

**CITY OF NILES  
REGULAR CITY COUNCIL MEETING MINIUTES  
MONDAY, MARCH 27, 2017**

The meeting was called to order by Mayor Nicholas Shelton in the City Council Chambers, 1345 East Main Street, Niles, Michigan at 6:00 p.m., March 27, 2017.

**PRESENT:** Council Members Gretchen Bertschy, Georgia Boggs (6:04), John DiCostanzo, Robert Durm, Charlie McAfee, Wm. Tim Skalla, Daniel VandenHeede, William Weimer and Nicholas Shelton

**ABSENT:** None

**STAFF:** Casperson, Huff, Landgraf

**AUDIENCE:** 60

**CITIZEN PARTICIPATION:**

Rex Carpenter spoke on behalf of the Forever Young Cruisers car show. He stated that he received and submitted several petitions in favor of keeping the car show downtown and that it is biggest event in the downtown. He requested that the city council grant permission to hold the car show on Main Street and if that is not possible, he requested that it be held at Riverfront Park. Council Member Bertschy questioned if the club obtained the raffle permit requirements from the State of Michigan. It was also questioned where the proceeds go. Mr. Carpenter responded that if the raffle is kept under \$100 no permit is needed from the state and all proceeds would go the American Cancer Society on behalf of his mother. Last year the club proceeds were at a deficit.

Justin Flagel and Lisa Croteau announced that the Downtown Development Authority voted unanimously to allow two medical marijuana dispensaries in the downtown district and discouraged spot zoning.

Marie Weimer requested time during Item 8. Mayor Shelton stated that 3 minutes were allowed.

**CONSENT AGENDA:**

1. Consideration of approving the City Council Minutes of March 13, 2017.
2. Consideration of approving the Bills dated March 22, 2017.
3. Consideration of approving a request from the Utilities Department to schedule a public hearing on April 10, 2017 at 5:55 pm to hear public comments on the proposed electric rate adjustments.
4. Consideration of approving the payment of the Utilities Department's annual dues of \$7,338.68 to the American Public Power Association (APPA).
5. Consideration of approving the hire of Peerless Midwest, Inc. of Mishawaka, IN to perform groundwater modeling and capture zone analysis for the Airport well field at a cost of \$8,750.00.
6. Consideration of approving the Police Department's purchase of Records Management Software from Core Technology of Lansing, MI at a cost of \$38,650.00.
7. Consideration of approving the purchase of a new Substation Power Transformer, including acceptance testing, from Virginia Transformer of Roanoke, VA at a cost of \$162,567.00 for use by the Electric Division.

Additional information on Item 3 and Item 6: On Item 3 the council approved an overall 5.2% increase on December 26, 2016. There are 11 rate classes and a public hearing will be scheduled at the next council meeting. Item 6: The Niles Police Department and Berrien County Sheriff Department share the same software and to remain compatible, the city will need to purchase the proposed software.

**Council Member Weimer** moved, **Council Member Bertschy** supported, **MOTION CARRIED**, to approve Items 1-7 on the Consent Agenda with corrections to the minutes as follows:

**Council Members Report:**

**READ:** Council Member Skalla said he was pleased with the audit. He also sympathized with pfc Roussos' family and suggested that he meet with the family.

**CORRECTION:** He also sympathized with pfc Roussos' family and would be willing to work on a committee to get something done.

**ROLL CALL: AYES:** Bertschy, Boggs, DiCostanzo Durm, McAfee, Skalla, VandenHeede Weimer

NAYS: None ABSENT: None ABSTAIN: None

**ADMINISTRATOR'S REPORT:**

**Introduction of Items for Discussion**

**Items for Council Action**

8. Consideration of adopting a resolution in support of the development of a Medical Marijuana Facilities' Ordinance and applicable zoning regulations for Medical Marijuana Facilities.

Marie Weimer stated that she attended both public forums and read news articles. She spoke in favor of allowing medical marijuana facilities based on hopes that if someone needed relief from a medical condition that it may help.

Council Member Boggs stated that she received numerous calls in opposition of the Medical Marijuana Act and that she would vote with her constituents.

Council Member Weimer mentioned that although he does not condone the smoking of marijuana, he received more calls in favor of the Medical Marijuana Act; therefore, he would vote with his constituents.

Council Member McAfee stated that she also received more calls in favor and she would be voting with the people in her precinct.

