

**CITY OF NILES
REGULAR CITY COUNCIL MEETING MINIUTES
MONDAY, October 22, 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., October 22, 2018. The Pledge of Allegiance was led by Mayor Shelton.

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

CITIZEN PARTICIPATION:

A group of 10th grade students from Niles Tech will be moderating a forum at the Niles District Library on October 26 at 5pm for candidates running in the 78th District Representative in State Legislature, Dean Hill, Democrat and Brad Paquette, Republican; and 21st District Senator, Ian Haight Democrat and Kim LaSata.

Mary Ellen Drolet questioned the urgency of resolution for Item 9 prior to the election and pointed out that the city charter has specific language when an elected official takes office. She also pointed out corrections to the resolution.

Lisa Croteau announced that she was able to obtain Christmas decoration that the City of Holland, Michigan was selling. There were 40 pellets of decorations. She requested that the Niles City Council consider purchase through council contingencies.

CONSENT AGENDA:

1. Approval of the Minutes of September 24th and October 8th, 2018.
2. Approval of the Bills dated October 16, 2018.
3. Consideration of approving the payment of \$3,146.84 to the Berrien County Clerk for the purchase of election supplies and a canvass fee.
4. Consideration of approving a request from the Utilities Department for the purchase of one 500kVA transformer from Solomon Corporation of Solomon, KS at a cost of \$7,495.00.
5. Consideration of approving a request from the Utilities Department to secure Dickinson Wright Law Firm of Lansing, MI as the bond counsel for the issuance of general obligation limited tax capital improvement bonds for the Pucker Street Dam Removal and River Restoration project.
6. Consideration of approving the purchase of computer software at a cost of \$9,000.00 for three years of licensing and support and consideration of authorizing the city administrator to sign any required documents.

Weimer moved, **DiCostanzo** supported, **MOTION CARRIED**, to approve the consent agenda Items 1-6.

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

7. Consideration of adopting a resolution to approve the appointment of nine members to the Downtown Development Authority's Development Area Citizens Council.

**RESOLUTION APPOINTING MEMBERS OF THE
DEVELOPMENT AREA CITIZENS COUNCIL**

**FOR THE DOWNTOWN DEVELOPMENT AUTHORITY
OF THE CITY OF NILES**

The following resolution was offered by Council Member Bertschy and seconded by Council Member McAfee.

WHEREAS, pursuant to the provisions of Act 197 of the Michigan Public Acts of 1975, as amended ("Act 197"), the City of Niles (the "City") has established the Downtown Development Authority of the City of Niles (the "Authority"); and

WHEREAS, the City has previously adopted an Amended and Restated Development Plan and Tax Increment Financing Plan (referred to together as the "Plan") for the Authority; and

WHEREAS, the City and the Authority intend to further amend the Plan; and

WHEREAS, the City has determined that 100 or more persons reside in the development area described in the Plan (the "Development Area"); and

WHEREAS, it is necessary for the City Council to establish a Development Area Citizens Council for the Development Area and to approve the appointment of members to the Development Area Citizens Council.

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

1. A Development Area Citizens Council (the "DACC") is hereby established for the Development Area. The DACC shall consist of nine members, any five of whom shall constitute a quorum. Each member shall be at least 18 years of age and reside within the Development Area. The DACC shall act as an advisory body to the Authority and the City in the adoption of the amendment to the Plan.

2. The following individuals are appointed effective immediately as members of the DACC for the Downtown Development Authority of the City of Niles, each of whom satisfies the requirements for membership to the DACC under Act 197:

Member's Name

1. Al Casperson
2. David Dulemba
3. James Morris
4. Brian Mrotek
5. Ambrosia Neldon

Member's Name

6. George Nelson
7. Katie Oelson
8. Kim Shelton
9. Melissa Smith

3. Members of the of the DACC shall serve with such powers and duties as are provided by Act 197 for a period of two years or until their successors are elected and qualified.

4. The DACC shall conduct its meetings in accordance with Section 24 of Act 197. The Clerk of the City, or his or her designee, shall act as secretary to the DACC and shall keep minutes of the meetings of the DACC and shall provide notice of meetings as required by Act 197.

5. All resolutions and parts of resolutions insofar as they conflict with the provisions of this Resolution are hereby rescinded.

ADOPTED this 8th day of October, 2018.

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

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

8. Consideration of adopting a resolution requesting an independent consultant review of the landfill's operations and benefits vs. liabilities of ownership.

