

**THE CITY COUNCIL
NILES, MICHIGAN
PUBLIC HEARING
PROPOSED PILOT ORDINANCE FOR FOUR FLAGS PLAZA
Monday, September 11, 2017, 5:55p.m.**

At 5:55 pm, Mayor Shelton asked if anyone in the audience wished to address the council on the proposed PILOT Ordinance for Four Flags Plaza. Hearing no response, the Public Hearing was closed at 5:56pm.

**THE CITY COUNCIL
NILES, MICHIGAN
PUBLIC HEARING
TERMINATION OF THE NILES INDUSTRIAL PARK BROWNFIELD PLAN
Monday, September 11, 2017, 5:55p.m.**

At 5:55 pm, Mayor Shelton asked if anyone in the audience wished to address the council on the termination of the Niles Industrial Park Brownfield Plan. Hearing no response, the Public Hearing was closed at 5:56pm.

**THE CITY COUNCIL
NILES, MICHIGAN
PUBLIC HEARING
BROWNFIELD PLAN AND REIMBURSEMENT AGREEMENT – NILES INDECK LLC
Monday, September 11, 2017, 5:55p.m.**

At 5:59 pm, Mayor Shelton asked if anyone in the audience wished to address the council on the Brownfield Plan and Reimbursement Agreement. Hearing no response, the Public Hearing was closed at 5:56pm.

**CITY OF NILES
REGULAR CITY COUNCIL MEETING MINUTES
MONDAY, SEPTEMBER 11, 2017**

The meeting was called to order by Mayor Shelton in the City Council Chambers, 1345 East Main Street, Niles, Michigan at 6:00 p.m., September 11, 2017. The Pledge of Allegiance was led by Mayor Shelton. Mayor Shelton asked for a moment of silence in remembrance of the 9/11 tragedy.

PRESENT: Gretchen Bertschy, Georgia Boggs, John DiCostanzo, Robert Durm, Charlie McAfee, Wm. Tim Skalla, Daniel VandenHeede, William Weimer, and Mayor Nick Shelton.

ABSENT: None

STAFF: Casperson, Huff, Landgraf

CITIZEN PARTICIPATION:

Jonathan Smith requested time on item 11. 3 minutes granted.

Kimberly Yob, Real Estate Agent urged the council to support the former Simplicity Pattern building for medical marijuana zoning.

PRESENTATIONS: *Indeck Project Presentation. – Eric Helzer, Kelly Ends, Doug Kelmer*

Oath of Office for Police Officer Matthew Nolan.

CONSENT AGENDA:

1. Consideration of approving the City Council Minutes of August 28th, 2017.
2. Consideration of approving the Bills dated September 5, 2017.
3. Consideration of approving a request from the Four Flags Apple Festival Committee to hold the annual Youth Parade and Activities on Saturday, September 24th 23rd ; consideration of

approving holding the Grande Parade on Saturday September 31st, 30th consideration of holding the Youth Day event and Apple Festival **week from September 28th through October 1, 2017** on the grounds located near 17th and Lake Streets and consideration of various other requests as stated including services from Police, Fire, Utilities and the Public Works Departments at a cost of approximately \$4,980.00.

4. Consideration of approving a request from New Beginnings Ministries of Niles to hold a block party event on October 7, 2017 from 8:00 am to 7:00 pm, consideration of closing South 13th Street from Main to Cherry; closing Maple Street from S. 13th St. to S. 11th Street and consideration of approving the use of a portion of city owned property that houses the Cherry Street Water Tower.
5. Consideration of approving the purchase of 18 replacement Tasers and accessories though the Taser 60 program offered by Taser International of Scottsdale, AZ at a cost of \$22,245.48 to be charged to the Police Department's operations account.

Council Member Bertschy moved, **Council Member Durm** supported, **MOTION CARRIED**, to approve the Consent Agenda Items 1-5 as presented.

