

**CITY OF NILES  
REGULAR CITY COUNCIL MEETING MINIUTES  
MONDAY, OCTOBER 23, 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., October 23, 2017. The Pledge of Allegiance was led by Mayor Shelton.

**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:**

**Dean King**, owner of the Cowboy Salon, asked the City Council to consider his property located on 2<sup>nd</sup> Street for a Medical Marijuana dispensary.

**Laura Payne** of Payne's Tree Service, Niles requested that the City Council consider their second lowest bid on Item 5 because they have a proven record with the City of Niles.

**Jeff Bean** requested time to speak on Item 11.

**Jerry French** requested time to speak on Item 11.

**Tom Cobal**, Medican, LLC. will be applying for a medical marijuana grower's permit as well as a processing permit in the Niles Industrial Park. He invited the city council to speak to him after the meeting about their proposed facility.

**CONSENT AGENDA:**

1. Consideration of approving the City Council Minutes of October 9<sup>th</sup>, 2017.
2. Consideration of approving the Bills dated October 18<sup>th</sup>, 2017.
3. Consideration of approving the purchase of a bin storage system and associated hardware from Performance Machine in Niles at a cost of \$3,500.00.
4. Consideration of approving a request to repair the cathodic protection system at Bertrand Tower by Corpro of Medina, OH at a cost not to exceed \$6,300.00 and consideration of authorizing the mayor to sign the proposal.
- ~~5. Consideration of accepting the bid of \$31,869.00 and awarding the contract for tree and stump removal to Arbor Solutions Group, LLC of Greenville, MI for the removal of 72 dead, dying and dangerous trees and 86 stumps and consideration of authorizing the mayor to sign the contract.~~
- ~~6. Consideration of accepting the bid of \$40,182.18 for the purchase of an Unmanned Aircraft System (UAS) from Michigami Group, Inc. of Holland, MI and consideration of authorizing the Utilities Manager to sign the purchase order.~~
- ~~7. Consideration of approving a request from the Utilities Manager to purchase and have installed Marvin windows at a cost of \$121,679.91, plus the cost of supplies estimated at \$5,000.00 from Zeeland Lumber of Mishawaka, IN and consideration of authorizing the mayor to sign the contract.~~

**Council Member Bertschy** moved, **Council Member VandenHeede** supported, **MOTION CARRIED**, to remove Items 5-7 from the Consent Agenda to be considered individually.

**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

**Council Member Weimer** moved, **Council Member Bertschy** supported, **MOTION CARRIED**, to approve the consent agenda Items 1-4 as submitted.

**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**

5. Consideration of accepting the bid of \$31,869.00 and awarding the contract for tree and stump removal to Arbor Solutions Group, LLC of Greenville, MI for the removal of 72 dead, dying and dangerous trees and 86 stumps and consideration of authorizing the mayor to sign the contract.

There was discussion regarding the considering the second lowest bidder's quote from Payne Tree Service of Niles at \$36,588.00.

**Council Member VandenHeede** moved, **Council Member DiCostanzo** supported, **MOTION DENIED**, to accept the bid of \$31,869.00 and awarding the contract for tree and stump removal to Arbor Solutions Group, LLC of Greenville, MI for the removal of 72 dead, dying and dangerous trees and 86 stumps and consideration of authorizing the mayor to sign the contract.

**ROLL CALL:**

**AYE:** John DiCostanzo

**NAY:** Gretchen Bertschy, Georgia Boggs, Robert Durm, Charlie McAfee, Wm. Tim Skalla, Daniel VandenHeede, and William Weimer

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

**Council Member Skalla** moved, **Council Member Bertschy** supported, **MOTION CARRIED**, to accept the bid of \$36,588.00 and awarding the contract for tree and stump removal to Payne Tree Service, Niles, MI for the removal of 72 dead, dying and dangerous trees and 86 stumps and consideration of authorizing the mayor to sign the contract.

**ROLL CALL:**

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

**NAY:** John DiCostanzo **ABSENT:** None **ABSTAIN:** None

6. Consideration of accepting the bid of \$40,182.18 for the purchase of an Unmanned Aircraft System (UAS) from Michigami Group, Inc. of Holland, MI and consideration of authorizing the Utilities Manager to sign the purchase order.

