

A Regular Meeting of the Otsego City Commission was held Monday, July 1, 2019.

The meeting was called to order by Mayor Trobeck at 7:00 p.m. with the following Commissioners present: Stacey Withee, and Brent Milhiem. Absent: Lauri Krueger. Also present City Manager Mitchell.

The audience joined the Commission in the Pledge of Allegiance.

The June 17, 2019, Regular Minutes and Closed Minutes were approved as submitted.

Commissioner Milhiem moved to amend the agenda to go into Closed Session to discuss the written legal opinion with the City Attorney in regards to the matter of Ransbottom vs. City of Otsego, seconded by Commissioner Withee. CARRIED UNANIMOUSLY

## **REMARKS FROM THE AUDIENCE REGARDING AGENDA ITEMS**

None.

### **I. APPOINTMENTS:**

#### **A. CONSIDERATION OF THE MAYOR'S APPOINTMENT OF DUSTIN MCNEES TO FILL THE UNEXPIRED TERM OF FORMER COMMISSIONER NICK BREEDVELD, TERM ENDING NOVEMBER, 2020**

Mayor Trobeck had Mr. McNees introduce himself to the Commission and audience. Mr. McNees gave a brief introduction. Commissioner Withee moved to confirm the Mayor's appointment of Dustin McNees to fill the unexpired term of former Commissioner Nick Breedveld, term ending November, 2020, seconded by Commissioner Milhiem. CARRIED UNANIMOUSLY.

#### **B. SWEARING IN OF NEW COMMISSIONER BY CLERK CRONEN**

At this time, Clerk Cronen swore in new City Commissioner Dustin McNees. The Commission welcomed Commissioner McNees.

### **II. PRESENTATIONS:**

#### **A. BY COUNTY COMMISSIONER GALE DUGAN**

Commissioner Dugan gave an update on the most recent County Commission activities. He congratulated Commissioner McNees and stated that he appreciated him serving the community.

### **III. PUBLIC HEARING:**

### **IV. PLANNING AND ZONING:**

### **V. ORDINANCES:**

A. SECOND READING AND ADOPTION OF ORDINANCE NO. 164 - AN ORDINANCE TO INCLUDE CITY COMMISSIONER ETHICS POLICY  
Manager Mitchell gave a brief overview of the Ethics Policy Ordinance. He explained that it clearly states what is expected of the Commissioners. There is an acknowledgement of ethics form and once it is signed it will be put in their personnel file.

Commissioner Withee offered Ordinance No. 164 and moved for its adoption, supported by Commissioner Milhiem.

**CITY OF OTSEGO  
ALLEGAN COUNTY, MICHIGAN  
ORDINANCE NO. 164**

**CITY COMMISSIONER ETHICAL CODE**

**CITY OF OTSEGO, ALLEGAN COUNTY, MICHIGAN ORDAINS:**

**Section 1. Preamble.**

A. The citizens of Otsego are entitled to have fair, ethical and accountable local government that has earned the public's full confidence for integrity.

B. Furthermore, the effective functioning of democratic government requires that public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government; public officials be independent, impartial and fair in their judgment and actions; public office be used for the public good, not for personal gain; and public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

C. To this end, the Otsego City Commission adopts this Code of Ethics for Otsego City Commissioners to assure public confidence in the integrity of local government and its effective and fair operation.

**Section 2. Code of Ethics.**

A. Acts in the public interest. Recognizing that stewardship of the public interest must be their primary concern, City Commissioners will work for the common good of the people of Otsego and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims, and transactions coming before the Otsego City Commission.

B. Compliance with law. City Commissioners shall comply with the laws of the nation, the State of Michigan, and the City of Otsego in the performance of their public duties. These laws include, but are not limited to: the United States and Michigan constitutions; the City of Otsego Charter; laws pertaining to conflicts of interest, contracts with public entities, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

C. Respect for process. City Commissioners shall perform their duties in

accordance with the processes and rules of order established by the City Commission governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Commission by city staff.

D. Conduct of public meetings. City Commissioners shall prepare themselves for public issues, listen courteously and attentively to all public discussions before the body, and focus on the business at hand. They shall refrain from interrupting other speakers, making comments not germane to the business of the body, or otherwise interfering with the orderly conduct of meetings.

E. Communication. City Commissioners shall publicly share substantive information that is relevant to a matter under consideration by the City Commission, which they may have received from sources outside of the public decision-making process.

F. Full disclosure.

1. A City Commissioner in the performance of their public duties shall not act upon any matter in which they have a material financial interest, or where they have a legal or fiduciary duty to another organization or entity or personal relationship that may give the appearance of a conflict of interest, without disclosing the full nature and extent of the interest to the other members of the City Commission on the official record. Such disclosure must be made before the time to perform their duty or concurrently with the performance of the duty.
2. The disclosure required by this subsection shall not supplant, but instead shall supplement, any disclosure of a personal, contractual, financial, business, employment or pecuniary interest required by state statute.