ROLL CALL:

AYE: Gretchen Bertschy, Georgia Boggs, John DiCostanzo, Robert Durm, Charlie McAfee, Wm. Tim Skalla, Daniel VandenHeede, and William Weimer

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

ADMINISTRATOR'S REPORT:

Introduction of Items for Discussion

Items for Council Action

6. Consideration of adopting a resolution to approve the termination of the Industrial Park Brownfield Redevelopment Plan dated March 26, 2001, as amended August 12, 2002.

The following preamble and resolution were offered by **Council Member DiCostanzo** and seconded by **Council Member Weimer**.

**CITY OF NILES
BERRIEN COUNTY**

RESOLUTION TERMINATING A BROWNFIELD PLAN ADOPTED BY RESOLUTION NO. 2001-03/1426 DATED MARCH 26, 2001, AS AMENDED BY RESOLUTION NO.2002-08/1482 DATED AUGUST 12, 2002 (ALSO KNOWN AS NILES INDUSTRIAL PARK BROWNFIELD REDEVELOPMENT PLAN)

RESOLUTION #2017-09/2033

Pursuant to and in accordance with the provisions of Act 381 of the Public Acts of the State of Michigan, 1996, as amended:

WHEREAS, the City of Niles Brownfield Redevelopment Authority Board met in open session on March 20, 2001 and approved a Brownfield Plan for property approximately 262.2 acres composed of parcel numbers 14-170-018-020-01, 14-170-018-010-00, 14-170-018-001-01, 14-020-008-003-10, and 14-170-018-031-00 in the Niles Industrial Park; and created a Tax Increment Financing District subject to adoption by the Niles City Council; and

WHEREAS, in compliance with PA 381 of 1996, as amended, a public hearing was held Monday, March 26, 2001 on the adoption by the Niles City Council of the proposed Brownfield Redevelopment Plan and Tax Increment Financing District, a public notice of said hearing was published twice in the Niles Daily Star and the City Clerk did send a Notice of Public Hearing to the Chief Executive Officer of each of taxing unit which levies taxes on property located in the designated district prior to the hearing; and

WHEREAS, the Niles City Council did approve and adopt the proposed plan and tax increment financing district

by Resolution No. 2001-03/1426 on March 26, 2001 and as amended by Resolution No. 2002-08/1482 on August 12, 2002; and

WHEREAS, the Brownfield Plan as adopted on March 26, 2001 identified that

INDECK Energy Services, Inc. (INDECK) of Buffalo Grove, Illinois had prepared conceptual plans for the construction of a gas-powered electrical generating plant on the southern portion of the Site extending from Terminal Road northward to Korn Street.

and

Establishment of a tax increment financing district for the Site will allow City officials to offer financial assistance to INDECK and other prospective developers of the Site for environmental assessment and response activity costs necessary to facilitate redeployment of this former railroad staging area.

WHEREAS, as of the consideration of this Resolution to terminate the Brownfield Plan, response activity costs as set forth in the Plan have yet to be completed and construction based on INDECK's 2001 conceptual plans for the construction of a gas-powered electrical generating plant have yet to commence; and

WHEREAS, Act 381 of the Public Acts of the State of Michigan of 1996, as amended, in section 14 subsection (8)(b) states

The governing body may terminate a brownfield plan or plan amendment for an eligible property if the project for which eligible activities were identified in the brownfield plan or plan amendment fails to occur with respect to the eligible property for at least 2 years following the date of the resolution approving the brownfield plan or plan amendment, provided that the governing body first does both of the following:

- (i) Gives 30 days prior written notice to the developer at its last known address by certified mail or other method that documents proof of delivery attempted.*
- (ii) Provides the developer an opportunity to be heard at a public meeting; and*

WHEREAS, the project has failed to occur with respect to the eligible property for sixteen years following the date of the resolution approving the brownfield plan or plan amendment; and

WHEREAS, the City of Niles gave 30 days written notice to the developer of the City's intent to terminate the Plan via email/electronic transmission on August 11, 2017; and

WHEREAS, the City of Niles received an email/electronic confirmation of receipt response from the developer on August 11, 2017 of the City of Niles intent to terminate the Plan, with the developer stating

"Indeck Niles, LLC acknowledges receipt of your email and the City letter dated August 11, 2017. Indeck does not have any concerns with the termination of the 2001 brownfield plan and understand the process required under Act 381. Indeck accepts the 2001 brownfield plan termination and will not dispute the action required by City Council in order for Council to consider adopting a new Brownfield Plan this year for the Indeck Niles, LLC proposed Indeck Niles Energy Center Project."

