

**CITY OF NILES  
REGULAR CITY COUNCIL MEETING MINIUTES  
MONDAY, December 17, 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., December 17, 2018. The Pledge of Allegiance was led by Mayor Shelton.

**PRESENT:** Gretchen Bertschy, John DiCostanzo, Charlie McAfee, Jessica Nelson, Travis Timm  
Daniel VandenHeede, William Weimer and Mayor Nick Shelton  
**ABSENT:** Georgia Boggs  
**STAFF:** Casperson, Huff, and Landgraf

**CITIZEN PARTICIPATION:** None

**CONSENT AGENDA:**

1. Approval of the Minutes of December 10, 2018.
2. *Due to the scheduled two-week billing cycle and the rescheduling of this council meeting, there is no bill report to approve at this time.*
3. Consideration of approving a request from the Utilities Department to approve the acceptance of a Wellhead Protection grant in the amount of \$4,337.50 from the Michigan Department of Environmental Quality and consideration of authorizing the Utilities Manager to sign the grant agreement.
4. Consideration of approving a request from the Utilities Department to utilize Section 3(b)(1) of the City's Purchasing Policy (non-competitive quote) to purchase substation meters with communication cables from Border States Electric of Grand Haven, MI at a cost of \$13,820.00.
5. Consideration of approving a request from the Fire Department to accept the quote from Apollo Fire Equipment of Romeo, MI for the purchase of 18 sets of Firefighting Protective Clothing at a cost of \$37,656.00.
6. Consideration of approving an Asset Management Plan for the Wastewater Division.  
**Council Member Weimer** moved, **Council Member DiCostanzo** seconded, **MOTION CARRIED**, to approve the consent agenda as submitted.

**ROLL CALL:**

**YEAS:** Gretchen Bertschy, John DiCostanzo, Charlie McAfee, Jessica Nelson, Travis Timm, Daniel VandenHeede, and William Weimer

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

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

7. Consideration of adopting a resolution to set a public hearing for Monday, January 21, 2019 at ~~6:00~~ 5:55pm to receive comments on the proposed Amendment to the Downtown Development and Tax Increment Financing Plan of the Downtown Development Authority of the City of Niles.

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

**RESOLUTION TO SET HEARING ON  
AMENDMENT TO DOWNTOWN DEVELOPMENT  
AND TAX INCREMENT FINANCING PLAN OF THE  
DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF NILES  
RESOLUTION 2018/12-2075**

**WHEREAS**, pursuant to the provisions of Act No. 197 of the Michigan Public Acts of 1975, as amended ("Act 197"), the City established the Downtown Development Authority of the City of Niles (the "Authority") and approved an Amended and Restated Downtown Development and Tax Increment Financing Plan (the "Plan");

**WHEREAS**, the Authority has determined that it is necessary to update the Plan to include new projects, extend the duration of the Plan and incorporate other changes; and

**WHEREAS**, the Authority has prepared and approved an Amendment to Downtown Development and Tax Increment Financing Plan (the "Plan Amendment").

**WHEREAS**, the findings and recommendations of the Development Area Citizens Council (the "Citizens Council") established pursuant to Act 197 have been taken into consideration in the preparation of the amendments to the development plan and tax increment financing plan contained in the Plan Amendment, and the Citizens Council has also recommended the Plan Amendment to the City Council for adoption and implementation; and

**WHEREAS**, Act 197 requires that the City Council hold a public hearing on the Plan Amendment prior to approval of the same by resolution of the City Council.

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

1. The City Council shall hold a public hearing on **Monday, January 21, 2019, at 5:55 p.m.**, local time, at 1345 East Main Street, Niles, Michigan 49120, on the proposed Plan Amendment.

2. The City Clerk is authorized and directed to publish notice of the hearing in the *Niles Daily Star*, a newspaper of general circulation in the City of Niles, at least two times, the first of which shall be not less than 20 days before the hearing.

3. The City Clerk is authorized and directed to give notice of the hearing by posting in at least 20 conspicuous and public places in the Downtown District not less than 20 days before the hearing.

4. The City Clerk is authorized and directed to give notice of the hearing by first class mail to all property taxpayers of record in the Downtown District not less than 20 days before the hearing.

5. The City Clerk is authorized and directed to give notice of the hearing not less than 20 days before the hearing by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the Plan Amendment is approved.

6. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be, and the same hereby are, rescinded.

Upon a vote for the adoption of said resolution, the vote was:

**ROLL CALL:**

**YEAS:** Gretchen Bertschy, John DiCostanzo, Charlie McAfee, Jessica Nelson, Travis Timm, Daniel VandenHeede, and William Weimer

**NAYS:** None

**ABSENT:** Georgia Boggs

**ABSTAIN:** None

**The resolution was thereupon declared adopted.**

8. Consideration of adopting a resolution to issue a Notice of Intent for capital improvement bonds, not to exceed \$7,000,000 and 20 years for the Pucker Street Dam Removal and River Restoration Project and consideration of authorizing the City Clerk to sign the resolution.