**MEDICAL MARIJUANA ACT  
RESOLUTION OF INTENT  
RESOLUTION #2017-03/2011**

**Council Member Bertschy** offered the following resolution and moved for its adoption, seconded by **Council Member DiCostanzo**.

**RESOLVED BY:** City Council, City of Niles, Michigan,

**WHEREAS**, the State of Michigan enacted the Medical Marijuana Facilities Licensing Act, Michigan Compiled Laws § 333.27101, et. seq. (2016), to license and regulate certain commercial entities identified in the Act as growers, processors, provisioning centers, secure transporters, and safety compliance facilities; and

**WHEREAS**, the Medical Marijuana Facilities Licensing Act provides that a marijuana facility shall not operate in a municipality unless the municipality has adopted an ordinance that authorizes that type of facility; and

**WHEREAS**, being duly informed and advised, the Niles City Council has decided it shall adopt an ordinance to authorize the location of any medical marijuana facilities within the City of Niles as provided by the Medical Marijuana Facilities Licensing Act; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Niles City Council hereby makes a record of its decision to adopt an ordinance to authorize within the city limits the location of any medical marijuana facilities as identified in the Medical Marijuana Facilities Licensing Act, Michigan Compiled Laws § 333.27101, et. seq. (2016).

**ROLL CALL:**

**AYE:** Bertschy, DiCostanzo, Durm, McAfee, Skalla, VandenHeede Weimer

**NAY:** Boggs **ABSENT:** None **ABSTAIN:** None

**RESOLUTION # 2017-03-2011 DECLARED ADOPTED**

9. Consideration of approving the issuance of a written notification of the intent to terminate the trust fund management agreement with 1<sup>st</sup> Source Bank and authorize the city administrator to notify 1<sup>st</sup> Source Bank of the intent to terminate the agreement and issue the written notice of termination at the appropriate time.

**Council Member Bertschy** moved, **Council Member Weimer** supported, **MOTION CARRIED**, to approve the issuance of a written notification of the intent to terminate the trust fund management agreement with 1<sup>st</sup> Source Bank and authorize the city administrator to notify 1<sup>st</sup> Source Bank of the intent to terminate the agreement and issue the written notice of termination at the appropriate time.

**ROLL CALL: AYES:** Bertschy, Boggs, DiCostanzo Durm, McAfee, Skalla, VandenHeede Weimer

**NAYS:** None **ABSENT:** None **ABSTAIN:** None

10. Consideration of approving the adoption of the Bylaws and Citizens Guide to Historic Preservation documents developed by the Historic District Commission.

**Council Member Bertschy** moved, **Council Member Skalla** supported, **MOTION CARRIED**, to approve approving the adoption of the Bylaws and Citizens Guide to Historic Preservation documents developed by the Historic District Commission.

**ROLL CALL: AYES:** Bertschy, Boggs, DiCostanzo Durm, McAfee, Skalla, VandenHeede Weimer

**NAYS:** None **ABSENT:** None **ABSTAIN:** None

11. Consideration of approving the Forever Young Car Show to be held every Wednesday starting June 7<sup>th</sup> through August, 30<sup>th</sup> this summer and consideration of approving various other requests including waiver of all fees.

There was a lengthy discussion regarding the accountability of funds being raised and the for profit status of the club. Mayor Shelton mentioned that by moving the car show to the Riverfront Park it would save a considerable amount. It was recommended that in the future the club obtain non-profit status. Council Member Skalla stated that the downtown merchants want to see it downtown. Council Member DiCostanzo suggested that downtown merchant help defer costs.

**Council Member VandenHeede** moved, **Council Member Skalla** supported, **MOTION CARRIED**, to approve the Forever Young Car Show to be held on Main Street every Wednesday starting June 7<sup>th</sup> through August, 30<sup>th</sup> this summer and consideration of approving various other requests including waiver of all fees.

**ROLL CALL: AYES:** Bertschy, Boggs, Durm, Skalla, VandenHeede

**NAYS:** DiCostanzo, McAfee, Weimer **ABSENT:** None **ABSTAIN:** None

11A. Consideration of approving a commitment for ordering 750 tons of bulk rock salt through MiDEAL (for a price per ton which is unknown at this time) and authorize the Public Works Director to sign the commitment.

**Council Member VandenHeede** moved, **Council Member Durm** supported, **MOTION CARRIED**, to approve a commitment for ordering 750 tons of bulk rock salt through MiDEAL (for a price per ton which is unknown at this time) and authorize the Public Works Director to sign the commitment.