WHEREAS, the Developer was given an opportunity to be heard at a public meeting of the City Council held on September 11, 2017; and

WHEREAS, on August 22, 2017 in accordance with all requirements of Act 381 of 1996, as amended, the City of Niles Brownfield Redevelopment Authority adopted a resolution recommending City Council adopt the new Brownfield Plan for the proposed Indeck Niles Energy Center Project for the site, commonly known as "2200 Progressive Drive" including eligible property with the Parcel Identification Numbers: 11-71-0013-0001-07-1 (in Berrien County); 14-170-018-001-02, 14-170-007-002-00, 14-170-008-001-00 (all in Cass County), City of Niles, Michigan; and

WHEREAS, in order for the City of Niles Brownfield Redevelopment Authority to recommend approval of the new Brownfield Plan for the eligible property subsequent to the termination of the Brownfield Plan adopted March 26, 2001 on the same eligible properties, the City of Niles gave 30 days written notice of a hearing to terminate the Brownfield City Council Meeting 09/11/17

Plan adopted March 26, 2001 to the developer of the Brownfield Plan via email/electronic transmission on August 11, 2017; and

WHEREAS, on August 22, 2017, the City of Niles Brownfield Redevelopment Authority adopted a resolution recommending City Council terminate the Brownfield Plan adopted March 26, 2001; and

WHEREAS, the Developer has agreed to the termination of the Brownfield Plan adopted March 26, 2001 so long as a new Brownfield Plan for its project is considered by the City of Niles; and

WHEREAS, a new brownfield redevelopment plan has been prepared as a Brownfield Plan for Indeck Niles Energy Center Project including eligible property with the Parcel Identification Numbers: 11-71-0013-0001-07-1 (in Berrien County); 14-170-018-001-02, 14-170-007-002-00, 14-170-008-001-00 (all in Cass County), City of Niles, Michigan for the City of Niles (the "Plan"), to restore the environmental and economic viability of the eligible property; and

WHEREAS, the new Brownfield Plan for Indeck Niles Energy Center Project is prepared and will be considered by the City of Niles at the same meeting upon adoption of this Resolution terminating the Brownfield Plan adopted March 26, 2001; and

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Niles that the Brownfield Plan adopted March 26, 2001 is terminated. Should any section, clause or phrase of this Resolution be declared by the Courts to be invalid the same shall not affect the validity of this Resolution as a whole nor any part thereof other than the part so declared to be invalid.

ROLL CALL:

AYE: Gretchen Bertschy, Georgia Boggs, John DiCostanzo, Robert Durm, Charlie McAfee, Wm. Tim Skalla, and William Weimer

NAY: Daniel VandenHeede **ABSENT:** None **ABSTAIN:** None

RESOLUTION #2017-09/2033 DECLARED ADOPTED

7. Consideration of adopting a resolution to approve a Brownfield Plan for Indeck Niles, LLC; also known as the Indeck Niles Energy Center Project.

The following preamble and resolution were offered by **Council Member Weimer** and seconded by **Council Member Skalla**.

