

**CITY OF NILES  
REGULAR CITY COUNCIL MEETING MINIUTES  
MONDAY, APRIL 8, 2019**

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., April 8, 2019. The Pledge of Allegiance was led by Mayor Shelton.

**PRESENT:** Gretchen Bertschy, Georgia Boggs, John DiCostanzo, Jessica Nelson, Travis Timm, Daniel VandenHeede, William Weimer and Mayor Nick Shelton

**ABSENT:** Charlie McAfee

**STAFF:** Casperson, Huff, Landgraf

**CITIZEN PARTICIPATION:**

**Jeanette Pearson** spoke of behalf of Council Member Charlie McAfee, whom was absent because she was attending her pastor's anniversary. Council Member McAfee invited the community to attend an event that Mt. Olive Missionary Baptist Church is hosting. Designer prom dresses will be given away free of charge. Pastor wants to give back to the community. The event takes place at Mt. Olive Missionary Baptist Church, 2262 Molder Drive, Niles, MI on Saturday, April 13, 2019 from 10 a.m. to 2 p.m.

**George Lynch** representing GreenStem, thanked the city for choosing them for a medical marijuana facility. He is looking forward to being a part of the community

**Steve Adolph**, stated that the Burn Run is in its 19<sup>th</sup> year. Last year they raised over \$17, 000 for the Niles Burn Camp.

**Marie Weimer**, mentioned that in 2003 Indeck donated \$3,000 to the city for Riverfest; then the Riverfest committee donated \$250 to Fire and Police Department.

**Josh Weinberg** of Weinberg Family Enterprise introduced his business partners, including former NFL players Ron Sims and Jason Strayhorn. Thanks was given for choosing them for a medical marijuana facility in Niles.

**Diana Lark-Person** asked how many businesses were being considered for medical marijuana. She asked that we keep in mind that we want this to be a family friendly town.

**Andrew Roberts** voiced his concern with the number of marijuana facilities that are being allowed to open on the north side of town. Niles does not get a lot of revenue, yet we have to shoulder the responsibility.

**Heather Bosch** Chair of the Parks Board, spoke in regards to the Bluegrass Festival. She voice concern with the amount of days the parking lot at Riverfront Park will be closed to accommodate the festival. She also asked about the camping and RV's behind the Wonderland Cinema. Finally, clean up in the park after the festival has been a problem in the past.

**Sidney Harris** voice concern with the transition from medical marijuana to recreational use and the possibility of a festival. She questioned how that type of business aligned with the short and long term goals for Niles.

**Victor Fitz** – Prosecutor in Cass County, he welcomed an opportunity to meet with the city council and law enforcement individuals to share their viewpoints on the impact of marijuana communities. He gave statistics on the impact in Colorado and mentioned that open air marijuana festivals are not allowed.

**CONSENT AGENDA:**

**ALL ITEMS WERE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY**  
**Council Member Weimer** moved, **Council Member VandenHeede** seconded to approve the consent agenda as submitted with staff recommendations.

**Bertschy** questioned the Burn Run's fencing and security for the beer tent and thanked the sponsors for indicating how much was donated. She raised an objection to the Blue Grass Festival not providing a financial statement and the proceeds leaving the community.

**DiCostanzo** stated that he does not support the city providing in-kind services to established successful

events. He suggested that they give back to the community to help fund other events.

An amendment to the main motion was to divide the consent agenda and considered each item separately. **MOTION CARRIED.**

**ROLL CALL:**

**AYE:** Georgia Boggs, Gretchen Bertschy, Travis Timm, Daniel VandenHeede, and William Weimer

**NAY:** John DiCostanzo, Jessica Nelson **ABSENT:** Charlie McAfee **ABSTAIN:** None

1. Consideration of approving the City Council Minutes of March 25, 2019.

**Council Member DiCostanzo** moved, **Council Member Bertschy** seconded to approve the City Council Minutes of March 25, 2019. **MOTION CARRIED.**

**ROLL CALL:**

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

**NAYS:** None **ABSENT:** Charlie McAfee **ABSTAIN:** None

2. Consideration of approving the list of bills dated April 3, 2019.

**Council Member DiCostanzo** moved, **Council Member Nelson** seconded to approve the list of bills dated April 3, 2019. **MOTION CARRIED.**

**ROLL CALL:**

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

**NAYS:** None **ABSENT:** Charlie McAfee **ABSTAIN:** None

3. Consideration of approving a request from Caryn Adler to hold the 2019 Niles Summer Concert Series on Thursdays from 6pm to 8pm at the Riverfront Amphitheater and consideration of allowing vendors, including food vendors and consideration of waiving all fees, except the application fee and vendor fees.

