

**CITY OF NILES  
REGULAR CITY COUNCIL MEETING MINIUTES  
MONDAY, June 12, 2017**

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., June 12, 2017. 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, Mayor Nick Shelton

**ABSENT:** None

**STAFF:** Casperson, Huff, Landgraf

**CITIZEN PARTICIPATION:**

**Jeff Bean**, representing ownership of Simplicity Pattern building, requested that the City Council consider the Simplicity Pattern building on Wayne Street as a medical marijuana facility.

**Chris Aiello** also asked the council to consider the building located at 310 S. 11<sup>th</sup> Street as a medical marijuana facility.

**Stephanie Hall**, Alpha Omega Sorority will be hosting the dragon boat races for the 3<sup>rd</sup> year. They hope to have at least 12 teams of 14-18 rowers. They are also looking for sponsors.

**Rex Carpenter** reported that at the first car show on Wednesday there were 196 cars and 12 bikes at the Forever Young Car Show. He showed the sponsor banner listing businesses that contributed to the car show event.

**Sarah Britten**, Pizza Transit owner, requested that city not shut down Main Street for the car show. There has been trash left in the street, spectators come in use the bathrooms. Sponsor of the event should provide port-a-jons. She also had cancelled orders. Closing Main Street does not benefit the store owners and she suggested moving it to the Riverfront Park.

**PRESENTATION:**

Craig Brechtel, Manager  
Lowe's Home Improvement – Niles

Mayor Shelton presented Mr. Craig Brechtel, Manager of Lowe Home Improvement of Niles with a certificate of appreciation for donating the flower for the downtown planters.

**CONSENT AGENDA:**

1. Consideration of approving the City Council Minutes of May 22, 2017.
2. Consideration of approving the Bills dated June 6, 2017.
3. Consideration of approving a request from the Greater Four Flags Area Chamber of Commerce to use a portion of the Jerry Tyler Memorial Airport property to conduct the annual 4<sup>th</sup> of July Fireworks Display on Monday, July 3, 2017 and consideration of approving assistance from the Niles City Police Department and the Niles City Fire Department and consideration of waiving all fees or costs associated with the event. Since this considered a city sponsored event the City Administrator requested an amendment to add a \$2,500 donation for the fireworks display.

**REMOVED FROM CONSENT AGENDA**

- ~~4. Consideration of approving a request from Big Brothers/Big Sisters of Berrien & Cass Counties to hold a Run for Kid's Sake in Riverfront Park on July 16, 2017 from 9am to 2pm to include food vendors, a bouncy house, fitness classes at the Riverfront Amphitheater and other activities and consideration of waiving all fees & costs.~~

**REMOVED FROM CONSENT AGENDA**

- ~~5. Consideration of approving a request from the owners of Front Street Pizza Pub to provide entertainment during Niles Burn Run July 21 thru July 22, 2017 by extending their business into the Riverfront Park area and providing parking, a band shell, possible tents, temporary fencing, the sale of liquor (contingent on receiving a temporary liquor license) and a request to extend the park curfew until midnight each night.~~

**REMOVED FROM CONSENT AGENDA**

- ~~6. Consideration of approving a request from the Niles Burn Run Committee to hold the annual Niles Burn Run Festival July 21—July 23, 2017 in Riverfront Park Amphitheater and consideration of allowing overnight camping, a car show, street closures, vendors, electricity & water, reserve police officers, river rescue, and waiver of all fees and costs.~~

7. Consideration of approving a request from the Brass Eye, LLC to extend his business into 2<sup>nd</sup> Street between Cedar and Main Streets (contingent on receiving a temporary liquor license) in conjunction with the Third Thursday, DDA sponsored events on June 22, July 20, August 17, September 21 and October 19, 2017.

City Administrator requested an amendment to Item 3 to include the annual \$2,500 donation to help fund the citywide Independence Day fireworks. In the past, the city had to clean up the grounds after the fireworks event, it was suggested that the \$2,500 be held until after the event to assess the cleanup.

**Council Member Weimer** moved, **Council Member Skalla** supported, **MOTION CARRIED**, to approve Items 1-3 and 7 as submitted with the amendment to Item 3 to include the annual \$2,500 donation to help fund the citywide Independence Day fireworks to be held until after the event in order to assess the cleanup. Items 4, 5 6 were removed from the Consent Agenda for individual votes.