**CITY OF NILES
BERRIEN COUNTY
RESOLUTION APPROVING A BROWNFIELD PLAN FOR INDECK NILES, LLC
INDECK NILES ENERGY CENTER PROJECT
2200 PROGRESSIVE DRIVE, NILES MI**

RESOLUTION #2017-09/2034

WHEREAS, the Niles Brownfield Redevelopment Authority (the "Authority"), pursuant to and in accordance with the provisions of the Brownfield Redevelopment Financing Act, being Act 381 of the Public Acts of the State of Michigan of 1996, as amended (the "Act"), has completed a review of the Brownfield Plan (the "Plan") for the project commonly known as the proposed Indeck Niles Energy Center Project (the "Project"), at 2200 Progressive Drive, including eligible property with the Parcel Identification Numbers: 11-71-0013-0001-07-1 (in Berrien County); 14-170-018-001-02, 14-170-007-002-00, 14-170-008-001-00 (all in Cass County), pursuant to and in accordance with Sections 13 and 13b of the Act, to be carried out within property located in the City of Niles; and

WHEREAS, on August 22, 2017, in accordance with the requirements of Act 381 of 1996, as amended, the Authority adopted a resolution recommending City Council adopt the Plan for the proposed Project; and

WHEREAS, the City of Niles, at least ten (10) days before the meeting of the City Council at which the Plan was considered for approval, provided notice of the public hearing to the taxing jurisdictions that levy taxes subject to capture under the Act, pursuant to and in accordance with Section 14(4) of the Act; and

WHEREAS, the City of Niles, at least ten (10) days before the meeting of the City Council at which the Plan was considered for approval, provided notice of the public hearing to the Michigan Department of Environmental Quality (MDEQ) and the Michigan Strategic Fund (MSF), or its designee (the Michigan Economic Development Corporation [MEDC]), because the Plan involves the use of taxes levied for school operating purposes to pay for eligible activities, pursuant to and in accordance with Section 14(4) of the Act; and

WHEREAS, at the time set for the hearing on the Plan, the Niles City Council provided an opportunity for any interested persons or an official from a taxing jurisdiction with a millage that would be subject to capture under the Act, to be heard and for written communications referencing the Plan to be received and considered, pursuant to and in accordance with Sections 14(3) and 14(4) of the Act; and

WHEREAS, the Niles City Council hereby makes the following determinations and findings:

- A. The Plan for the site constitutes a public purpose of the Act;
- B. The Plan meets all of the requirements for a Brownfield Plan set forth in Sections 13 and 13b of the Act;
- C. The proposed method of financing the costs of the eligible activities as described in the Plan, are feasible;
- D. The costs of the eligible activities proposed in the Plan are reasonable and necessary to carry out the purposes of the Act;
- E. The amount of captured taxable value estimated by the Plan for the site is reasonable.

WHEREAS, as a result of its review of the Plan and upon consideration of the views and recommendations of the Niles Brownfield Redevelopment Authority and the Taxing Jurisdictions, the City Council desires to proceed with approval of the Plan.

NOW, THEREFORE, BE IT RESOLVED THAT:

- 1. **PLAN APPROVED.** Pursuant to the authority vested in the Niles City Council by the Act, and pursuant to and in accordance with the provisions of Section 14 of the Act, the Plan is hereby approved.
- 2. **SEVERABILITY.** Should any section, clause or phrase of this Resolution be declared by the Courts to be invalid, the same shall not affect the validity of this Resolution as a whole nor any part thereof other than the part so declared to be invalid.
- 3. **REPEALS.** All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

ROLL CALL:

AYE: Gretchen Bertschy, Georgia Boggs, John DiCostanzo, Robert Durm, Charlie McAfee, Wm. Tim Skalla, and William Weimer

NAY: Daniel VandenHeede **ABSENT:** None **ABSTAIN:** None

RESOLUTION #2017-09/2034 DECLARED ADOPTED

- 8. Consideration of adopting a resolution to approve entering into a Brownfield Reimbursement Agreement with Indeck Niles, LLC for the Indeck Niles Energy Center Project and consideration of authorizing the mayor and the city administrator to execute the agreement.

**CITY OF NILES
BERRIEN COUNTY
STATE OF MICHIGAN**

Resolution Approving a Brownfield Reimbursement Agreement

The following preamble and resolution were offered by **Council Member DiCostanzo** and seconded by **Council Member Weimer**.

