

**CITY OF NILES  
REGULAR CITY COUNCIL MEETING MINIUTES  
MONDAY, SEPTEMBER 24, 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., September 24, 2018. 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 and Landgraf

**CITIZEN PARTICIPATION:**

Steve Gargis announced that Jan Personette is being treated by Hospice and to keep her in your thoughts. Mark Godsey requested to be considered for a medical marijuana license in the City of Niles. Trevor Shreve and Sampson Thalman announced that Niles New Tech is holding an informal debate with candidates at the Niles District Library on October 26, 2018 at 5pm.

**PRESENTATION:**

***Tyler Ganus, General Manager***  
**Southeast Berrien County Landfill**

Tyler Ganus, General Manager presented an update on the Southeast Berrien County Landfill. The landfill will host a recycling of household hazardous waste on October 13, 2018 from 8am – 12pm.

**CONSENT AGENDA:**

1. Approval of the Minutes of September 10, 2018.
2. Approval of the Bills dated September 19, 2018.
3. Consideration of authorizing the clerk to cast a vote in favor of re-electing Robert Clark and Paula Zelenko to the Michigan Municipal League Liability and Property Pool Board of Directors.

**REMOVED**

- ~~4. Consideration of approving a request from the organizers of the Third Thursday event to temporarily close a section of 3<sup>rd</sup> Street between Broadway and Main Street on October 18<sup>th</sup>, 2018 so as to include the opening of the Iron Shoe Distillery at 3<sup>rd</sup> & Broadway and an Open House for the Fifty5 Club.~~
5. Consideration of approving a request from the Police Department to purchase a Mobile Fingerprint Identification System from Data Works Plus of Greenville, SC at a cost of \$3,240.00.
6. Consideration of approving the emergency purchase of two 6” Honeywell MAG water meters from United Systems of Benton, KY at a cost of \$4,350.00 each.
7. Consideration of approving the payment of annual membership dues to the Southwestern Michigan Economic Growth Alliance in the amount of \$17,200.00.
8. Consideration of approving a request from the Police Department to approve the purchase of new police vehicle computer systems from SHI International Corp. of Somerset, NJ at a cost of \$52,968.40 with all costs to be paid by a private donor.

**Weimer** moved, **Skalla** supported, **MOTION CARRIED**, to approve the consent agenda items 1-3 and 5-8 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

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

9. Consideration of approving an amendment to the Fiscal Year 2018 budget in the amount of \$2,783,667.00.

**Weimer** moved, **Skalla** supported, **MOTION CARRIED**, to approve an amendment to the Fiscal Year 2018 budget in the amount of \$2,783,667.00.

**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

10. Consideration of accepting a grant of \$55,000.00 from the Michigan Council for the Arts and Cultural Affairs for rehabilitation of the Chapin Mansion Front Porch and the addition of an ADA accessible ramp and consideration of authorizing the city administrator to approve and sign the grant agreement when it is available.

**Weimer** moved, **Skalla** supported, **MOTION CARRIED**, to accept a grant of \$55,000.00 from the Michigan Council for the Arts and Cultural Affairs for rehabilitation of the Chapin Mansion Front Porch and the addition of an ADA accessible ramp and consideration of authorizing the city administrator to approve and sign the grant agreement when it is available.

**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

11. Consideration of approving the proposed revisions to the DART Severe Inclement Weather Plan.

**Weimer** moved, **Skalla** supported, **MOTION CARRIED**, to approve the proposed revisions to the DART Severe Inclement Weather Plan.

**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

12. Consideration of approving the proposed revisions to the DART Drug and Alcohol Policy.

**Weimer** moved, **Skalla** supported, **MOTION CARRIED**, to approve the proposed revisions to the DART Drug and Alcohol Policy.

**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

12A. Consideration of extending the vehicle use agreement between the police department and Nationwide Mutual Insurance company of Columbus, OH and allow the City Administrator and Chief of Police to sign the agreement.

**Weimer** moved, **Skalla** supported, **MOTION CARRIED**, to extend the vehicle use agreement between the police department and Nationwide Mutual Insurance company of Columbus, OH and allow the City Administrator and Chief of Police to sign the agreement.

**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

**CLOSED SESSION:** Review Written Legal Opinions

**Bertschy** moved, **Weimer** supported, **MOTION CARRIED**, to go into closed session under the attorney consultation on pending litigation.

**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

**12B**

Consideration of authorizing the City Administrator and City Attorneys and staff to negotiate offers for the remaining property easements for the Pucker Street Dam removal and restoration project.

**VandenHeede** moved, **Bertschy** supported, **MOTION CARRIED**, to authorize the City Administrator, City Attorneys and staff with consultants to negotiate settlement offers with the remaining parcel owners needed for easements for the Pucker Street Dam removal and restoration project.