G. Gifts, favors, and loans.

1. A City Commissioner shall refrain from financial and business dealings that would tend to reflect adversely on the Commissioner's impartiality, interfere with the performance of their public duties or exploit their official position. A City Commissioner should not take any special advantage of services, goods or opportunity for personal gain that is not available to the public in general.
2. A City Commissioner and any family member claimed as a dependent of the Commissioner shall refrain from soliciting or accepting any gifts, loans or favors except that a Commissioner and a family member claimed as a dependent of the Commissioner may:
  - a) Accept a gift or honorarium, not exceeding a value of one hundred dollars (\$100.00), for services rendered in the performance of their public duties or other activity devoted to the improvement of cities, communities and the lives of citizens.
  - b) Accept ordinary social hospitality; a gift, bequest, favor or loan from a relative; a wedding or engagement gift; a loan in the regular course of business from a lending institution on the same terms as generally available to the public; and a scholarship, grant or fellowship awarded on the same terms as applied to other applicants.
  - c) Accept any other gift, favor or loan only if the donor is not a person or

entity whose interests have come or are likely to come before the City Commission.

d) Solicit and accept campaign contributions.

H. Confidential information. City Commissioners shall respect the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose nor divulge to an unauthorized person confidential information acquired in the course of their duties in advance of the time prescribed for its authorized release to the public without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

I. Interference with City activities. City Commissioners shall not interfere or interject with any of the operations or activities of the City. A City Commissioner should not conduct themselves in a manner in their official role as a City Commissioner or as a private resident that interferes with city operations including financially.

J. Use of public resources. Public resources, including city staff time, equipment, supplies, and facilities, not available to the public in general shall only be used for the benefit of the public and not for a City Commissioner's personal or private use.

K. Representation of private interests. In keeping with their role as stewards of the public interest, a City Commissioner shall not appear on behalf of the private interests of third parties, including their spouses and family members within the third degree of consanguinity to the City Commissioner or their spouse, before the City Commission or any board, committee, council or proceeding of the City.

L. Advocacy. City Commissioners shall represent the official policies or positions of the City Commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, City Commissioners shall neither state nor imply that they represent the opinions or positions of the City Commission or the City of Otsego.

M. Policy role of members.

1. City Commissioners shall respect and adhere to the City Manager structure of Otsego City government as outlined by the city charter. In this structure, the City Commission determines the policies of the city with the advice, information, and analysis provided by the public, subordinate boards, committees and commissions, and city staff.
2. City Commissioners therefore shall not interfere with the administrative functions of the City or the professional duties of city staff; nor shall they impair the ability of staff to implement City Commission policy decisions.

N. Independence of boards and commissions. Because of the value of the independent advice of subordinate boards, committees, and commissions to the public decision-making process, members of the City Commission shall, except when the City Commissioner is a member of the public body, limit their participation in the proceedings of such subordinate public bodies to the communication of requested information and providing factual information relevant to the discussion at hand and shall not otherwise

attempt to unduly influence the deliberations or outcomes of the proceedings.

O. Positive workplace environment.

1. City Commissioners shall support the maintenance of a positive and constructive workplace environment for city employees and for citizens and businesses dealing with the city. City Commissioners shall recognize their special role in dealings with city employees so as to in no way create the perception of inappropriate direction to staff nor, except for the purpose of inquiry, give specific orders to subordinates of the City Manager or City Attorney.
2. Because City Commissioners actions and comments contribute to the environment in which all city employees must work, in order to create and promote a positive work environment under no circumstances shall a City Commissioner, either in public or private, intimidate, humiliate, or otherwise abuse a city employee.
3. Any conversations between a City Commissioner and city employee shall be no different in nature than that of a city resident and city employee.

P. Compliance and enforcement.

1. This Code of Ethics for Otsego City Commissioners expresses standards of ethical conduct expected for members of the Otsego City Commission. City Commissioners themselves have the primary responsibility to assure that they understand and meet the ethical standards expressed in this code of ethics and that the public can continue to have full confidence in the integrity of government.
2. All City Commissioners shall have a responsibility to intervene when they learn of actions of another City Commissioner that appear to be in violation of the Code of Ethics. Upon acquiring reasonable suspicion of a violation of the Code of Ethics, the Mayor shall set, or any two Commissioners may require the setting of, a public hearing at a regular or special meeting of the City Commission to determine whether a violation of the Code of Ethics occurred and, if so, what sanctions shall be imposed for the violation.
3. The City Commission may impose sanctions on City Commissioners whose conduct does not comply with the City's ethical standards. Sanctions may include reprimand, formal censure, loss of committee assignment and/or restrictions on budget or travel.
4. A violation of this Code of Ethics shall not be considered a basis for challenging the validity of a City Commission decision.