**CITY OF NILES
BERRIEN COUNTY
RESOLUTION APPROVING A BROWNFIELD REIMBURSEMENT AGREEMENT FOR INDECK NILES, LLC
INDECK NILES ENERGY CENTER PROJECT
2200 PROGRESSIVE DRIVE, NILES MI**

RESOLUTION #2017-09/2035

WHEREAS, the Brownfield Redevelopment Authority (the "Authority") of the City of Niles, pursuant to and in accordance with the provisions of the Brownfield Redevelopment Financing Act, being Act 381 of the Public Acts of the State of Michigan of 1996, as amended (the "Act"), completed a review of the Brownfield Reimbursement Agreement (the "Agreement") for the Brownfield Plan site commonly known as the proposed Indeck Niles Energy Center Project (the "Project"), at 2200 Progressive Drive, including eligible property with the Parcel Identification Numbers: 11-71-0013-0001-07-1 (in Berrien County); 14-170-018-001-02, 14-170-007-002-00, 14-170-008-001-00 (all in Cass County; and

WHEREAS, the Authority adopted a resolution on September 11, 2017, recommending City Council adopt the Agreement for the proposed Project and authorizing the authorized personnel to execute said Agreement on behalf of the Authority subject to the Mayor and Council adopting a resolution approving the Brownfield Plan; and

WHEREAS, as a result of its review of the Agreement, the City Council desires to proceed with approval of the Agreement.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. **AGREEMENT APPROVED.** The City Council of the City of Niles hereby approves the Brownfield Reimbursement Agreement for the proposed Indeck Niles Energy Center Project, at 2200 Progressive Drive and Adjoining Properties, Niles, Michigan, and authorizes the authorized personnel to execute said Agreement on behalf of the City.
2. **SEVERABILITY.** Should any section, clause or phrase of this Resolution be declared by the Courts to be invalid, the same shall not affect the validity of this Resolution as a whole nor any part thereof other than the part so declared to be invalid.
3. **REPEALS.** All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

ROLL CALL:

AYE: Gretchen Bertschy, Georgia Boggs, John DiCostanzo, Robert Durm, Charlie McAfee, Wm. Tim Skalla, and William Weimer

NAY: Daniel VandenHeede **ABSENT:** None **ABSTAIN:** None

RESOLUTION #2017-09/2035 DECLARED ADOPTED

9. Consideration of adopting a Resolution of Intent to accept a grant from the Michigan Gateway Community Foundation to the City of Niles Public Arts Commission.
**Resolution of Intent to Accept a Grant
from the Michigan Gateway Community Foundation
to the City of Niles Public Arts Commission**

RESOLUTION 2017-09/2036

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

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

WHEREAS, The Michigan Gateway Community Foundation is offering a grant of \$4,000.00 to the Niles Public Arts Commission for the purposes of purchasing *Generations*, a sculpture by regional artist, Tuck Langland; and

WHEREAS, The City of Niles Public Arts Commission, wishes to purchase *Generations*, for the promotion of cultural and artistic diversity in the City; and

WHEREAS, it is intended that this resolution of intent will be used to prove that the City of Niles Public Arts Commission and thereby the Niles City Council are committed to raising the remaining funds necessary to purchase *Generations*,

NOW, THEREFORE, BE IT RESOLVED, that the City of Niles supports the acceptance of the grant from the Michigan Gateway Community Foundation;

ROLL CALL:

AYE: Gretchen Bertschy, Georgia Boggs, John DiCostanzo, Robert Durm, Charlie McAfee, Wm. Tim Skalla, Daniel VandenHeede, and William Weimer

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

RESOLUTION 2017-09/2036 DECLARED ADOPTED.

10. Consideration of adopting a resolution to accept an easement from Lakeland Hospital by entering into an easement agreement and consideration of authorizing the mayor to sign the easement agreement.

The following preamble and resolution were offered by **Council Member Bertschy** and seconded by **Council Member DiCostanzo**.