**ROLL CALL:**

**AYE:** Bertschy, Boggs, DiCostanzo, Durm, McAfee, Skalla, VandenHeede and Weimer

**NAY:** None

**ADMINISTRATOR'S REPORT:**

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

4. Consideration of approving a request from Big Brothers/Big Sisters of Berrien & Cass Counties to hold a Run for Kid's Sake in Riverfront Park on July 16, 2017 from 9am to 2pm to include food vendors, a bouncy house, fitness classes at the Riverfront Amphitheater and other activities and consideration of waiving all fees & costs.

**Council Member DiCostanzo** moved, **MOTION DENIED**, for lack of support.to approving a request from Big Brothers/Big Sisters of Berrien & Cass Counties to hold a Run for Kid's Sake in Riverfront Park on July 16, 2017 activities with the removal of waiving all fees & costs.

**Council Member Weimer** moved, **Council Member Skalla** supported, **MOTION CARRIED**, to approve a request from Big Brothers/Big Sisters of Berrien & Cass Counties to hold a Run for Kid's Sake in Riverfront Park on July 16, 2017 from 9am to 2pm to include food vendors, a bouncy house, fitness classes at the Riverfront Amphitheater and other activities and consideration of waiving all fees & costs.

**ROLL CALL:**

**AYE:** Bertschy, Boggs, DiCostanzo, Durm, McAfee, Skalla, VandenHeede and Weimer

**NAY:** DiCostanzo

5. Consideration of approving a request from the owners of Front Street Pizza Pub to provide entertainment during Niles Burn Run July 21 thru July 22, 2017 by extending their business into the Riverfront Park area and providing parking, a band shell, possible tents, temporary fencing, the sale of liquor (contingent on receiving a temporary liquor license) and a request to extend the park curfew until midnight each night.

**Council Member Weimer** moved, **Council Member Skalla** supported, **MOTION CARRIED**, to approve a request from the owners of Front Street Pizza Pub to provide entertainment during Niles Burn Run July 21 thru July 22, 2017 by extending their business into the Riverfront Park area and providing parking, a band shell, possible tents, temporary fencing, the sale of liquor (contingent on receiving a temporary liquor license) and a request to extend the park curfew until midnight each night. AEP lot on Front Street will not be available for parking.

**ROLL CALL:**

**AYE:** Bertschy, Boggs, DiCostanzo, Durm, McAfee, Skalla, VandenHeede and Weimer

**NAY:** DiCostanzo

6. Consideration of approving a request from the Niles Burn Run Committee to hold the annual Niles Burn Run Festival July 21 – July 23, 2017 in Riverfront Park Amphitheater and consideration of allowing overnight camping, a car show, street closures, vendors, electricity & water, reserve police officers, river rescue, and waiver of all fees and costs.

**Council Member Weimer** moved, **Council Member Skalla** supported, **MOTION CARRIED**, to approve a request from the Niles Burn Run Committee to hold the annual Niles Burn Run Festival July 21 – July 23, 2017 in Riverfront Park Amphitheater and consideration of allowing overnight camping, a car show, street closures, vendors, electricity & water, reserve police officers, river rescue, and waiver of all fees and costs.

**ROLL CALL:**

**AYE:** Bertschy, Boggs, DiCostanzo, Durm, McAfee, Skalla, VandenHeede and Weimer

**NAY:** DiCostanzo

8. Consideration of adopting a resolution to set a public hearing to consider the establishment of Industrial Development District No. 2.

**CITY OF NILES  
DESIGNATE TIME AND PLACE FOR A PUBLIC HEARING TO  
CONSIDER THE ESTABLISHMENT OF INDUSTRIAL DEVELOPMENT DISTRICT NO. 2  
RESOLUTION #2017-06/2014**

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

**RESOLVED** by the Mayor and City Council that Council hereby designates Monday, June 26, 2017, at 5:55 P.M. local time in the Council Chambers, 1345 E. Main Street, Niles, Michigan (49120) as the time and place for a public hearing to consider establishment of Industrial Development District No. 2 pursuant to the Michigan Plant Rehabilitation and Industrial Development Districts Law of 1974, Public Act 198 of 1974, as amended, covering the following described property:

Parcel Identification Number: 14-170-007-002-00

COM AT E ¼ COR, TH S 89 DEG 52'5"W 40 FT, S 0 DEG 36'54"E 556.5 FT, S 87 DEG 10'46"W 708.61 FT, S 34 DEG 11'47"W 1031.2 FT, S 31 DEG 4'24"W 1416.61 FT, N 89 DEG 56'58"W 1145.25 FT, N 39 DEG 43'26"E 5600 FT, S 0 DEG 47'24"E 1925.95 FT TO BEG. EX COM N 89 DEG 45'30"W 40 FT FRM E ¼ COR, TH S 0 DEG 13'10"E 556.5 FT, S 87 DEG 33'35"W 708.7 FT, N 34 DEG 35'35"E 714.21 FT, S 89 DEG 45'30"E TO BEG. ALSO EX RD ROW. SEC 7 UNPLATTED CITY OF NILES

Parcel Identification Number: 14-170-008-001-00

COM S 89 DEG 23'16"E 467.17 FT FRM NW COR SEC, TH S 89 DEG 23'16"E 847.38 FT, S 0 DEG 46'37"E 2637.84 FT, N 89 DEG 34'14"W 1313.86 FT, N 0 DEG 47'24"E 1976.16 FT, N 34 DEG 43'26"E 804.02 FT TO BEG. 76.06 AC. SEC 8 UNPLATTED HOWARD TWP CITY OF NILES

**BE IT FURTHER RESOLVED** that the City Clerk is hereby authorized to publish said Notice of Hearing and to comply with the requirements for notice of public hearing set forth in the Act including sending the attached Notice by certified mail to the owners of all real property within the proposed district.

**ROLL CALL:**

**AYE:** Bertschy, Boggs, DiCostanzo, Durm, McAfee, Skalla, VendenHeede and Weimer

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

**RESOLUTION 2017-06/2014 DECLARED ADOPTED**

9. Consideration of adopting a resolution to establish the City's Administrative Fee to be levied on the tax rolls on all taxes collected as allowed by the State of Michigan.

**CITY OF NILES  
BERRIEN AND CASS COUNTY  
ESTABLISH THE 1% ADMINISTRATIVE FEE  
RESOLUTION #2017-06/2015**

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

**A. Establish the 1% Administrative Fee**

**WHEREAS**, the City of Niles incurs various costs in performing assessing property values, collection of property tax levies, operations of the review and appeal processes; and

**WHEREAS**, the City is allowed by State law to levy the administration fee; and

**WHEREAS**, the revenue from the levy of the administration fee will be deposited into the General Fund.

**NOW, THEREFORE BE IT RESOLVED** that the City of Niles does hereby establish the one percent (1%) Administration Fee to be levied on the tax roll on all taxes collected; and

**BE IT FURTHER RESOLVED** that the City Treasurer is authorized to impose and collect a one percent (1%) property tax administration fee on all taxes collected.

**ROLL CALL:**

**AYE:** Bertschy, Boggs, DiCostanzo, Durm, McAfee, Skalla, VendenHeede and Weimer

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

**RESOLUTION 2017-06/2015 DECLARED ADOPTED**

10. Consideration of adopting a resolution to establish the City's millage rates to be levied on the 2017/18 tax rolls.

**CITY OF NILES  
BERRIEN AND CASS COUNTY  
CITY MILLAGE RATES FOR 2017/18 TAX YEAR  
RESOLUTION #2017-06/2016**

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

**A. Establish the City Millage Rate for the 2017/18 Tax Year**

**WHEREAS**, the City of Niles has previously imposed various property taxes on properties in the City; and

**WHEREAS**, the voters of the City of Niles approved a property tax not to exceed one-half of a mill to support the Dial-A-Ride bus system; and

**WHEREAS**, the City incurs various costs in assessing property values, collecting property taxes and performing the review and appeal processes for non-City taxing entities.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Niles does hereby establish the following property tax millage rates for the 2017/18 tax year:

<b>General Operating Fund</b>	<b>14.1334</b>
<b>Dial-A-Ride Operating Fund</b>	<b>.5000</b>
<b>TOTAL MILLAGE RATE</b>	<b>14.6334</b>

**BE IT FURTHER RESOLVED** that the City Treasurer is authorized to impose and collect a four percent (4%) late payment fee upon those taxes not paid by the due date.