**RESOLUTION TO PURCHASE, ACQUIRE AND CONSTRUCT CAPITAL IMPROVEMENTS AND TO PUBLISH NOTICE OF INTENT TO ISSUE MUNICIPAL SECURITIES**

**RESOLUTION NO. 2018/12-2076**

The following resolution was offered by **Council Member John DiCostanzo** and supported by **Council Member Daniel VandenHeede**:

**WHEREAS**, the City Council deems it to be in the best in interest of the City of Niles (the "City") to plan, design, permit, purchase, acquire, construct, and install certain capital improvements, including, but not limited to, the demolition and removal of the Pucker Street Dam and restoration of the Dowagiac River, which may include, but are not limited to, (i) demolition and removal of the dam and related structures, (ii) site preparation, clearing, grubbing, and grading, (iii) bank stabilization, (iv) sediment removal and management, (v) sediment disposal, (vi) bridge stabilization, (vii) tree removal, (viii) wetland mitigation, (ix) restoration, (x) any needed environmental assessments and remediation (xi) easement acquisition, (xii) as well as all work, improvements and restoration necessary or desired for the removal of the dam and the restoration of the dam site and the Dowagiac River and to pay the costs of issuance of municipal securities (the "Improvements") and to finance the Improvements by the issuance of municipal securities that pledge the City's limited tax general obligation pursuant to Section 517 of Act 34, Public Acts of Michigan, 2001, as amended ("Act 34"); and

**WHEREAS**, the City may proceed with the Improvements prior to the issuance of the municipal securities; and

**WHEREAS**, the City may incur substantial capital expenditures for the Improvements prior to the issuance of the municipal securities and desires to be reimbursed for such expenditures from the proceeds of the municipal securities; and

**WHEREAS**, pursuant to Section 517 of Act 34, it is necessary to publish a Notice of Intent to Issue Municipal Securities for the Improvements.

**NOW, THEREFORE, BE IT RESOLVED** that:

1. The City Council determines to design, purchase, acquire, and construct the Improvements and to pay for the cost through the issuance of one or more series of municipal securities, which pledge the City's limited tax full faith and credit, pursuant to Section 517 of Act 34, in an amount not to exceed \$7,000,000 (the "Municipal Securities").

2. A Notice of Intent to Issue Municipal Securities be published in accordance with Section 517 of Act 34, and the City Clerk is authorized and directed to publish the Notice of Intent to Issue Municipal Securities in the *Niles Daily Star*, a newspaper of general circulation in the City, determined to be the newspaper reaching the largest number of persons to whom such Notice is directed, which Notice shall be substantially in the form as set forth on Exhibit A attached hereto, with such changes as may be approved by the City Administrator, and shall be at least one-quarter (1/4) page size in the newspaper.

3. The City may proceed to acquire and construct the improvements using available funds of the City from the Electric Fund and any of its sub funds, which is a fund for the Electric System of the City, and other funds of the City.

4. At such time as the City issues the Municipal Securities for the long-term financing of the Improvements, the City shall be reimbursed for its expenditures for the Improvements out of the proceeds of the Municipal Securities.

5. This resolution and the expression of intent to seek reimbursement from future proceeds of the Municipal Securities is intended to satisfy the requirements of Section 150 of the Internal Revenue Code of 1986, as amended.

6. The firm of Dickinson Wright PLLC is hereby employed as bond counsel to the City to prepare the documents for the issuance of the Municipal Securities for financing acquisition of the Improvements.

7. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same are hereby rescinded.

**ROLL CALL:**

**YEAS:** Gretchen Bertschy, John DiCostanzo, Charlie McAfee, Jessica Nelson, Travis Timm, Daniel VandenHeede, and William Weimer

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

**RESOLUTION DECLARED ADOPTED.**

9. Consideration of approving the Annual Report (CAPER) for the 2017 CDBG Annual Action Plan. **Council Member Weimer** moved, **Council Member Bertschy** seconded, **MOTION CARRIED**, to approve the Annual Report (CAPER) for the 2017 CDBG Annual Action Plan.

**ROLL CALL:**

**YEAS:** Gretchen Bertschy, John DiCostanzo, Charlie McAfee, Jessica Nelson, Travis Timm, Daniel VandenHeede, and William Weimer

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

10. Consideration of Discharging the Mortgage and the Mortgage Note associated with 638 N. 6<sup>th</sup> Street in Niles, MI.