RESOLUTION 2017-09/2037

EASEMENT

THIS EASEMENT is made this 11th Day of September, 2017, by and between **LAKELAND HOSPITALS AT NILES AND SAINT JOSEPH INC.**, a Michigan corporation, whose address is 1234 Napier Avenue, Saint Joseph, Michigan 49085 (herein referred to as "Grantor"), and **THE CITY OF NILES, MICHIGAN**, a Michigan Municipal Corporation, whose address is 333 North Second Street, Niles, Michigan 49120 (hereinafter referred to as "Grantee").

WHEREAS, Grantor is the owner of real property in the City of Niles, Berrien County, Michigan, more particularly defined as:

See Exhibit A (the premises)

WHEREAS, Grantee desires to obtain an easement from Grantor over and upon the premises for the purposes of constructing and maintaining a non-motorized trail, as part of Grantee's Park System and for the use of the public for pedestrian and non-motorized travel

NOW, THEREFORE, in consideration of One Dollar (\$1.00), receipt of which is acknowledged, **IT IS AGREED AS FOLLOWS:**

1. Grantor grants, conveys and warrants to Grantee a permanent public non- motorized trail easement, on, over, across, through and upon the premises previously described and approximately located as depicted on Exhibit A, for the purpose of constructing, operating, inspecting, improving, replacing and maintaining a non-motorized trail as part of Grantee's Parks System, and for the use of the public for pedestrian and non-motorized travel.

Modification to the location and alignment of the easement can be made at any time in the

future pending mutual agreement between the Grantee, the Grantor and the Michigan Department of Natural Resources and reconstruction of the trail.

2. Grantee shall not construct any buildings or other obstructions within the easement area except as depicted on attached Exhibit A. All appurtenances and/or equipment relating to Grantee's use and construction over the easement area shall be owned and maintained by Grantee
3. In addition to easement rights granted herein, Grantor further grants to Grantee during initial construction and for required maintenance only, the right to temporarily use such additional work space reasonably required to construct or maintain such trail. Said temporary work space shall abut the easement area, on either side, as required by construction.
4. Grantee and the general public shall have the right to unimpaired access to said trail and the right of ingress and egress on, over and through Grantor's land for any and all purposes necessary or incidental to the exercise by Grantee of the rights granted hereunder.
5. Grantee's nonuse or limited use of the easement shall not preclude Grantee's later use of the easement to its full extent.
6. Grantee agrees to assume liability for any claims, damages, costs, lawsuits and expenses that may be incurred as a result of any personal injury and/or property damages to persons entering on and using the premises that arise from Grantee's or the general public's use of the easement area. This provision shall not be construed in any way as a waiver of Grantee's governmental immunity.
7. Grantor warrants that it has marketable title to the premises, and that it has the authority to grant the easement to Grantee. The easement shall constitute a burden upon the land in perpetuity, and shall run with the land.
8. The parties acknowledge this Easement shall be binding upon and inure to the benefit of the parties, their successors and/or assigns.
9. The conveyance is exempt from real estate transfer taxes pursuant to MCL 207.505(a), and MCL 207.526(a).
10. The persons signing this Easement on behalf of the parties certify by their signatures that they are duly authorized to sign this Easement on behalf of the parties, and that this Easement has been authorized by the parties.

ROLL CALL:

AYE: Gretchen Bertschy, Georgia Boggs, John DiCostanzo, Robert Durm, Charlie McAfee, Wm. Tim Skalla, Daniel VandenHeede, and William Weimer

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

RESOLUTION 2017-09/2037 DECLARED ADOPTED.

11. Consideration of adopting a resolution to approve the sale of 933 N. 5th Street to Mr. Jonathan Smith with contingencies that include a sale price of \$7,537.00 plus legal costs and closing fees.

Council Member VandenHeede offered the following resolution and moved for its adoption, seconded by **Council**

Member DiCostanzo with the following additional conditions: that all back taxes are paid by the time of closing (excluding the landlocked property); and contingent upon purchase of landlocked property for \$100 plus legal and closing costs within 180 days.