**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

**12C.**

Consideration of adopting a resolution to accept easements and consents for the Pucker Street Dame Removal and River Restoration Project from property owners along the Dowagiac River and toe authorize the City Administrator to sign the easements and consents on behalf of the City.

CITY OF NILES

RESOLUTION 2018-09/2065

RESOLUTION AUTHORIZING THE PURCHASE OF TEMPORARY CONSTRUCTION EASEMENTS CONSENTS FOR DECOMMISSIONING THE PUCKER STREET HYDROELECTRIC DAM AND RESTORING THE DOWAGIAC RIVER AND ADJACENT UTILITY-OWNED PROPERTY.

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

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

At a regular meeting of the City Council of the City of Niles, Michigan, held at the Niles City Hall on the 24th day of September, 2018, at 6:00 p.m.

**WHEREAS**, the City Council has determined that it is necessary and in the public interest to decommission the Pucker Street Hydroelectric Dam, to restore the Dowagiac River and adjacent Utility-owned property as a result of that decommissioning and to incur any and all costs pertaining to such decommissioning and restoration (collectively "Dam Removal and River Restoration"); and

**WHEREAS**, it is necessary to acquire temporary construction easements and consents for the Dam Removal and River Restoration over private property adjacent to the Dowagiac River and Pucker Street Hydroelectric Dam; and

**WHEREAS**, the acquisition of such temporary construction easements and consents have been agreed to by certain private property owners to the benefit of the City for a period not to exceed five years after construction on Dam Removal and River Restoration starts; and

**WHEREAS**, the acquisition costs of such temporary construction easements and consents has been budgeted as part of the City's costs in the Dam Removal and River Restoration

**NOW, THEREFORE**, be it resolved by the City Council of the City of Niles, Michigan, that:

1. The City Council finds it necessary and in the public interest to acquire and accept temporary construction easements and consents from private property owners for the purposes of completing Dam Removal and River Restoration. The properties involved in easement and consent acquisition are shown on Exhibit A, which is attached and incorporated by reference.

2. The City Administrator is authorized to execute any documents necessary to acquire temporary construction easements and consents and effectuate the purpose of Dam Removal and River Restoration.

3. All prior resolutions inconsistent herewith are repealed.

**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 DECLARED ADOPTED.**

12D.

Consideration of authorizing the issuance of a Declaration of Taking for avigation easements and the Resolution of Necessity for Parcels E-16 and E18 and hold \$49,800 for payment. Payment shall be made temporarily from funds allocated to the Airport and ultimately be reimbursed at 95% by the State of Michigan at a later date once payment is actually made to the property owner and a grant is executed between the City and State of Michigan.

**VandenHeede** moved, **McAfee** supported, **MOTION CARRIED**, to authorize the issuance of a Declaration of Taking for avigation easements and the Resolution of Necessity for Parcels E-16 and E18 and hold \$49,800 for payment. Payment shall be made temporarily from funds allocated to the Airport and ultimately be reimbursed at 95% by the State of Michigan at a later date once payment is actually made to the property owner and a grant is executed between the City and State of Michigan.

**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:**        None

**COUNCIL MEMBER’S REPORT:**

All Council Members and Mayor Shelton expressed their concerns for Jan Personette.

**DiCostanzo** reported that the Planning Commission kicked off the Master Plan project. Everyone that attended was encouraged to bring someone with them for the next meeting.

**DiCostanzo** moved, **Bertschy** supported to terminate the moratorium of the consideration on the medical marijuana licenses so that we can consider some additional businesses.

Discussion followed regarding the company that has been denied by the State of Michigan has requested an appeal process. The city will need to wait for the appeal process to be completed.

**ROLL CALL:**

**AYE:** Gretchen Bertschy and John DiCostanzo,

**NAY:** Georgia Boggs, Robert Durm, Charlie McAfee, Wm. Tim Skalla, Daniel VandenHeede, and William Weimer.    **ABSENT:** None    **ABSTAIN:** None

**MOTION DENIED.**

**MAYOR’S REPORT:**

Mayor Shelton announced the City of Niles official Trick or Treat date and time: Wednesday, October 31, 2018 from 6:00pm to 7:30pm. Downtown Trick or Treat is Saturday, October 27, 2018 from 4:00pm to 5:00pm sponsored by the Niles downtown merchants.

The mayor also reminded everyone that there is an election on Tuesday, November 6, 2018. There are several important initiatives on the ballot as well as two contested council seats. He encouraged everyone to go to the polls and cast your vote.

**ADJOURNMENT:** Council Member Weimer moved to adjourn at 7:25pm.

\_\_\_\_\_  
Linda Casperson  
Niles City Clerk

\_\_\_\_\_  
Date