020, on all real and personal taxable property in the City of Otsego, according to each property's taxable valuation. This tax is levied for the purpose of operating, maintaining, equipping and purchasing for the City's police and fire departments and any other public safety purpose authorized by Law. Voters authorized the 2.0000 mill ten year levy on August 2, 2016. The maximum authorized levy according to MCL 123.261 of 2.0000 mills is permanently reduced by provisions of the General Property Tax Act, MCL 211.34d, to 1.9243 mills for the 2019 Tax Year.

BE IT FURTHER RESOLVED, a property tax administration fee of one percent, as provided by M.C.L. 211.44(3), shall be added to the total tax bill per parcel for the summer property tax levy,

BE IT FURTHER RESOLVED, said summer taxes shall become due and payable on July 1, 2019, and that all taxes paid on or before August 15, 2019, shall be collected in full without any additional charge.

BE IT FURTHER RESOLVED, taxes collected after August 15, 2019, shall be subject to a late penalty charge of two percent and interest at the rate of one-half of one percent per month or fraction thereof, in accordance with Otsego City Charter, Chapter IX, Section 4.

BE IT FURTHER RESOLVED, if August 15, 2019, is a Saturday, Sunday or legal holiday, the last day to pay said taxes without penalties shall be extended to the next business day which is not a Saturday, Sunday or legal holiday.

BE IT FURTHER RESOLVED, the December property tax levy on behalf of other taxing units shall have a property tax administration fee of one percent added to the total tax bill per parcel, as provided by M.C.L. 211.44(3).

BE IT FURTHER RESOLVED, said December property tax levy shall become due and payable on December 1, 2019, and that all taxes paid on or before February 14, 2020, shall be collected in full without any additional charge.

BE IT FURTHER RESOLVED, taxes collected after February 14, 2020, shall be subject to a late penalty charge equal to three percent of the tax, in accordance with M.C.L. 211.44(3).

BE IT FURTHER RESOLVED, if February 14, 2020, is a Saturday, Sunday or legal holiday, the last day to pay said taxes without penalties shall be extended to the next business day which is not a Saturday, Sunday or legal holiday.

BE IT FURTHER RESOLVED, deferments of summer and winter taxes shall be available to those who qualify in accordance with M.C.L. 211.43 and M.C.L. 211.51.

BE IT FURTHER RESOLVED, interest will be waived from February 15 to the last day of February on a summer property tax deferred under M.C.L. 211.51 if a winter deferment is filed

on or before February 14.

BE IT FURTHER RESOLVED, taxes will be recorded as paid on the date payments are received at the Otsego City Hall and that no regard shall be given to the date postmarked on payments received by mail or courier.

BE IT FURTHER RESOLVED, the proposed Otsego City Fee and Fine Schedule included within the Annual Appropriations Bill shall be placed into effect beginning July 1, 2019.

BE IT FURTHER RESOLVED, that as part of the budgeting workshops, future capital improvements were discussed and a summary list compiled and included in the Annual Appropriations Bill as a formal Five Year Capital Improvement Plan.

BE IT FURTHER RESOLVED, the City Treasurer, or his/her designee, is directed to pursue collection procedures necessary to collect outstanding debts for city services, fines or fees, which may include filing of claims through the small claims division of district court or representing the City in a trial before a district court judge, as provided in M.C.L. 600.8407 and 60.8408, respectively.

BE IT FURTHER RESOLVED, customer refunds or overpayments of \$5 or less shall be posted to the respective property's utility bill account in an effort to reduce administrative costs.

BE IT FURTHER RESOLVED, the City Manager is hereby authorized to make intrafund appropriation transfers not to exceed \$2,000, and that all transfers exceeding \$2,000 or which occur between funds may be made only by further action of the City Commission pursuant to provisions of the Michigan Uniform Budgeting and Accounting Act, MCL 141.439.

NOW, THEREFORE, the City Commission hereby approves the Annual Appropriations Bill containing the estimated expenditures, and revenues which include the levy of taxes, for the period of July 1, 2019, through June 30, 2020, and all sums shall be paid into the several funds to which they belong.

YEAS: Commissioners: Cyndi Trobeck, Stacey Withee, Laurie Krueger, & Brent Milhiem.

NAYS: Commissioners: Nick Breedveld.

ABSTAIN: Commissioners: None.

ABSENT: Commissioners: None.

RESOLUTION DECLARED ADOPTED.