**CITY OF NILES
SALE OF PROPERTY
933 N. 5TH STREET
FOR THE PUBLIC PURPOSE OF ELIMINATING OVERLAPPING PROPERTIES
RESOLUTION #2017/09-2038**

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

WHEREAS, the City of Niles purchased the property located at 933 N. 5th Street from Berrien County prior to the tax foreclosure auction for the purpose of releasing land-locked property currently owned by the City and to promote future redevelopment; and

WHEREAS, a resolution authorizing the sale has been required.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The City of Niles, Michigan has agreed to the sale of property located at 933 N. 5th Street in said City to Mr. Jonathan Smith for a purchase price of Seven Thousand Five Hundred Thirty-Seven Dollars (\$7,537.00) plus legal and closing costs; and
2. Payment of 933 N. 5th Street current taxes due of One Thousand Fifty-Eight Dollars and 57/100 (\$1,058.57); and
3. Payment of 931 N. 5th Street taxes due of One Thousand Fifty-Eight Dollars and 89/100 (\$1,058.89); and
4. Contingent upon purchase of land-locked property herein described to wit: PT OF NE1/4 OF SEC 26 T7S R17W COM 61' S & 77' E OF SE COR OF 5TH & POKAGON STS TH S 71' TH E 55' TH N 71' TH W 55' TO BEG (11-71-0026-0051-01-1) from the City of Niles for ~~One Thousand Ninety-Four Dollars and 07/100 (\$1,094.07)~~ for One Hundred Dollars and 00/100 (\$100.00) and
5. Combine the three properties into one property; and
6. That the property transfers take place within ~~90~~ 180 days.

NOW THEREFORE, BE IT FURTHER RESOLVED:

That the Deed of conveyance shall be executed by the Mayor of the City of Niles and the City Clerk of the City of Niles; and

BE IT FURTHER RESOLVED:

This resolution is adopted by the Niles City Council for the City of Niles, Michigan on the 11th day of September, 2017, and authorizes the execution of the Deed conveying said premises as herein described to wit:

PT OF NE1/4 SEC 26 T7S R17W COM AT SE COR OF 5TH & POKAGON STS CITY OF NILES TH E 132' S 61' W 132' N 61' TO BEG (11-71-0026-0052-00-0);
and PT OF NE1/4 OF SEC 26 T7S R17W COM 61' S & 77' E OF SE COR OF 5TH & POKAGON STS TH S 71' TH E 55' TH N 71' TH W 55' TO BEG (11-71-0026-0051-01-1)

ROLL CALL:

AYE: Gretchen Bertschy, Georgia Boggs, John DiCostanzo, Robert Durm, Charlie McAfee, Wm. Tim Skalla, Daniel
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VandenHeede, and William Weimer

NAY: None **ABSENT:** None **ABSTAIN:** None
RESOLUTION 2017/09-2038 DECLARED ADOPTED

12. Consideration of adopting a resolution to approve the adoption of the MERS Defined Benefit Plan for employees and consideration of authorizing the four Defined Benefit Plan Adoption Agreements and authorize the mayor to execute all necessary documents.

This Resolution is entered into under the provisions of 1996 PA 220 and the Municipal Employees' Retirement System of Michigan ("MERS") Plan Document, as each may be amended.

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

**CITY OF NILES
MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM (MERS) OF MICHIGAN
DEFINED BENEFIT PLAN DOCUMENT
RESOLUTION #2017/09-2039**

WHEREAS, the participating entity desires to adopt the MERS Defined Benefit Plan for its designated employees;

WHEREAS, the participating entity has furnished MERS with required data regarding each eligible employee and retiree, and, with respect to employees, MERS' actuary has computed the liabilities for benefits payable and which may become payable (on account of service already, and to be, rendered);

WHEREAS, as a condition of MERS membership, and pursuant to the MERS Retirement Board's power as plan administrator and trustee under Plan Document Section 71 and MCL 38.1536, as each may be amended, it is appropriate and necessary to enter into a binding agreement providing for the administration of the MERS Defined Benefit Plan, the reporting of service and wages, and the payment of the required contributions of a participating entity; now, therefore,