**Council Member Weimer** moved, **Council Member Durm** supported, **MOTION CARRIED**, to accepting the bid of \$40,182.18 for the purchase of an Unmanned Aircraft System (UAS) from Michigami Group, Inc. of Holland, MI and consideration of authorizing the Utilities Manager to sign the purchase order.

Discussion followed regarding the need and cost of the drone.

**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

7. Consideration of approving a request from the Utilities Manager to purchase and have installed Marvin windows at a cost of \$121,679.91, plus the cost of supplies estimated at \$5,000.00 from Zeeland Lumber of Mishawaka, IN and consideration of authorizing the mayor to sign the contract.

**Council Member Weimer** moved, **Council Member DiCostanzo** supported, **MOTION CARRIED**, to approving a request from the Utilities Manager to purchase and have installed Marvin windows at a cost of \$121,679.91, plus the cost of supplies estimated at \$5,000.00 from Zeeland Lumber of Mishawaka, IN and consideration of authorizing the mayor to sign the contract.

Discussion followed regarding the necessity and sale of the building.

**ROLL CALL:**

**AYE:** Gretchen Bertschy, Georgia Boggs, John DiCostanzo, Robert Durm, Charlie McAfee, Daniel VandenHeede, and William Weimer

**NAY:** Wm. Tim Skalla **ABSENT:** None **ABSTAIN:** None

8. Consideration of adopting a Resolution of Support for the 2018 Seventeenth Street Resurfacing Project.

**CITY OF NILES**  
**COUNTY OF BERRIEN**  
**STATE OF MICHIGAN**  
**RESOLUTON OF SUPPORT FOR THE 17<sup>th</sup> TREET**  
**RESURFACING PROJECT**  
**RESOLUTION# 2017-10/2040**

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

**BY THE CITY OF NILES, MICHIGAN - NILES CITY COUNCIL:**

**WHEREAS**, 17<sup>th</sup> Street is in deteriorating condition; and

**WHEREAS**, a detailed structural evaluation has been performed for the 2018 is 17<sup>th</sup> Street from Broadway to E, Main Street, 0.57 miles and the inspection has identified preventing maintenance measures that if implemented in a timely manner will avoid more extensive and costlier repairs in the future; and

**WHEREAS**, the 17<sup>th</sup> Street Project provides a connection to other major streets; and

**WHEREAS**, the City of Niles is committing their share of the funding for the 2018 fiscal year; and

**WHEREAS**, the engineering estimate for the design and reconstruction of the 17<sup>th</sup> Street project is as follows:

<u>TOTAL CONSTRUCTION COST</u>	<u>FEDERAL FUNDING</u>	<u>CITY SHARE</u>
\$195,000	\$159,000	\$36,000

**WHEREAS**, the Niles-Buchanan-Cass Area Transportation Study Policy Committee has agreed to allocate a portion of local Surface Transportation Program funds (STP) through the project selection process; and

**WHEREAS**, the Niles-Buchanan-Cass Area Transportation Study Policy Committee requires all projects in the Niles-Buchanan-Cass Area Transportation Study 2017-2020 Transportation Improvement Program that uses local match to have a formal resolution of support from the jurisdiction paying for the local share of the project; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Niles City Council hereby certifies its support of the local share of the project's cost that will be included in the 2017-2020 Niles-Buchanan-Cass Area Transportation Study Transportation Improvement Program and that failure to provide for the local match will cause the project's allocation of Niles-Buchanan-Cass Area Transportation Study local Surface Transportation Funding to be reconsidered by the Niles-Buchanan-Cass Area Transportation Study Policy Committee.

**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 2017-10/2040 DECLARED ADOPTED** this 23<sup>rd</sup> day of October 2017.

9. Consideration of approving a traffic order request that would prohibit parking on the north side of Huron Street from Third Street to Fifth Street.

**Council Member Weimer** moved, **Council Member DiCostanzo** supported, **MOTION CARRIED**, to approve a traffic order request that would prohibit parking on the north side of Huron Street from Third Street to Fifth Street.

**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

**TRAFFIC ORDER: 343 ADOPTED**

10. Consideration of approving the Discharge of Mortgage and Mortgage Note issued to Robert E. and Margot Hill for the property located at 1347 Sheffield St in Niles and consideration of authorizing the mayor to sign the Discharge of Mortgage and Mortgage Note and consideration of authorizing the clerk to file the Discharge of Mortgage with Berrien County.