**Council Member VandenHeede** moved, **Council Member Weimer** seconded **MOTION CARRIED**, to file a Discharge of Mortgage and the Mortgage Note associated with 638 N. 6<sup>th</sup> Street in Niles, MI.

**ROLL CALL:**

**YEAS:** Gretchen Bertschy, John DiCostanzo, Charlie McAfee, Jessica Nelson, Travis Timm, Daniel VandenHeede, and William Weimer

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

10A. Consideration of adopting a resolution to authorize the Public Works Director to pursue acquiring land for approaches or runway protection zones for Runway 33 and authorize the Mayor to sign the necessary documents.

**CITY OF NILES  
STATE OF MICHIGAN  
DEPARTMENT OF TRANSPORTATION  
SIGNATURE AUTHORIZATION  
RESOLUTION #2018/12-2077**

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

**BE IT RESOLVED** that the City Council of the City of Niles does hereby authorize *the Mayor* to sign any necessary documents for the Michigan Department of Transportation Contract Number 2019-0149 for the purpose of reimbursing the Airport Fund for acquiring the easements for the approach or runway protection zones for Runway 33 and all together with necessary related work on behalf of the City of Niles.

**ROLL CALL:**

**AYE:** Gretchen Bertschy, John DiCostanzo, Charlie McAfee, Jessica Nelson, Travis Timm, Daniel VandenHeede, and William Weimer

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

**RESOLUTION #2019-12/2077 DECLARED ADOPTED**

10B. Consideration of scheduling a Public Hearing on **January 14, 2019 at 5:55pm** for a new Class C Liquor License for Chansage Ventures, Inc. d.b.a. The Rage (formally known as Riverfront Café) 219 N. Front Street, Niles, Michigan.

Council Member Nelson moved, Council Member Weimer seconded, **MOTION CARRIED**, to schedule a Public Hearing on January 14, 2019 at 5:55pm for a new Class C Liquor License for Chansage Ventures, Inc. d.b.a. The Rage (formally known as Riverfront Café) 219 N. Front Street, Niles, Michigan.

**ROLL CALL:**

**AYE:** Gretchen Bertschy, John DiCostanzo, Charlie McAfee, Jessica Nelson, Travis Timm, Daniel VandenHeede, and William Weimer

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

## **APPOINTMENTS:**

11. Consideration of re-appointing Mr. James Furkis and consideration of appointing Mr. David Shier and Mr. Chuck Austin to two-year terms on the Construction Board of Appeals, effective immediately and expiring on December 31, 2020 .

**Council Member DiCostanzo** moved, **Council Member Bertschy** seconded, **MOTION CARRIED**, to re-appoint Mr. James Furkis and consideration of appointing Mr. David Shier and Mr. Chuck Austin to two-year terms on the Construction Board of Appeals, effective immediately and expiring on December 31, 2020 **YEAS: 7 NAYS: 0**

12. Consideration of re-appointing Ms. Ria Thomas to a four-year term on the Niles District Library Board, effective January 1, 2019 and ending on December 31, 2022.

**Council Member Bertschy** moved, **Council Member Weimer** seconded, **MOTION CARRIED**, to re-appoint Ms. Ria Thomas to a four-year term on the Niles District Library Board, effective January 1, 2019 and ending on December 31, 2022. **YEAS: 7 NAYS: 0**

13. Consideration of approving the appointment of Hazel Absher to a three-year term as an Alternate Member to the Board of Review, effective January 1, 2019 and expiring on December 31, 2021.

**Council Member Weimer** moved, **Council Member DiCostanzo** seconded, **MOTION CARRIED**, to appoint of Hazel Absher to a three-year term as an Alternate Member to the Board of Review, effective January 1, 2019 and expiring on December 31, 2021. **YEAS: 7 NAYS: 0**

14. Consideration of approving the re-appointments of William Weimer and John DiCostanzo to three-year terms on the Brownfield Redevelopment Authority, effective immediately and expiring on December 31, 2021. **Council Member Bertschy** moved, **Council Member McAfee** seconded, **MOTION CARRIED**, to re-appoint William Weimer and John DiCostanzo to three-year terms on the Brownfield Redevelopment Authority, effective immediately and expiring on December 31, 2021. **YEAS: 7 NAYS: 0**

15. Consideration of approving the appointment of Tiffany Russell to complete the unexpired term of Marshall Downs, effective immediately and expiring on December 31, 2022. **Council Member DiCostanzo** moved, **Council Member Weimer** seconded, **MOTION CARRIED**, to appoint Tiffany Russell to complete the unexpired term of Marshall Downs, effective immediately and expiring on December 31, 2022. **YEAS: 7 NAYS: 0**

16. Consideration of approving the appointment of Aydin Goens to the Parks & Recreation Board to complete the unexpired term of Jennifer Baide, effective immediately and expiring December 31, 2020.