**Council Member DiCostanzo** moved, **Council Member Timm** seconded to approve a request from Caryn Adler to hold the 2019 Niles Summer Concert Series on Thursdays from 6pm to 8pm at the Riverfront Amphitheater and consideration of allowing vendors, including food vendors and consideration of waiving all fees, except the application fee and vendor fees; and in addition, consent to staff recommendations. **MOTION CARRIED.**

**ROLL CALL:**

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

**NAYS:** None **ABSENT:** Charlie McAfee **ABSTAIN:** None

4. Consideration of approving a request from the Burn Run Committee to hold the annual Niles Burn Run Festival in Riverfront Park July 19 - July 21, 2019 and consideration of approving various other requests including exclusive use of the amphitheater and some parking lots, camping, waiving costs for electricity and water within the Riverfront Park, the serving of beer and wine, reserve officers, etc., and the waiving of all fees, except the application fee and the vendor fees.

**Council Member VandenHeede** moved, **Council Member Boggs** seconded to approve a request from the Burn Run Committee to hold the annual Niles Burn Run Festival in Riverfront Park July 19<sup>th</sup> - July 21, 2019 and consideration of approving various other requests including exclusive use of the amphitheater and some parking lots, camping, waiving costs for electricity and water within the Riverfront Park, the serving of beer and wine, reserve officers, etc., and the waiving of all fees, except the application fee and the vendor fees; and in addition, consent to staff recommendations. **MOTION CARRIED.**

**ROLL CALL:**

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

**NAYS:** None **ABSENT:** Charlie McAfee **ABSTAIN:** None

5. Consideration of approving a request from the Greater Niles Chamber of Commerce to hold the annual 4th of July Fireworks Event beginning at 9:00pm on Wednesday, July 3, 2019 and consideration of approving reserve officers for traffic control, the Niles City Fire Department for stand-by fire protection, use of the airport property for the setting off of fireworks, food vendors, etc. and consideration of approving a \$2,500.00 contribution from the City of Niles and waiving all fees, except vendor fees and consideration of holding back \$500 of the City's contribution monies for airport cleanup, if required.

**Council Member DiCostanzo** moved, **Council Member VandenHeede** seconded to approve a request from the Greater Niles Chamber of Commerce to hold the annual 4th of July Fireworks Event beginning at 9:00pm on Wednesday, July 3, 2019 and consideration of approving reserve officers for traffic control, the Niles City Fire Department for stand-by fire protection, use of the airport property for the setting off of fireworks, food vendors, etc. and consideration of approving a \$2,500.00 contribution from the City of Niles and waiving all fees, except vendor fees and consideration of holding back \$500 of the City's contribution monies for airport cleanup, if required; and in addition, consent to staff recommendations. **MOTION CARRIED.**

**ROLL CALL:**

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

**NAYS:** None

**ABSENT:** Charlie McAfee

**ABSTAIN:** None

6. Consideration of approving a parade permit application from the American Legion Larue Messenger Post #26 to hold the annual Memorial Day Parade on Monday May 27th from 9:00 am to 11:00 am and consideration of providing support from the Public Works Department for closure of streets, etc. and the Police Department for support along the detour routes and at street closures.

**Council Member DiCostanzo** moved, **Council Member Boggs** seconded to approve a parade permit application from the American Legion Larue Messenger Post #26 to hold the annual Memorial Day Parade on Monday May 27th from 9:00 am to 11:00 am and consideration of providing support from the Public Works Department for closure of streets, etc. and the Police Department for support along the detour routes and at street closures; and in addition, consent to staff recommendations. **MOTION CARRIED.**

**ROLL CALL:**

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

**NAYS:** None

**ABSENT:** Charlie McAfee

**ABSTAIN:** None

7. Consideration of approving a request from the Bluegrass Committee to hold the 17th Annual Niles Family Fun Fair & Bluegrass/Americana/Folk Music Festival in Riverfront Park at the amphitheater from Thursday, May 30th to Sunday, June 2nd, 2019 and consideration of various other requests including use of barricades, use of city-owned property for carnival games, rides, etc. parking of RVs & campers, use of additional picnic tables from other locations, and various other requests. Council Member Bertschy voice concerned regarding the profits. Since the city is providing in-kind services she requested a financial statement.