**SOUTHEAST BERRIEN COUNTY LANDFILL
REVIEW OF OPERATIONS**

RESOLUTION #2018-10/2067

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

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

WHEREAS, the City Council of the City of Niles, Michigan (“City”) deems it advisable for the betterment of the community as one of five municipality owners of the Southeast Berrien County Landfill to hire a consultant at the authority’s expense;

WHEREAS, the City Council wishes to evaluate the operations and benefits versus liability of ownership of the Southeast Berrien County Landfill;

NOW, THEREFORE, BE IT RESOLVED that the City Council deems it advisable and necessary for the economy, health, welfare, comfort, and safety of the people of the City to hire a consultant at the authority’s expense to evaluate the following; as well as other considerations the owner municipalities may consider relevant:

- Are the amended Articles of Incorporations still applicable to today’s operation?
- Are the Bylaws still applicable to today’s operations?
- Does the landfill currently serve its original intended purpose?
- Are current landfill operations optimal for today’s needs?
- Are landfill operations and planning optimal for the long term benefit of the owner municipalities?
- What is the estimated life of the landfill?
- What are the estimated closure expenses?
- What should be the value of a perpetual care fund and liability fund?
- What current or future benefit does ownership of the landfill provide the owner municipalities?
- What current or potential future liabilities does ownership of the landfill present to the municipalities?

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 2018/10/2067 DECLARED ADOPTED.

9. Consideration of adopting a resolution to establish the start term for elected officials.

**PROCEDURE FOR INSTALLATION OF ELECTED OFFICIALS
RESOLUTION #2018-10/2068**

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

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

WHEREAS, there is no prescribed or mandatory procedure for the installation of elected officials; and

WHEREAS, it appears to have been the practice in former years to administer the Oath of Office to the newly elected officials at the council meeting following the November election; and

WHEREAS, according to the Niles City Charter Section 3-2(a): The candidate receiving the greatest number of votes in the general election shall be declared elected and shall take office at (7:30pm) on the Monday next following certification by the board of canvassers; and

WHEREAS, the Home Rule City Act section 117.3b (3) provides that “Notwithstanding any charter provisions the City may provide by resolution for any election provision that is consistent with the Michigan election law, 1954 PA 116, MCL168.1 to 168.992;” and

WHEREAS, the board of canvassers have twenty days to complete the certification of election results to the State of Michigan.

NOW THEREFORE, BE IT RESOLVED that the Niles City Council wishes to provide consistency and compliance specifying the start of a candidate's term.

BE IT FURTHER RESOLVED that an elected candidate is to have administered the oath of office and commence the term for which the candidate is elected as soon as reasonably possible following certification by the Board of Canvassers.

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 2018/10/2068 DECLARED ADOPTED.

10. Consideration of approving an agreement with Dixon Engineering of Lake Odessa, MI to provide engineering services for the recoating and repair of the Cherry Street water tower and consideration of authorizing the mayor to sign the agreement.

Weimer moved, **DiCostanzo** supported, **MOTION CARRIED**, to approve the agreement with Dixon Engineering of Lake Odessa, MI to provide engineering services for the recoating and repair of the Cherry Street water tower and consideration of authorizing the mayor 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

11. Consideration of entering into an agreement for the sale of a Supplemental Easement and Right of Way for American Electric and Power across city property located in Howard Township.

Weimer moved, **DiCostanzo** supported, **MOTION CARRIED**, to approve the agreement for the sale of a Supplemental Easement and Right of Way for American Electric and Power across city property located in Howard Township.

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 entering into a facilities agreement with American Electric Power and PJM Interconnection (if needed) for a new Niles electric delivery point at the Indeck-Niles, AEP 345kV interconnection and consideration of authorizing the mayor to sign the agreement.

Weimer moved, **DiCostanzo** supported, **MOTION CARRIED**, to approve entering into a facilities agreement with American Electric Power and PJM Interconnection (if needed) for a new Niles electric delivery point at the Indeck-Niles, AEP 345kV interconnection and consideration of authorizing the mayor to sign the agreement.

ROLL CALL:

AYE: None

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

CITY ATTORNEY'S REPORT:

13. **First Reading and Introduction** of a proposed ordinance to completely prohibit marihuana establishments within the City of Niles, except those for which licenses are currently pending under the Medical Marihuana Facilities Licensing Act.

14. **First Reading and Introduction** of a proposed ordinance to grant SEMCO Energy Gas Company, a division of SEMCO Energy, Inc. the power and authority to lay, maintain and operate gas services and to conduct local gas business in the City of Niles.

COUNCIL MEMBER'S REPORT:

Council Member Bertschy moved, **Council Member Weimer** supported, **MOTION CARRIED**, to excuse Council Member Boggs from the October 8, 2018 meeting. YEAS: 8 NAYS: 0

Council Member Skalla that the Friends of Silverbrook Cemetery and Niles History Center hosting a cemetery tour on October 20, 2018 at 10am. There were about 70 tourist.

MAYOR'S REPORT:

Mayor Shelton thanked the Lisa Croteau for the decorations. He also reminded everyone that November 6, 2018 is Election Day and the last day to register is October 9.

ADJOURNMENT: Council Member Weimer moved to adjourn at 7:01pm.

Linda Casperson
Niles City Clerk

Date