Q. Implementation.

1. As an expression of the standards of conduct for City Commissioners expected by the public, this Code of Ethics is intended to be self-enforcing. It therefore becomes most effective when City Commissioners are thoroughly familiar with it and embrace its provisions.
2. For this reason, ethical standards shall be included in the regular orientations for newly elected or appointed City Commissioners. At the first regular meeting of the City Commission in December of each year, City Commissioners entering office shall sign a statement affirming that they have read and understand the Code of Ethics for Otsego City Commissioners.
3. In addition, the City Commission shall annually review the Code of Ethics for City of Otsego City Commissioners.

**Section 3. Council Trustee Statement of Acknowledgment.**

Model of Excellence  
Otsego City Commission

Council Commissioner Statement

As a member of the Otsego City Commission, I agree to uphold the Code of Ethics adopted by the City Commission and conduct myself by the following model of excellence.

I will:

- Recognize the worth of individual members and appreciate their individual talents, perspectives, and contributions;
- Help create an atmosphere of respect and civility where individual members, city staff, and the public are free to express their ideas and work to their full potential;
- Demonstrate respect for the City Manager structure established in Otsego;
- Respect the dignity and privacy of individuals and organizations;
- Respect and maintain the nature of confidential and privileged information and opinions acquired as a result of my position;
- Conduct my public affairs with honesty, integrity, fairness and respect for others;
- Avoid and discourage conduct that is divisive or harmful to the best interests of Otsego; and
- Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit.

I affirm that I have read and fully understand the Code of Ethics for Otsego City Commissioner

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Section 4. Effective Date.** This ordinance shall take effect upon the latter of publication or the passage of twenty (20) days' time following its final adoption in accordance with the City Charter.

YEAS: Commissioners: Cyndi Trobeck, Stacey Withee, and Brent Milhiem.

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None.

ABSENT: Commissioners: Lauri Krueger.

**ORDINANCE DECLARED ADOPTED.**

B. SECOND READING AND ADOPTION OF ORDINANCE NO. 165 - AN  
ORDINANCE TO AMEND THE FIREWORKS ORDINANCE

Manager Mitchell briefly explained the revised Fireworks Ordinance will comply with new State laws. He stated that the ordinance will go into effect on July 21, 2019.

Commissioner Milhiem offered Ordinance No. 165 and moved for its adoption, supported by Commissioner Withee.

**CITY OF OTSEGO  
ALLEGAN COUNTY, MICHIGAN  
ORDINANCE NO. 165**

**AN ORDINANCE TO AMEND SECTIONS 38-201, 38-202, 38-206 AND 46-121 OF  
THE CODE OF ORDINANCES TO RESTRICT FIREWORKS**

THE CITY OF OTSEGO ORDAINS:

Section 1. Amendment.

Chapter 38, "Fireworks", Section 38-201(h), 38-202 and 38-206 and Chapter 46, "Offenses and Miscellaneous Provisions", Section 46-121(5) of the Code of Ordinances, City of Otsego, Michigan, are amended to read as follows:

Chapter 38

ARTICLE VIII. FIREWORKS

38-201. Definitions.

(h) Deleted

38-202. Ignition, Discharge and Use of Consumer Fireworks. (replaces existing 38-202(2))

(2) In accordance with state and federal laws and applicable City ordinances, a person may ignite, discharge, or use consumer fireworks only on the following days after 11 a.m.:

(a) December 31 until 1 a.m. on January 1.

(b) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.

(c) June 29 to July 4 until 11:45 p.m. on each of those days.

(d) July 5, if that date is a Friday or Saturday, until 11:45 p.m.

(e) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

38-206. Penalty. (Replaces existing 38-206(1))

(1) A person that violates this subsection is responsible for a civil infraction and shall be ordered to pay a civil fine of \$1000.00 for each violation and no other fine or sanction shall be imposed. \$500.00 of the fine collected shall be remitted to the Otsego Police Department.

Chapter 46

ARTICLE V. OFFENSES AGAINST THE PUBLIC PEACE

46-121. Disturbance of the Peace. (replaces existing 46-121(5))

(5) Fire, discharge, display or possess any fireworks except of the type and under the conditions permitted by applicable state and federal laws and City ordinances, including the Michigan Fireworks Safety Act, 2011 PA 256, as amended, MCL 28.457 *et seq.* and City Ordinance, Article VIII Section 38-202.

Section 2. Effective Date. This ordinance shall take effect upon the latter of publication or the passage of twenty (20) days' time following its final adoption in accordance with the City Charter.

YEAS: Commissioners: Cyndi Trobeck, Stacey Withee, and Brent Milhiem.

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None.

ABSENT: Commissioners: Lauri Krueger.

ORDINANCE DECLARED ADOPTED.