**ROLL CALL: AYES:** Bertschy, Boggs, DiCostanzo Durm, McAfee, Skalla, VandenHeede Weimer

**NAYS:** None **ABSENT:** None **ABSTAIN:** None

#### **APPOINTMENT TO BOARDS:**

None

#### **CITY ATTORNEY'S REPORT:**

12. **Second Reading and Enactment** of a proposed change to the Property Maintenance Code Ordinance to adopt by reference the 2015 International Property Maintenance Code, with certain insertions, amendments, additions, and deletions as the Property Maintenance Code of the City of Niles; to establish minimum standards for the maintenance and conditions of all properties, buildings, and structures; to prescribe standards for supplied utilities, facilities and equipment and for the conditions essential for safe, sanitary and fit occupancy and use; to provide for the enforcement of the provisions contained herein and for penalties and other remedies for violations hereof; and to repeal prior ordinances that are inconsistent to the provisions herein.

**Council Member Weimer** moved, **Council Member VandenHeede** supported, **MOTION CARRIED**, to approve the Second Reading and Enactment of the Property Maintenance Code Maintenance Code Ordinance to adopt by reference the 2015 International Property Maintenance Code, with certain insertions, amendments, additions, and deletions as the Property Maintenance Code of the City of Niles; to establish minimum standards for the maintenance and conditions of all properties, buildings, and structures; to prescribe standards for supplied utilities, facilities and equipment and for the conditions essential for safe, sanitary and fit occupancy and use; to provide for the enforcement of the provisions contained herein and for penalties and other remedies for violations hereof; and to repeal prior ordinances that are inconsistent to the provisions herein.

**ROLL CALL: AYES:** Bertschy, Boggs, DiCostanzo Durm, McAfee, Skalla, VandenHeede Weimer

**NAYS:** None **ABSENT:** None **ABSTAIN:** None

#### **ORDINANCE 476 DECLARED ENACTED**

13. **Second Reading and Enactment** of a proposed change to an ordinance to provide for the issuing of permits for the operation of Mobile Food Vendors units by Mobile Food Vendors within the City of Niles, Michigan and to provide for requirements and regulations incident thereto.

**Council Member Bertschy** moved, **Council Member Skalla** supported, **MOTION DENIED**, to send the proposed Mobile Food Vendor Ordinance back to the Ordinance Committee for further evaluation.

**ROLL CALL: AYES:** Bertschy, Boggs, Durm, Weimer  
**NAYS:** VandenHeede, McAfee, DiCostanzo, Skalla, Mayor Shelton (Tie Vote)   **ABSENT:** None  
**ABSTAIN:** None

**Council Member VandenHeede** moved, **Council Member DiCostanzo** supported, **MOTION CARRIED**, to approve the Second Reading and Enactment of the change to an ordinance to provide for the issuing of permits for the operation of Mobile Food Vendors units by Mobile Food Vendors within the City of Niles, Michigan and to provide for requirements and regulations incident thereto.

**ROLL CALL: AYES:** DiCostanzo, McAfee, Skalla, VandenHeede, Mayor Shelton (Tie Vote)  
**NAYS:** Bertschy, Boggs, Durm, Weimer           **ABSENT:** None           **ABSTAIN:** None  
**ORDINANCE 477 DECLARED ENACTED**

**COUNCIL MEMBER’S REPORT:**

Council Member Bertschy suggested that event sponsors submit financial reports to see where proceeds go. She also encouraged Mr. Carpenter seek non-profit status.

Council Member Boggs hopes that the city understands, in the future, how the state stands on certain issues.

Council Member DiCostanzo commented on the acceptance of waiving of costs associated with the car show, when other events ask for the same, overspending is inevitable. The council needs to stick to the budget. If there is enough benefits to the downtown businesses to having the car show downtown, they need to have the willingness to contribute. The city is taking funds from taxpayers to subsidize downtown businesses.

Council Member VandenHeede also encouraged Mr. Carpenter to apply for non-profit status and asked that he seek way to offset the costs for the next year.

**MAYOR’S REPORT:** Mayor Shelton mentioned to Mr. Carpenter that if help is needed in promoting the car show, he would be willing to help. He also stated that for the Mobile Truck Vendor Ordinance, he encourages entrepreneurship in Niles. The DDA survey showed that most downtown businesses were okay with food trucks in the park.

**ADJOURNMENT**

Council Member Weimer moved to adjourn at 7:26pm.

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Linda Casperson, Niles City Clerk

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Date Approved