IT IS HEREBY RESOLVED:

1. On behalf of the participating entity, the governing body of City of Niles adopts the MERS Defined Benefit Plan in accordance with Plan Section 4 for its eligible employees, subject to the MERS Plan Document and as authorized by 1996 PA 220, as both may be amended;
2. The governing body agrees to the terms of and authorizes the City Administrator to execute the initial MERS Defined Benefit Adoption Agreement, a copy of which is attached hereto and which is hereby incorporated by reference;
3. Pursuant to Public Act 738 of 2002, the municipality authorizes electronic transactions to make payments to MERS for the Defined Benefit Plan, and affirms that it is in compliance with MCL 124.303; and

ROLL CALL:

AYE: Gretchen Bertschy, Georgia Boggs, John DiCostanzo, Robert Durm, Charlie McAfee, Wm. Tim Skalla, Daniel VandenHeede, and William Weimer

NAY: None **ABSENT:** None **ABSTAIN:** None
RESOLUTION 2017/09-2039 DECLARED ADOPTED

13. Consideration of approving the placement of a historical marker at the site of the former Niles Waste Paper Company.

Council Member Skalla moved, **Council Member DiCostanzo** supported, **MOTION CARRIED**, to approve the placement of a historical marker at the site of the former Niles Waste Paper Company.

ROLL CALL:

AYE: Gretchen Bertschy, Georgia Boggs, John DiCostanzo, Robert Durm, Charlie McAfee, Wm. Tim Skalla, Daniel

VandenHeede, and William Weimer

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

13A. Consideration of authorizing Wonderland Cinema to use the City's lot on the southwest corner of Front Street and Ferry Street for temporary parking while the Cinema's parking lot renovations are performed.

Council Member DiCostanzo moved, **Council Member VandenHeede** supported, **MOTION CARRIED**, to authorizing Wonderland Cinema to use the City's lot on the southwest corner of Front Street and Ferry Street for temporary parking while the Cinema's parking lot renovations are performed.

ROLL CALL:

AYE: Gretchen Bertschy, Georgia Boggs, John DiCostanzo, Robert Durm, Charlie McAfee, Wm. Tim Skalla, Daniel VandenHeede, and William Weimer

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

CITY ATTORNEY'S REPORT:

14. Second Reading and Enactment of a proposed ordinance to provide for a service charge (payment) in lieu of taxes (PILOT) for a housing project for low income persons and families to be financed with a Federally-aided Mortgage or an advance or grant from the Authority pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401, *et seq*) (the "Act").

ROLL CALL:

AYE: Gretchen Bertschy, Georgia Boggs, John DiCostanzo, Robert Durm, Charlie McAfee, Wm. Tim Skalla, Daniel VandenHeede, and William Weimer

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

ORDINANCE 479 DECLARED ADOPTED

15. First Reading and Introduction of a Proposed Ordinance to revoke ordinances 2-101 through 2-141, such portions of the Code of Ordinances of the City of Niles, Michigan, pertain to Retirement Plan "A" and Retirement Plan "B" for employees of the City of Niles, Michigan.

COUNCIL MEMBER'S REPORT:

Council Member Boggs announced that the Niles Four Flags Garden Club is hosting a party to celebrate the 125th Anniversary of the Niles Amtrak Depot on Saturday, September 16 from 2-4pm.

Council Member Bertschy reported that "taps" was played at the Riverfront Park War Memorial on September 11, 2017.

Council Member VandenHeede spoke in opposition of the Indeck project.

Council Member McAfee spoke about the remembrance of the 9/11 tragedy

MAYOR'S REPORT:

Mayor Shelton reminded everyone that October 7 and 8 is "I buy Nearby Weekend". He also congratulated new Niles Police Officer Nolan.

ADJOURNMENT: Council Member Weimer moved to adjourn at 7:46pm.

Linda Casperson
Niles City Clerk

Date