**VI. REQUESTS:**

- A. CONSIDERATION OF A REQUEST FROM THE GUS MACKER ORGANIZATIONAL COMMITTEE AND THE OTSEGO DDA/MAIN STREET TO CLOSE VARIOUS STREETS AND THE USE OF PUBLIC PARKING LOTS FROM AUGUST 22, 2019, TO AUGUST 25, 2019, AS PRESENTED

DDA/Main Street Chairman, Marty Bennett was in attendance to answer questions of the Commission. He commented that the event will be the same as the last four years. He was asked how many teams participate and he indicated usually around three hundred teams. Commissioner Withee moved to grant the request from the Gus Macker Organizational Committee and the Otsego DDA/Main Street to close various streets and the use of public parking lots from August 22, 2019, to August 25, 2019, as presented, seconded by Commissioner Milhiem. CARRIED UNANIMOUSLY.

A resident of West Orleans Street stated that they have invited players into their homes to get out of the heat. He stated that the players love to play at Otsego, because they get to play in the streets.

- B. CONSIDERATION OF A REQUEST FROM RESIDENTS OF EAST ORLEANS STREET TO HOLD THEIR 7<sup>TH</sup> ANNUAL BLOCK PARTY IN THE 300 BLOCK OF WEST ORLEANS STREET FROM 1:00 P.M. UNTIL 5:00 P.M., ON JULY 21, 2019

A group from the 300 Block of Orleans Street was in attendance to answer questions



regarding the event and to also invite people to come to the Block Party. They stated that they would like to keep the tradition of the Block Party in memory of Gary Zantello. Commissioner Withee commented that she has been attending for the past couple of years and they always make you feel welcome. Commissioner Milhiem moved to grant the request from the residents of West Orleans Street to hold their 7<sup>th</sup> Annual Block Party in the 300 Block of West Orleans Street from 1:00 p.m. until 5:00 p.m., on July 21, 2019, seconded by Commissioner Withee. CARRIED UNANIMOUSLY.

## **VII. AGREEMENTS:**

### **A. CONSIDERATION OF A LICENSE AGREEMENT WITH THE OTSEGO DDA/OTSEGO MAIN STREET FOR THE GUS MACKER EVENT – AUGUST 22 - 25, 2019**

Commissioner Withee moved to authorize the Mayor and City Clerk to enter into an agreement with the Otsego DDA/Otsego Main Street for the Gus Macker event – August 22-25, 2019, seconded by Commissioner Milhiem. CARRIED UNANIMOUSLY.

## **VIII. RESOLUTIONS:**

## **IX. DISCUSSION ITEMS:**

### **MANAGER'S REPORT**

1. He gave updates on the following: the City has started their new fiscal year; Budget adjustment for Chip Sealing on Dix and Washington Streets; the Otsego dam will be removed after Trowbridge dam; replacing of new water meters; and Mud Volleyball deadline is July 9<sup>th</sup>.
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**

None.

### **COMMISSIONERS' COMMENTS**

Commissioner Milhiem – he commented to enjoy and celebrate the 4<sup>th</sup> of July with your families, celebrating our great independence, in the greatest country. He commented to cheer on the USA as they will be playing the World Cup tomorrow. He reminded everyone with summer approaching to visit and enjoy the downtown, visit a local business, and support our local businesses.

Commissioner Withee – she welcomed Commissioner McNees. She thanked the audience for attending.

Commissioner McNees – he thanked the Commission for voting him on to the Commission. He thanked his family for attending.

Mayor Trobeck – she welcomed Commissioner McNees. She reminded everyone of the upcoming Gus Macker Tournament and Block Party on West Orleans. She thanked Commissioner Dugan for keeping everyone so well informed. She commented that she was excited to see the new Otsego seal in the back alley where construction was just completed.

## **CLOSED SESSION**

A. TO DISCUSS A WRITTEN LEGAL OPINION WITH THE ATTORNEY FOR THE CITY IN THE MATTER OF RANSBOTTOM VS. CITY OF OTSEGO

Commissioner Milhiem moved to go into Closed Session to discuss the written legal opinion with the attorney for the City, in the matter of Ransbottom vs. City of Otsego, seconded by Commissioner Withee. CARRIED UNANIMOUSLY 7:25 p.m.

Commissioner Withee moved to adjourn the Closed Meeting and reconvene the Regular Meeting seconded by Commissioner Milhiem. CARRIED UNANIMOUSLY. 7:48 p.m.

Commissioner McNees moved to approve the settlement agreement in the Ransbottom case, as presented in Closed Session, seconded by Commissioner Milhiem. CARRIED UNANIMOUSLY

The meeting was adjourned on a motion by Commissioner Milhiem, seconded by Commissioner Withee. CARRIED – 7:50 p.m.

Angela M. Cronen, MMC