**B. CONSIDERATION OF RESOLUTION NO. 2019-14 – A RESOLUTION
AUTHORIZING CITY LEGAL COUNSEL BY RESOLUTION TO FILE CIVIL
LITIGATION AGAINST NICK AND KARIN BREEDVELD**

City Attorney Marshall Grate, of Clark Hill, commented that he had the sad responsibility of investigating and reviewing litigation against Nick and Karin Breedveld. Attorney Grate stated that Commissioner Breedveld was invited to a meeting with the Mayor and the City Manager before the Commission Meeting at 6:00 p.m. for the purpose of reviewing the City's legal concerns in private, and he did not show up. Attorney Grate stated that he had made the

recommendation to the City Manager and Mayor to make this presentation to the Commission during the regular public meeting, because Commissioner Breedveld didn't attend the pre-meeting he was invited to. Mr. Grate gave a detailed overview and timeline of all seven counts that are outlined in the complaint, which will be attached to the minutes. Mr. Grate commented that it was appropriate to present this information at the public meeting so this legal matter could be transparent to the citizens. Manager Mitchell gave a brief overview of the history of the land sale. Attorney Grate recommended that Resolution No. 2019-14, be adopted to file a complaint with the court.

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

CITY OF OTSEGO
ALLEGAN COUNTY, MICHIGAN
RESOLUTION NO. 2019-14

A RESOLUTION AUTHORIZING CITY LEGAL COUNSEL BY RESOLUTION TO FILE
CIVIL LITIGATION AGAINST NICK AND KARIN BREEDVELD

WHEREAS, the City of Otsego is a municipal corporation organized in and existing under the Constitution and the laws of the State of Michigan; and

WHEREAS, the City's legal counsel advised that it is the legal obligation of the Otsego City Commission and in the best interest of the City of Otsego; to take appropriate action against Commissioner Nick Breedveld and Karin Breedveld; and

WHEREAS, the City of Otsego's legal counsel presented the Otsego City Commission with a detailed complaint; and

WHEREAS, the following Counts were noted: Count 1 – Breach of Fiduciary Duty, Nick Breedveld; Count 2 – Silent Fraud, Nick Breedveld; Count 3 – Tortious Interference with Business Expectancy, Nick and Karin Breedveld; Count 4 – Violation of the Open Meetings Act, Nick Breedveld; Count 5 – Declaratory Judgement, Nick and Karin Breedveld; Count 6 – Injunctive & Equitable Relief, Nick and Karin Breedveld; Count 7 – Civil Conspiracy, Nick and Karin Breedveld; and

WHEREAS, a copy of the complaint will be attached to the official minutes; and

NOW THEREFORE, City Commission directs the City of Otsego's legal counsel to file the complaint with the Allegan County Circuit Court

YEAS: Commissioners: Cyndi Trobeck, Stacey Withee, Laurie Krueger, & Brent Milhiem.

NAYS: Commissioners: Nick Breedveld.

ABSTAIN: Commissioners: None.

ABSENT: Commissioners: None.

RESOLUTION DECLARED ADOPTED.

VIII. APPOINTMENTS:

A. CONSIDERATION OF THE REAPPOINTMENT OF BILL DARNELL TO THE CONSTRUCTION BOARD OF APPEALS, TERM TO EXPIRE APRIL 30, 2021

Commissioner Krueger moved to approve the Mayor's reappointment of Bill Darnell to the Construction Board of Appeals, term to expire April 30, 2021, seconded by Commissioner Breedveld. CARRIED UNANIMOUSLY

IX. DISCUSSION ITEMS:

MANAGER'S REPORT

1. He gave updates on the following: Recent Brownfield Meeting; Rock-Tenn, and he welcomed Part-Time Police Officer Jon Bender.
2. 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

Tom Gilmer, 812 Windigo – he commended the City Commission for the legal action they took tonight. He stated that it is extremely important and it was the correct thing to do. He stated that he is very disappointed that this happened, because the property in question only had value to the City – for the extension of the park, boat launch, and to assist the EPA with a site to enter the Kalamazoo River for the future dam removal. He stated that a verbal agreement was made and a City Commissioner used information from a closed session meeting and that is inappropriate. He stated that those actions do not reflect well and there needs to be integrity for the people of this community. He commented that this is the first incident that he can recall where a Commissioner lacked integrity. He stated that he was glad that the Commission had the courage to do the right thing. He concluded that it is a sad, hard thing to do, but “I am proud you did”.

COMMISSIONERS' COMMENTS

Commissioner Krueger – she thank the Main Street Volunteers that participated in the Spring Cleanup. She commented that the City looks fantastic.

Commissioner Withee – she also thanked the Main Street Volunteers that participated in the Spring Cleanup, with a special thanks to Marty Bennett, USG-Otsego Paper, and Manager Mitchell and his family. She commented that there are still flower beds in the City that can be adopted.

Commissioner Milhiem – he commended the Otsego Fire Department and the Police Officers. He stated that great things are happening in Otsego and mentioned the back alley project. He stated that he feels that he has been personally (and as a resident) betrayed by one of our own, and it hurts. He stated that the Commission took the proper action tonight.

Mayor Trobeck – she congratulated Fire Chief Weber and the Otsego Fire Department for being one of five to receive the Mission Lifeline-EMS Gold Award from the American Heart Association.

The meeting was adjourned on a motion by Commissioner Milhiem, seconded by Commissioner Krueger. CARRIED – 7:37 p.m.

Angela M. Cronen, MMC