

**CITY OF NILES
REGULAR CITY COUNCIL MEETING MINIUTES
MONDAY, June 25, 2018**

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., June 25, 2018. The Pledge of Allegiance was led by Mayor Shelton.

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

ABSENT: Daniel VandenHeede

STAFF: Casperson, Huff, Landgraf

CITIZEN PARTICIPATION:

Jeff Durrell, HDS Investments mentioned that they seeking a Michigan Medical Marijuana license. Unlike caregivers, they will be testing in a lab with a filtration system to seal and contain odor.

Mike Haskett, HDS Investments, stated that they are glad to be here and looking forward to donating back to the community.

CONSENT AGENDA:

1. Approval of the Minutes of June 11, 2018.
2. Approval of the Bills.
3. Consideration of approving a request to conduct the 20th Annual Dragon Boat Challenge on Friday August 3rd and Saturday, August 4, 2018 in Riverfront Park and consideration of various other requests including use of the boat dock and the help of the Niles Fire Department to expand the wood of the boats and transport them to and from the park and to provide river rescue services if needed.
4. Consideration of approving a request from Raging Rumor Productions to hold a Music Festival on July 28, 2018 at the Riverfront Park Amphitheater (contingent upon receipt of liability insurance) at noon with concerts starting at 6pm and ending at approximately 10pm, consideration of approving food trucks and 3 to 8 vendors with tents and consideration of extending park hours, waiving all fees, etc.
5. Consideration of approving a request from the Niles Police Department to authorize the transfer of ownership of Canine Officer Riggs from the City of Niles to Officer Shane Daniels.
6. Consideration of renewing the surcharge, not to exceed \$1, to customers' electric bills in accordance with Michigan's Low Income Energy Assistance Program.
7. Consideration of approving a the purchase of email services from Microsoft Corporation of Redmond, WA, via their reseller SHI International Corp. at a cost of \$6,063.80 for the first 14 months and \$5,197.60 annually thereafter.
8. Consideration of approving a request to purchase required equipment from Waymire A.P.S., Inc. of Indianapolis, IN to outfit a new police patrol vehicle at a cost of \$7,412.82.
9. Consideration of approving a request from the information systems manager to extend a service agreement with Service Express, Inc. of Grand Rapids, MI for existing Dell servers and tape backups at a cost of \$9,773.64 with costs split between the utilities and general fund budgets.
10. Consideration of approving the Electric & Water Divisions to purchase a 2013 CAT 906H loader from the Wastewater Division for \$45,000 and consideration of transferring a 1998 Bobcat to the Department of Public Works.

11. Consideration of approving the acceptance of a MiDEAL contract price of \$120,631.54 from Michigan CAT of Novi, MI for the purchase of a compact wheel loader and attachments for the Wastewater Division and consideration of authorizing the utilities manager to sign the quote.
12. Consideration of approving the submission of the Niles Utilities Energy Waste Reduction 2017 Annual Report, as filed with the Michigan Public Service Commission on May 31, 2018, Case No. U-18307.

Council Member Weimer moved, **Council Member McAfee** supported, **MOTION CARRIED**, to approve Items 1-12 with corrections to the minutes.

COUNCIL MEMBER REPORT:

READ:

Council Member Skalla thanked Mrs. Waterhouse for the dedication of the blue heron sculpture on display at the Niles District Library. Council member Skalla also reported that the Bluegrass Festival was a huge success and well attended.

CORRECTION:

“I too would like to thank Mrs. Waterhouse. I really enjoyed the dedication of the Blue Heron at the library. It really dresses the place up. I did attend the Blue Grass Festival at times and I thought it was well run and well attended when you consider that it competed with the best week ever in South Bend and Arts on the Bluff in St. Joe which are pretty tough things to run up against; but, I thought it came off well. Thank you.” Council Member Skalla also wanted to add: “I also went down for clean-up and that went well also. Thank you.”