**Council Member VandenHeede** moved, **Council Member Boggs** seconded to approve a request from the Bluegrass Committee to hold the 17th Annual Niles Family Fun Fair & Bluegrass/Americana/Folk Music Festival in Riverfront Park at the amphitheater from Thursday, May 30th to Sunday, June 2nd, 2019 and consideration of various other requests including use of barricades, use of city-owned property for carnival games, rides, etc. parking of RVs & campers, use of additional picnic tables from other locations, and various other requests. City staff is not responsible for moving picnic tables; sponsor will be responsible for reconditioning damaged grass lots; mowing schedule will be at contractor's discretion; reduce the number of days for parking lot closure; and in addition, consent to staff recommendations. **MOTION CARRIED.**

**ROLL CALL:**

**YEAS:** Georgia Boggs, Gretchen Bertschy, Daniel VandenHeede, Travis Timm, John DiCostanzo and Jessica Nelson

**NAYS:** William Weimer

**ABSENT:** Charlie McAfee

**ABSTAIN:** None

**CITY ADMINISTRATOR'S REPORT:**

**Introduction of Items for Discussion Items for Council Action**

8. Consideration of authorizing the issuance of the proposed settlement total of \$63,000 to obtain an easement over parcel E-16-Bames to allow for airport obstruction mitigation and consideration of authorizing the mayor and clerk to sign the agreement. Payment shall be made by State of Michigan, using Federal Non-Primary Entitlement Funds which will be subject to a new grant that the City of Niles will receive with a local match of 5%, with payments of \$34,000 previously paid and an anticipated cost of \$1,450 of local airport funds.

**Council Member DiCostanzo** moved, **Council Member Nelson** seconded to authorize the issuance of the proposed settlement total of \$63,000 to obtain an easement over parcel E-16-Bames to allow for airport obstruction mitigation and consideration of authorizing the mayor and clerk to sign the agreement. Payment shall be made by State of Michigan, using Federal Non-Primary Entitlement Funds which will be subject to a new grant that the City of Niles will receive with a local match of 5%, with payments of \$34,000 previously paid and an anticipated cost of \$1,450 of local airport funds. **MOTION CARRIED**

**ROLL CALL:**

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

**NAY:** None

**ABSENT:** Charlie McAfee

**ABSTAIN:** None

9. Consideration of accepting the bid of \$716,799.15 from Rieth-Riley Construction of Benton Harbor, MI for completion of the 2019 Major and Local Street Pavement Resurfacing Program and consideration of authorizing the mayor to sign the contract.

**Council Member Bertschy** moved, **Council Member Weimer** seconded to accept the bid of \$716,799.15 from Rieth-Riley Construction of Benton Harbor, MI for completion of the 2019 Major and Local Street Pavement Resurfacing Program and consideration of authorizing the mayor to sign the contract. **MOTION CARRIED**

**ROLL CALL:**

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

**NAY:** None

**ABSENT:** Charlie McAfee

**ABSTAIN:** None

10. Consideration of issuing provisional medical marijuana facility licenses for provisioning centers to Weinberg Family Ventures, LLC (40.3) and Green Stem, LLC (40.5); consideration of issuing a notice to Medi-Cann/Nerano to confirm their selection as an alternate for a provisioning center; and consideration of issuing a provisional medical marijuana facility license for a Class C Grow Facility to HDS Investments

**VandenHeede** questioned the prequalification process. Business locations are determined within the proper zoning. He stated that his opposition is not based on who was chosen, he was opposed to the expansion of the number of businesses. He requested to see recommendations from the Fire Chief, Police Chief and Berrien County Prosecutor.

**DiCostanzo** thanked the companies who came out and spoke at the beginning of the meeting. The city doesn't limit the number of other businesses, marijuana businesses should not be treated differently. Recreational marijuana will be discussed when the state provides all of the information. The council will take into consideration voices dissent. Revenues will come in the form of jobs etc.