**B. Establish the City Millage Rates for the 2017/18 Tax Year as Prescribed by Act 5, Public Acts of Michigan 1982.**

**WHEREAS**, Act 5, Public Acts of Michigan, 1982, provides that with the levy of ad valorem property taxes for operating purposes for the ensuing fiscal year which yields an amount more than the sum of the taxes levied at the base tax rate on additions within the City for the ensuing fiscal year plus an amount equal to the taxes levied for operating purposes for the concluding fiscal year on existing property; and

**WHEREAS**, said Act 5 provides that the City of Niles may approve the levy of additional millage rates, within its present authorized of proposed millage rates, only after providing certain notice to the public and holding a public hearing for the purpose of receiving testimony and discussing the levy of additional millage rates for the ensuing fiscal year; and

**WHEREAS**, the City of Niles has been advised by the County Equalization director that the state taxable valuation for the 2017/18 tax year of property located within the City of Niles is \$185,438,938 in Berrien County, and \$282,133 in Cass County; and

**WHEREAS**, Act 5, based upon the state taxable valuation of the City of Niles would limit the district's operating tax levies to General, 14.1334; and

**WHEREAS**, the City of Niles, after careful examination of its estimated operating expenses for the 2017/18 fiscal year and estimated revenues based on the state taxable valuation, has determined that the best interest of the City requires the levy of the additional millage rates of: General .0000 mills and Dial-A-Ride, .0000 mills

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

1. The City of Niles, pursuant to said Act 5, proposed a tentative levy of not to exceed 14.1334 mills for operating purposes which includes an additional millage rate of .0000 mills and .5000 mills for Dial-A-Ride which includes an additional millage rate of .0000.

2. A public hearing shall be scheduled for the purpose of receiving testimony and discussing the levy of an additional millage rate for 2017/18 fiscal year.

**ROLL CALL:**

**AYE:** Bertschy, Boggs, DiCostanzo, Durm, McAfee, Skalla, VandenHeede and Weimer

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

**RESOLUTION 2017-06/2016 DECLARED ADOPTED**

11. Consideration of accepting the bid and entering into a contract with Rieth-Riley of Benton Harbor, Michigan for the 2017 Sassafras Pavement Resurfacing Contract at a cost of \$57,280.00 and authorize the Mayor to sign the contract.

**Council Member Skalla** moved, **Council Member Bertschy** supported, **MOTION CARRIED**, to accept the bid and entering into a contract with Rieth-Riley of Benton Harbor, Michigan for the 2017 Sassafras Pavement Resurfacing Contract at a cost of \$57,280.00 and authorize the Mayor to sign the contract.

**ROLL CALL:**

**AYE:** Bertschy, Boggs, DiCostanzo, Durm, McAfee, Skalla, VandenHeede and Weimer

**NAY:** None

**12.** Consideration of accepting the bid and entering into a contract with Lyster Contracting, Inc. of Kalamazoo, Michigan for the Re-roof of the former Carnegie Library Building located at 321 E. Main Street at a cost of \$15,800.00; and include the authorization to spend up to \$20,000.00; and authorize a budget amendment; and authorize the Mayor to sign the contract.

**Council Member Weimer** moved, **Council Member Bertschy** supported, **MOTION CARRIED**, to accept the bid and entering into a contract with Lyster Contracting, Inc. of Kalamazoo, Michigan for the Re-roof of the former Carnegie Library Building located at 321 E. Main Street at a cost of \$15,800.00; and include the authorization to spend up to \$20,000.00; and authorize a budget amendment; and authorize the Mayor to sign the contract.

**ROLL CALL:**

**AYE:** Bertschy, Boggs, DiCostanzo, Durm, McAfee, Skalla, VandenHeede and Weimer

**NAY:** None

**13.** Consideration of accepting the bid and entering into a contract with Integrity Tree Service of Grandville, Michigan for the clearing of 3TR at Jerry Tyler Memorial Airport, Runway 15 Approach Clearing Project at a cost of \$49,161.76 and authorize the Mayor to sign the contract.