ROLL CALL:

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

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

CITY ADMINISTRATOR’S REPORT:
Introduction of Items for Discussion
Items for Council Action

13. Consideration of adopting a resolution to approve the first amendment to the land purchase agreement between the City of Niles and Indeck Niles, LLC.

CITY OF NILES
BERRIEN AND CASS COUNTIES, MICHIGAN

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

RESOLUTION NO. 2018-06/2059

RESOLUTION TO APPROVE A FIRST AMENDMENT TO THE LAND PURCHASE AGREEMENT WITH INDECK NILES, LLC

WHEREAS, the City has entered into a Land Purchase Agreement, July 24, 2017 (the “Purchase Agreement”), to sell of 166.87 acres of vacant land to Indeck Niles, LLC (“Indeck”), and the Purchase Agreement is also Exhibit G to a Development Agreement dated July 24, 2017 between the City and Indeck (“Development Agreement”); and

WHEREAS, Indeck has requested an amendment to the Purchase Agreement that would extend the deadline to close the transaction until January 24, 2019, and the City Council is amenable to granting Indeck’s request.

NOW, IT IS THEREFORE RESOLVED THAT:

1. The First Amendment to Land Purchase Agreement attached as **Exhibit 1** to this resolution is approved. The Mayor and City Clerk are authorized and directed to sign the First Amendment on behalf of the City. The First Amendment will also supplement Exhibit G to the Development Agreement.
2. All resolutions and parts of resolutions are, to the extent of any conflict with this resolution, rescinded.

ROLL CALL:

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

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

RESOLUTION 2018-06/2059 DECLARED ADOPTED

14. Consideration of adopting a resolution to approve a 10-year Industrial Facilities Exemption Certificate (IFT) for real property for Toefco Engineered Coating Systems, Inc. located at 1919 Industrial Drive.

Barkley Garrett, SMEGA Director, reported that Toefco Engineered Coating Systems plans to add 5 to 15 additional jobs and a million dollar capital investment.

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

**RESOLUTION GRANTING AN
INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE
Toefco Engineered Coating Systems, Inc.**

The following preamble and resolution were offered by **Council Member Durm** and supported by **Council Member Weimer**.

**Resolution Approving Application of Toefco Engineered Coating Systems, Inc. for
Industrial Facilities Exemption Certificate for a New Facility**

WHEREAS, pursuant to P.A. 198 of 1974, M.C.L. 207.551 et seq., after a duly noticed public hearing held on October 12, 2009, the Niles City Council by resolution established "Speculative Building" Industrial Development District status designating the building at 1919 Industrial Drive. This action enabled any future qualified occupant to apply for both real and personal tax abatement in compliance with MCLA 207.560; and

WHEREAS, Toefco Engineered Coating System, Inc. (the "Applicant") has filed an application for an Industrial Facilities Exemption Certificate with respect to real and personal property located at 1919 Industrial Drive, Niles, Michigan; and

WHEREAS, before acting on said application, the Niles City Council held a public hearing on May 21, 2018, at the Niles Council Chambers, located at 1345 E. Main Street, Niles, Michigan, at 5:55p.m. at which hearing the applicant, the Assessor and a representative of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, construction of the facility and installation of new machinery and equipment had not begun earlier than six (6) months before June 25, 2018, the date of acceptance of the application for the Industrial Facilities Exemption Certificate; and

WHEREAS, completion of the facility is calculated to and will at the time of issuance of the certificate have the reasonable likelihood to retain, create or prevent the loss of employment in the City of Niles; and

WHEREAS, the aggregate SEV of real and personal property exempt from ad valorem taxes within the City of Niles, after granting this certificate, will not exceed 5% of an amount equal to the sum of the SEV of the unit, plus the SEV of personal and real property thus exempted.

NOW, THEREFORE, BE IT RESOLVED BY the Niles City Council of the City of Niles that:

1. The Niles City Council finds and determines that the granting of the Industrial Facilities Exemption Certificate considered together with the aggregate amount of certificates previously granted and currently in force under Act No. 198 of the Public Acts of 1974, shall not have the effect of substantially impeding the operation of the City of Niles, or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Niles.