**Boggs** stated that 35% of the city voters voted against it. She questioned if anyone would hire someone under the influence of marijuana.

**Nelson** stated that council needs to be clear on difference between medical and recreational

marijuana legislature when they are discussing these issues. She requested to see more information and research on crime statistics.

**Bertschy** questioned the security measures the facilities have taken. High resolution cameras, armed security personnel, vaults, etc.

**Weimer** asked if the city would be allowed to accept donations from these types of businesses.

**Council Member DiCostanzo** moved, **Council Member Nelson** seconded to issue provisional medical marijuana facility licenses for provisioning centers to Weinberg Family Ventures, LLC (40.3) and Green Stem, LLC (40.5); consideration of issuing a notice to Medi-Cann/Nerano to confirm their selection as an alternate for a provisioning center; and consideration of issuing a provisional medical marijuana facility license for a Class C Grow Facility to HDS Investments.

**MOTION CARRIED**

**ROLL CALL:**

**AYE:** Gretchen Bertschy, Travis Timm, William Weimer, and John DiCostanzo, Jessica Nelson

**NAY:** Georgia Boggs, Daniel VandenHeede      **ABSENT:** Charlie McAfee      **ABSTAIN:** None

11. Consideration of approving a payment of \$2,594.43 to the Berrien County Treasurer to reimburse the property owners for removal of the PRE on their primary residence.

City Administrator Huff explained that this was the result of an oversight left from the previous assessor. The family has been making payments on the overage charge. The total bill has penalties and fees and may have to be revisited.

**Council Member Weimer** moved, **Council Member DiCostanzo** seconded to approve a payment of \$2,594.43 to the Berrien County Treasurer to reimburse the property owners for removal of the PRE on their primary residence. **MOTION CARRIED**

**ROLL CALL:**

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

**NAY:** None      **ABSENT:** Charlie McAfee      **ABSTAIN:** None

12. Consideration of approving a proposed Substantial Amendment to the Program Year 2018 CDBG Action Plan.

**Council Member Weimer** moved, **Council Member DiCostanzo** seconded to approve a proposed Substantial Amendment to the Program Year 2018 CDBG Action Plan. **MOTION CARRIED**

**ROLL CALL:**

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

**NAY:** None      **ABSENT:** Charlie McAfee      **ABSTAIN:** None

13. Consideration of accepting a proposed change order from Mihm Enterprises of Hamilton, MI for additional work on the Chapin Mansion Porch Project at a cost of \$3,584.00.

**Council Member Weimer** moved, **Council Member Nelson** seconded to accept a proposed change order from Mihm Enterprises of Hamilton, MI for additional work on the Chapin Mansion Porch Project at a cost of \$3,584.00. **MOTION CARRIED**

**ROLL CALL:**

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

**NAY:** None      **ABSENT:** Charlie McAfee      **ABSTAIN:** None

14. Consideration of approving the use of alcohol in Riverfront Park South during the 2019 Renaissance Faire. VandenHeede questioned why there wasn't any details. Huff explained that it hasn't been decided if they will have alcohol therefore, council is approving the concept. They will still need to go through proper procedures for licensing by the state.

**Council Member DiCostanzo** moved, **Council Member Bertschy** seconded to approve the use of alcohol in Riverfront Park South during the 2019 Renaissance Faire pending state liquor license requirements being met. **MOTION CARRIED**

**ROLL CALL:**

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

**NAY:** None **ABSENT:** Charlie McAfee

**ABSTAIN:** None

**COUNCIL MEMBER'S REPORT:**

**Council Member VandenHeede** appreciated the staff's work that goes into processing all the events applications. The staff recommendations are helpful.

**Council Member Timm** concurred with Council Member VandenHeede's comments on events. He thanked everyone that came to the council meeting. There are a lot good thing happening on the horizon.

**Council Member DiCostanzo** thanked all the event planners who attended the council meeting. He thanked the people who expressed concerns about recreational marijuana.

**MAYOR'S REPORT:** Mayor Shelton thanked everyone who attended the council meeting. He also thanked the representatives from the Bluegrass Festival, Burn Run and Fireworks. He gave appreciation to the people who voiced concern over marijuana issues.

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

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Linda Casperson  
Niles City Clerk

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Date