**Council Member VandenHeede** moved, **Council Member DiCostanzo** seconded, **MOTION CARRIED**, to appoint Aydin Goens to the Parks & Recreation Board to complete the unexpired term of Jennifer Baide, effective immediately and expiring December 31, 2020. **YEAS: 7 NAYS: 0**

- 16A. Consideration of approving the appointment of Bryan Williams and Wendy Halder to the Main Street DDA effective immediately and ending December 31, 2021.

**Council Member VandenHeede** moved, **Council Member DiCostanzo** seconded, **MOTION CARRIED**, to appoint Bryan Williams and Wendy Halder to the Main Street DDA effective immediately and ending December 31, 2021. **YEAS: 7 NAYS: 0**

## **CITY ATTORNEY'S REPORT:**

17. **First Reading and Introduction** of a proposed Amendment to Ordinance 481: Authorization of Medical Marihuana Facilities. Attorney Landgraf explained that proposed Medical Marihuana Facilities Ordinance is a new ordinance not an amendment to Ordinance 481 and 483. The prior ordinances will be repealed. The proposed ordinance calls for a new vetting process for prospective medical marijuana business owners to apply to the State of Michigan for approval before they apply to the City of Niles.

Council Member proposed to increase the number of provisioning centers from 2 to 4. He stated that the city may be limiting the number of start-up businesses that have a chance to be successful. Council Member Timm agreed that it's not easy to run a business. VandenHeede requested to go on record to say that, "this is a bad idea and we owe it to our constituents to see where this goes."

**Council Member DiCostanzo** moved to increase the number of provisioning centers from 2 to 4, **Council Member Nelson** seconded the motion. **MOTION CARRIED.**

**ROLL CALL:**

**AYE:** Gretchen Bertschy, John DiCostanzo, Charlie McAfee, Jessica Nelson, Travis Timm,

**NAY:** Daniel VandenHeede, William Weimer

**ABSENT:** Georgia Boggs

**ABSTAIN:** None

**COUNCIL MEMBER'S REPORT:**

**Council Member VandenHeede** requested that they have a Committee of Whole meeting to go over the DDA TIF. He further stated that the council is forgetting whom they represent, the homeowners and taxpayers of the city.

**Council Member Timm** wished every happy holidays.

**Council Member McAfee** stated that the council is the voice of the people and the council has no choice but to go with what the constituents want. She thanked everyone that attended and participated in the Mt. Olive Holiday Bazaar.

**Council Member Weimer** also wished everyone happy holidays.

**Council Member DiCostanzo** agreed with Council Member VandenHeede that he did not want the city be a known as a pot city but, he said that the city voters overwhelming passed to legalize marijuana. People are tired of the prejudice treatment of marijuana. By allowing four businesses to start, the city may end up with one or two provisioning centers that will succeed

**Council Member Nelson** agreed that people have this negative perception of marijuana. People are already doing it, they are allowed to do it. It takes a lot to run a business and only certain businesses will succeed.

The bazaar was wonderful, she hopes to learn more about different organizations in the community to find a way to connect them towards a commend goal. We have to find a way to be better information ambassadors by social media, website, video tape meetings, and by inviting people to come to meetings.

**Council Member Bertschy** made a motion to move the second meeting in January from the 28<sup>th</sup> to January 21<sup>st</sup>, **Council Member VandenHeede** seconded the motion. Key staff will absent on January 28 and the DDA was asking for a special meeting on January 21 because of the TIF timeline to complete the process.

**ROLL CALL:**

**AYE:** Gretchen Bertschy, John DiCostanzo, Charlie McAfee, Jessica Nelson, Travis Timm, Daniel VandenHeede, and William Weimer

**NAY:** None

**ABSENT:** Georgia Boggs

**ABSTAIN:** None

**MAYOR'S REPORT:**

Mayor Shelton reported that Council Member McAfee was on the front page of the Niles Daily Star for the Mount Olive Holiday Bazaar. The former Riverfront Café installed a new sign, "The Rage". Congratulations to Thomas Gargis for being awarded the Student of Week. Chapin Mansion light show has mixed reviews. Most of the reviews are supportive and the people who put it together do an awesome job. He appreciated the opinions of the council on the marijuana issue. He wants the council to be the voice of the people they represent, he wants Niles to be a business friendly community. He also gave credit to everyone involved in the planning process. 2018 was an awesome year and he is excited for next year. He also thanked everyone in the audience for coming to the city council meeting and encouraged those to bring someone with them next time.

**ADJOURNMENT:** Council Member Weimer moved to adjourn at 6:59pm.

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Linda Casperson  
Niles City Clerk

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Date