2. The Letter of Agreement between the Applicant and the City is hereby approved.

3. The Industrial Facilities Exemption Certificate when issued shall be and remain in force for a period of 10 years following the completion of the project.

ROLL CALL:

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

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

RESOLUTION 2018/06-2060 DECLARED ADOPTED

15. Consideration of approving the attached body camera policy for the Niles Utilities Department. Council Member Skalla mentioned that it would seem to be that the same concerns with the influx of Freedom of Information requests would apply as police officer with body cameras. Mr. Huff explained that police officers would have a greater number of people with body cameras and on the law enforcement side any time there is video, the prosecutor's office would request a copy for every case. The police department records division would be inundated with requests and redaction of sensitive information. The Utilities Department would not have as many incidents.

Council Member DiCostanzo moved, **Council Member Bertschy** supported, **MOTION CARRIED**, to approve the attached body camera policy for the Niles Utilities Department.

ROLL CALL:

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

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

16. Consideration of entering into a professional services agreement with McLean Engineering Company of Moultrie, Georgia to provide consultation and related utility pole services to the Utilities Department for the Electric Division and consideration of authorizing the mayor to sign the letter of engagement.

Council Member Weimer moved, **Council Member DiCostanzo** supported, **MOTION CARRIED**, to approve entering into a professional services agreement with McLean Engineering Company of Moultrie, Georgia to provide consultation and related utility pole services to the Utilities Department for the Electric Division and consideration of authorizing the mayor to sign the letter of engagement.

ROLL CALL:

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

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

17. Consideration of entering into an extension contract with ARC American, Inc. of Wakarusa, IN to facilitate the Electric Division's power line construction projects and consideration of authorizing the mayor to sign the contract.

Council Member Weimer moved, **Council Member Bertschy** supported, **MOTION CARRIED**, to approve entering into an extension contract with ARC American, Inc. of Wakarusa, IN to facilitate the Electric Division's power line construction projects and consideration of authorizing the mayor to sign the contract.

ROLL CALL:

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

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

18. Consideration of entering into an agreement with Nationwide Mutual Insurance Company of Columbus, OH to acquire a vehicle for use in vehicle theft and insurance fraud investigations at no cost to include vehicle title and insurance and consideration of authorizing the city administrator and the police chief to sign the agreement.

Council Member Skalla moved, **Council Member DiCostanzo** supported, **MOTION CARRIED**, to approve entering into an agreement with Nationwide Mutual Insurance Company of Columbus, OH to acquire a vehicle for use in vehicle theft and insurance fraud investigations at no cost to include vehicle title and insurance and consideration of authorizing the city administrator and the police chief to sign the agreement.

ROLL CALL:

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

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

CITY ATTORNEY’S REPORT: None

COUNCIL MEMBER’S REPORT:

Council Member Durm wished K9 Officer Riggs a happy retirement. He will be in good hands with Officer Daniels.

Council Member McAfee announced that the Niles Heritage Day Summer Reunion Picnic is July 21, 2018 at Plym Park.

Council Member DiCostanzo stated that he was impressed by HDS Investment's enthusiasm and persistence.

Council Member DiCostanzo made a motion to authorize the City Administrator to negotiate with HDS Investments for the purchase of the former Tyler property on Lake Street and 13th Street; and any sale would be contingent on HDS Investment acquiring medical marijuana licenses they are seeking and the construction of a facility they described on their proposal to the city.

Council Member Weimer supported the motion. **MOTION CARRIED**

ROLL CALL:

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

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

Council Member Boggs questioned if the distance of the church on 12th Street is within the minimum distant requirement for medical marijuana. City Administrator Huff stated he did not recall if churches were listed as a distant restricted facility and would look into it.

Council Member Boggs announced that on July 14th there will be a clean-up in the 1st Ward.

MAYOR’S REPORT: No report.

ADJOURNMENT: Council Member Weimer moved to adjourn at 6:24pm.

Linda Casperson
Niles City Clerk

Date