

**THE CITY COUNCIL
NILES, MICHIGAN
PUBLIC HEARING
MONDAY, MARCH 25, 2019
CDBG – Annual Action Plan**

At 5:55 pm, Mayor Shelton asked if anyone in the audience wished to address the council on the proposed CDBG – Annual Action Plan. Hearing no response, the Public Hearing was closed at 5:56pm.

**CITY OF NILES
REGULAR CITY COUNCIL MEETING MINIUTES
MONDAY, MARCH 25, 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., March 25, 2019. The Pledge of Allegiance was led by Mayor Shelton.

PRESENT: Gretchen Bertschy, Georgia Boggs, John DiCostanzo, Charlie McAfee, Jessica Nelson, Travis Timm, Daniel VandenHeede, William Weimer and Mayor Nick Shelton
ABSENT: None
STAFF: Casperson, Huff, Landgraf

CITIZEN PARTICIPATION:

Ricky Fouche asked if there will be a spring leaf pick. City Administrator Huff replied that the city made three rounds in the fall and the funds have been fully expended and equipment is also being refurbished. Next leaf pick up will be in fall.

Marie Weimer reported that Berrien County had five calls for carbon monoxide. She encouraged city residents contact the Fire Department to get carbon monoxide detector.

Lenny Whittaker asked for an explanation why the city is wanting to remove trees in Howard Township. Joe Ray, Public Works Director explained that the trees have impeded upon the approach airway at the Jerry Tyler Memorial Airport.

Muriel Harris is having a problem with sewer backup. She contacted the city and haven't heard back. Mr. Huff explained that the sewer lateral is the responsibility of the homeowner. The city will look into it.

PRESENTATION: **Presentation of the 2018 Niles City Audit**
William I. Tucker IV, CPA, Principal
Maner Costerisan CPAs

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements.

CONSENT AGENDA:

1. Consideration of approving the City Council Minutes of March 11, 2019.
2. Consideration of approving the list of bills dated March 20, 2019.
3. Consideration of approving a commitment to purchase 1,000 tons of bulk rock salt through MiDEAL, for a price per ton that is unknown at this time and consideration of authorizing the Public Works Director to sign the commitment, with charges split between major and local streets.
4. Consideration of approving the purchase of replacement wear parts for the lower bar screen at the WWTP from single source provider Spaans Babcock of Barre, Ontario at a cost of \$9,982.00, as budgeted for in the FY2019 Plant Equipment Maintenance account.
5. Consideration of accepting the bid of \$15,610.00 from Ferguson Equipment Company of South

Bend, IN for the retrofit installation of the Utilities Department's Versa-Lift boom/service box and consideration of authorizing the Utilities Manager to sign the purchase order and to transfer ownership of the Ford F550 chassis to the Department of Public Works.

6. Consideration of accepting the bid of \$28,506.00 from Xylem Dewatering Solutions of Livonia, MI for the purchase of one Godwin Model CD100M trailer mounted pump for use by the Wastewater Division, with such costs budgeted for in the FY2019 Utilities Capital Improvement Plan.
7. Consideration of approving the recoating of the Cherry Street water tower and consideration of accepting the bid of \$252,900.00 from L&T Painting of Shelby Township, MI and consideration of authorizing the mayor to sign the Notice of Award and costs paid by the Utilities Capital Improvement Plan.

Council Member Weimer moved, **Council Member Nelson** seconded to approve the consent agenda as submitted. **MOTION CARRIED**

ROLL CALL:

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

NAYS: None

ABSENT: None

ABSTAIN: None

CITY ADMINISTRATOR'S REPORT:

Introduction of Items for Discussion

Items for Council Action

8. Consideration of adopting a resolution to authorize the mayor and city attorney to sign the FY2019 FTA Certifications and Assurances affirming compliance with the rules and regulations governing the receipt of federal assistance to operate the DART system and consideration of authorizing staff to file and PIN the necessary documentation in TrAMS, the electronic grant management system.