**Council Member VandenHeede** moved, **Council Member Bertschy** supported, **MOTION CARRIED**, to approve the Discharge of Mortgage and Mortgage Note issued to Robert E. and Margot Hill for the property located at 1347 Sheffield St in Niles and consideration of authorizing the mayor to sign the Discharge of Mortgage and Mortgage Note and consideration of authorizing the clerk to file the Discharge of Mortgage with Berrien County.

**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

**COMMITTEE/BOARD APPOINTMENTS:** None

**CITY ATTORNEY'S REPORT:**

11. **First Reading and Introduction** of a proposed Medical Marijuana Opt-in Ordinance, an ordinance to authorize medical marijuana facilities as outlined in State law. Zoning requirements in the City of Niles will be addressed with an amendment to the Zoning Ordinance in the coming weeks.

**Jeff Bean** stated that he appreciated inclusion of the former Simplicity Pattern building in the amended zoning map. **Jerry French** questioned why there was a limit of two facilities in the Industrial Park. It was explained that the reason for the limitation was to keep the industrial park from being inundated with medical marijuana facilities.

Discussion followed regarding amending the Medical Marijuana Opt-In Ordinance to strike-out *Section 3 – Licensing of Medical Marijuana Facilities - § A. Number of Permitted Facilities: 1. Provided that while there is not limit on the number of growers and or processors, no more than two (2) structures in the City of Niles Industrial Park may house grow, processing or provisioning facilities or any combination thereof, at any given time.*

**Council Member DiCostanzo** moved, **Council Member Skalla** supported, to amend the first reading of the Medical Marijuana Opt-In Ordinance Section 3(A) 1 to uncap and take the limit off the number of four types of facilities in the Industrial Park. **MOTION DENIED**

**ROLL CALL:**

**AYE:** John DiCostanzo, Gretchen Bertschy

**NAY:** Georgia Boggs, Robert Durm, Charlie McAfee, Wm. Tim Skalla, Daniel VandenHeede, and William Weimer

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

Council Member Skalla, Council Member Bertschy supported to amend the first reading of the Medical Marijuana Opt-In Ordinance Section 3(A)1 to limit the number of four (4) types of facilities in the Industrial Park to four (4).

**MOTION CARRIED**

*Section 3 – Licensing of Medical Marijuana Facilities - § A. Number of Permitted Facilities: 1. Provided that while there is not limit on the number of growers and or processors, no more than **four (4)** structures in the City of Niles Industrial Park may house grow, processing or provisioning facilities or any combination thereof, at any given time.*

**ROLL CALL:**

**AYE:** Gretchen Bertschy, John DiCostanzo, Charlie McAfee, Wm. Tim Skalla, and William Weimer

**NAY:** Georgia Boggs, Daniel VandenHeede, Robert Durm, **ABSENT:** None **ABSTAIN:** None

**COUNCIL MEMBER’S REPORT:**

**Council Member Boggs** questioned if there is a policy that requires each member of the council from each ward serve on the subcommittees. The Clerk responded that she was not aware of any written policy.

**Council Member Durm** questioned the vacancy on the personnel committee. Mayor said that he reached out to council members and Council Member Bertschy responded.

**Council Member McAfee** thanked City Administrator Huff for helping a resident get a fallen tree off the boulevard. She stated that he is doing an outstanding job.

**Council Member DiCostanzo** explained his vote on Item 5 stating while he is in favor of keeping bids local, there was a 15% difference between low-bid and second lowest and felt that the wrong message was being sent.

**Council Member Skalla** moved, **Council Member VandenHeede** supported, **MOTION CARRIED**, to excuse Council Member DiCostanzo from the October 9, 2017 meeting. **AYES: 8 NAYS: 0**

Council Member Skalla also thanked the Niles History Center and the Friends of Silverbrook for conducting the Silverbrook Cemetery tour on October 21. Weather was great and it was well attended.

**MAYOR’S REPORT:** None

**ADJOURNMENT:** Council Member Weimer moved to adjourn at 7:14pm.

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Linda Casperson  
Niles City Clerk

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Date