**Council Member Bertschy** moved, **Council Member VandenHeede** supported, **MOTION CARRIED**, to accept the bid and entering into a contract with Integrity Tree Service of Grandville, Michigan for the clearing of 3TR at Jerry Tyler Memorial Airport, Runway 15 Approach Clearing Project at a cost of \$49,161.76 and authorize the Mayor to sign the contract.

**ROLL CALL:**

**AYE:** Bertschy, Boggs, DiCostanzo, Durm, McAfee, Skalla, VandenHeede and Weimer

**NAY:** None

**14.** Consideration of accepting the bid and entering into a contract with Mead and Hunt, Inc. of Lansing, Michigan to administer the required professional services for the Jerry Tyler Memorial Airport Runway 15 Approach Clearing Project at a cost of \$11,440.00 and authorize the Mayor to sign the contract.

**Council Member Bertschy** moved, **Council Member VandenHeede** supported, **MOTION CARRIED**, to accept the bid and entering into a contract with Mead and Hunt, Inc. of Lansing, Michigan to administer the required professional services for the Jerry Tyler Memorial Airport Runway 15 Approach Clearing Project at a cost of \$11,440.00 and authorize the Mayor to sign the contract.

**ROLL CALL:**

**AYE:** Bertschy, Boggs, DiCostanzo, Durm, McAfee, Skalla, VandenHeede and Weimer

**NAY:** None

**APPOINTMENT TO BOARDS:** None

**CITY ATTORNEY'S REPORT:** None

**COUNCIL MEMBER'S REPORT:**

**Council Member Boggs** asked legal counsel how the State can override Federal Medical Marijuana Law and if the city is in compliance with the law. Attorney Landgraf replied that he is comfortable with the city's action.

**Council Member VandenHeede** mentioned that dispensaries that are currently operating in the State of Michigan are noncompliant. Blue Grass Festival has a great crowd with great music.

**Council Member Durm** thanked Lowes for their donation of flowers for the downtown planters.

**Council Member DiCostanzo** mentioned that he was happy with the initial meeting of the newly formed Events Committee. It was good to hear from citizen's pros/cons comments, understanding the laws as it relates to special events, and also look at the budget and how much to allocate with the primary purpose of prioritizing.

**Council Member Skalla** enjoyed the Memorial Day Parade and tribute to our troops at Silverbrook Cemetery. He commended Neal Mikel and his staff for preparing the Silverbrook Cemetery for the event.

**MAYOR'S REPORT:**

Mayor Shelton addressed the City Council to consider the City Administrator's email regarding property located at 933 N. 5<sup>th</sup> Street listed on the Berrien County property foreclosures for back taxes. City Administrator Huff suggested that the city purchase property located at 933 N. 5<sup>th</sup> Street (former Radio Supply business). The city owns property adjacent to this property which is currently landlocked. Back taxes on the property is approximately \$7,400 and estimated demolition would be \$25,000 which could be paid by CDBG funds. Consensus of council is that the purchase of the property would be a good investment

**Council Member VandenHeede** moved, **Council Member Skalla** supported, **MOTION CARRIED**, to authorize the City Administrator to spend up to \$10,000 to purchase the property located at 933 N. 5<sup>th</sup> Street, Niles, Michigan.

**ROLL CALL:**

**AYE:** Bertschy, Boggs, DiCostanzo, Durm, McAfee, Skalla, VandenHeede and Weimer

**NAY:** None

Mayor Shelton congratulated DDA/Niles Main Street for their recognition of being an accredited Main Street status. He also announced that he will be getting married on Friday, June 16, 2017.

City Administrator Huff asked the City Council to consider postponing the Event portion of the Schedule of Fees until January 1, 2018 in order to allow the event sponsors time to prepare for the fee changes.

**Council Member VandenHeede** moved, **Council Member Bertschy** supported, **MOTION CARRIED**, to postpone the Event portion of the Schedule of Fees until January 1, 2018 in order to allow the event sponsors time to prepare for the fee changes.

**ROLL CALL:**

**AYE:** Bertschy, Boggs, DiCostanzo, Durm, McAfee, Skalla, VandenHeede and Weimer

**NAY:** None

**ADJOURNMENT**

Council Member Weimer moved to adjourn at 7:10pm.

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Linda Casperson, Niles City Clerk

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Date Approved