RESOLUTION #2019-03/2083

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

RESOLVED BY: City Council, City of Niles, Michigan

WHEREAS, Niles Dial-A-Ride Transportation (DART) receives Section 5307 and Section 5339 funds from the Federal Transit Administration (FTA) to help finance the cost of operations, preventative maintenance, and capital expenditures; and

WHEREAS, the City of Niles, as grantee of these funds, is required to affirm to the FTA on an annual basis that it intends to comply with certain regulations in consideration for receiving these funds;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Niles, Michigan does hereby authorize Nicholas Shelton, Mayor, and Robert L. Landgraf, Jr., Attorney, to sign the fiscal year 2019 FTA Certifications and Assurances affirming compliance with all rules and regulations governing the receipt of federal assistance to operate the DART system.

ROLL CALL:

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

NAY: None

ABSENT: None

ABSTAIN: None

RESOLUTION 2019-03/2083 DECLARED ADOPTED.

9. Consideration of adopting a resolution to approve the sale of City parcels 14-170-008-001-00 and 14-170-007-002-00 to Indeck Niles, LLC of Buffalo Grove, IL and consideration of authorizing the city administrator, city clerk and the mayor to sign the closing documents.

RESOLUTION NO. 2019-03/2084

RESOLUTION TO AUTHORIZE SALE OF PROPERTY

The following resolution was offered by Council Member Weimer and supported by Council Member DiCostanzo:

WHEREAS, the City has entered into a Land Purchase Agreement, dated July 24, 2017 (the "Purchase Agreement"), to sell 166.87 acres of vacant land ("Property"), which is legally described on Exhibit A, 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, the City Council finds the Property is no longer needed for public use by the City; and

WHEREAS, the sale of the Property consistent with the Purchase Agreement is determined to be in the best interests of the City;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Niles, Berrien County, Michigan, as follows:

1. The City Council approves the sale of the Property to Indeck Niles, LLC consistent with the terms set forth in the Purchase Agreement, attached as Exhibit G to the Development Agreement.
2. The City Council authorizes and directs the City Mayor, City Clerk, and/or the City Administrator to execute such documents as are necessary to effectuate the sale of the Property, including but not limited to the warranty deed transferring the Property to Indeck Niles, LLC, and ratify the execution of any documents previously signed by the same officers of the City that are necessary to effectuate the sale of the Property, including certain instruments that were previously executed to remove certain covenants and restrictions previously recorded on the Property.
3. All prior resolutions and parts of prior resolutions insofar as they conflict with the provisions of this resolution are hereby rescinded.

Council Member VandenHeede voiced opposition toward Indeck stemming from the prior negotiations with the company when they proposed a plan to build a plant around 2001 then backed out. There was further discussion on the benefits the city would gain.

ROLL CALL:

YEAS: Gretchen Bertschy, Travis Timm, Charlie McAfee, William Weimer, John DiCostanzo, Jessica Nelson, and Georgia Boggs

NAYS: Daniel VandenHeede **ABSENT:** None **ABSTAIN:** None

RESOLUTION DECLARED ADOPTED.

10. Consideration of accepting the Brownfield Redevelopment Authority's recommendation and approval of Consent to Assignment Agreements and consideration of City Council approval of the Consent to Assignment Agreements between the City of Niles, the Niles Brownfield Authority and Indeck Niles, LLC of Buffalo Grove, Illinois and consideration of authorizing the mayor and the Brownfield Redevelopment Authority Chairperson to sign the agreements.

Council Member Bertschy moved, **Council Member Weimer** seconded to accept the Brownfield Redevelopment Authority's recommendation and approval of Consent to Assignment Agreements and consideration of City Council approval of the Consent to Assignment Agreements between the City of Niles, the Niles Brownfield Authority and Indeck Niles, LLC of Buffalo Grove, Illinois and consideration of authorizing the mayor and the Brownfield Redevelopment Authority Chairperson to sign the agreements. **MOTION CARRIED**

ROLL CALL:

YEAS: Travis Timm, Charlie McAfee, William Weimer, John DiCostanzo, Jessica Nelson, Georgia Boggs, and Gretchen Bertschy,

NAYS: Daniel VandenHeede **ABSENT:** None **ABSTAIN:** None

11. Consideration of approving of the Irrevocable Letter of Credit document naming the City of Niles as beneficiary in the amount of \$1,000,000.00, as required in the Development Agreement between the City of Niles and Indeck Niles, LLC, dated July 24, 2017.

Council Member VandenHeede stated that he was happy to see a recourse for decommissioning.

Council Member DiCostanzo moved, **Council Member Weimer** seconded to approve of the Irrevocable Letter of Credit document naming the City of Niles as beneficiary in the amount of \$1,000,000.00, as required in the Development Agreement between the City of Niles and Indeck Niles, LLC, dated July 24, 2017. **MOTION CARRIED**

ROLL CALL:

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

NAY: None **ABSENT:** None **ABSTAIN:** None

12. Consideration of approving a request from the Community Development Department to approve the adoption of the Citizen Participation Plan for the Community Development Block Grant.

Council Member Nelson moved, **Council Member Weimer** seconded to approve a request from the Community Development Department to approve the adoption of the Citizen Participation Plan for the Community Development Block Grant. **MOTION CARRIED**

ROLL CALL:

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

NAYS: None

ABSENT: None

ABSTAIN: None

12A. Consideration of accepting the quote for electronic security services at a cost of \$7,590.31 per year and authorize the City Administrator to sign the required documents.

Council Member Weimer moved, **Council Member DiCostanzo** seconded to accept the quote for electronic security services at a cost of \$7,590.31 per year and authorize the City Administrator to sign the required documents.

ROLL CALL:

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

NAYS: None

ABSENT: None

ABSTAIN: None

APPOINTMENTS:

13. Consideration of approving the mayor's appointment of William Tim Skalla as the Citizen Member to the City of Niles Pension Board, effective immediately, to fill an Open Term position.

Council Member DiCostanzo moved, **Council Member Bertschy** seconded, **MOTION CARRIED**, to approve the mayor's appointment of William Tim Skalla as the Citizen Member to the City of Niles Pension Board, effective immediately, to fill an Open Term position. **YEAS: 8 NAYS: 0**

14. Consideration of approving the appointment of Amanda Barnett to a three-year term on the Public Arts Committee, effective immediately and expiring on December 31, 2019 2021.

Council Member DiCostanzo moved, **Council Member McAfee** seconded, **MOTION CARRIED**, to approve the appointment of Amanda Barnett to a three-year term on the Public Arts Committee, effective immediately and expiring on December 31, 2021. **YEAS: 8 NAYS: 0**

CITY ATTORNEY'S REPORT:

COUNCIL MEMBER'S REPORT:

All Council Members congratulated Mayor Shelton on the birth of their son, Rock (Rocky) Shelton, born on March 17 (St. Patrick's Day).

Council Member Nelson reported that she attended the Michigan Municipal League's Capital Conference last week with Mr. Huff and Ms. Vitale. One of the speakers from the National Institute of Civil Discourse stated that local elected official are more trusted than national or state level officials because local elected official engage in their community. More information will be shared on her Facebook page.

Council Member Boggs hopes that the issue with Mrs. Harris' plumbing gets resolved.

Council Member Bertschy stated that she recently attended an event hosted by the Chamber of Commerce and she was happy to see the camaraderie between business owners.

Council Member VandenHeede as a follow-up on Indeck, he hopes that they follow through with their promises and that they are good neighbors. Niles has not had good luck with big companies. They don't have the vested interest that our local businesses have.

Council Member Timm it's good to see new faces in the audience. It's a packed house and he would like to see this all the time.

Council Member Weimer about a year ago the Niles area had a flood. This year Nebraska and Iowa are experiencing flooding. Keep them in your thoughts.

Council Member DiCostanzo he is happy to see the Indeck project moving along. It's exciting for the City. He is confident that we will look back and see that we made the right decision.

MAYOR'S REPORT:

Mayor Shelton concurred with Council Member Timm. It's good to see a full room of people. He encouraged them to come back. He announced that Gabrizio Café (a new bakery/deli) will be coming to Niles in the Grand LV (former Elks) on Third Street and the Iron Shoe Distillery on the corner of Third and Broadway will be opening on April 10 with a grand opening on April 12. He thanked all the council members for recognizing the birth of his son Rock (a family name).

ADJOURNMENT: Council Member Weimer moved to adjourn at 7:11pm.

Linda Casperson
Niles City Clerk

Date