

**REGULAR CITY COUNCIL MEETING  
MINUTES COUNCIL CHAMBERS,  
1345 E. Main Street City of Niles, Michigan**

**Monday, April 24, 2023**

**PRESENT:** Council Members: Georgia Boggs, Gretchen Bertschy, Amanda Dunnem, Timothy Rogers, William Weimer, John DiCostanzo, Michael Thompson, and Mayor Nick Shelton

**ABSENT:** Charlie McAfee,

**STAFF:** Huff, Landgraf, Bergman, J. Millin, R. Millin, Ray, Stump

**REGULAR COUNCIL MEETING**

The regular Niles City Council meeting was called to order by Mayor Shelton at 6:00 p.m. April 24, 2023. The Pledge of Allegiance was led by Mayor Nick Shelton.

**APPROVAL OF THE AGENDA**

**Councilmember Rogers** moved, **Councilmember Bertschy** seconded to approve the agenda as submitted with moving items 3, 4, and 7 to the City Administrator's Report.

**ROLL CALL: YEA:** Rogers, Weimer, DiCostanzo, Thompson, Boggs, Bertschy, Dunnem

**NAY:** None      **ABSENT:** McAfee      **MOTION CARRIED**

**PUBLIC HEARINGS:**

**CITIZEN PARTICIPATION: (PUBLIC COMMENTS)**

**Laurie Gregory** of South Bend, IN who's mother is Jeannine Gregory of Misty Acres, is concerned with the noise from Indeck. She asked when the problem could be expected to be fixed and also would the cost of the repair be absorbed down the pipe to the consumer.

**Phil Mazzotta** stated that the noise is still there and asked what is the noise ordinance.

**Kathy Schiele** of 2297 Invicta Dr. asked if the noise level was the expectation of what the City thought. Her expectation was living in peace. Everything vibrates in her house.

**Judy Weeks** of 2249 Monterey Dr. explained that the loudness is affecting her health. She can't sleep and has headaches, resulting with her probably going to see a doctor.

**Ginger Brawley** of 1744 Holiday Dr. reported the noise level is 8. something, not 5. something. This is affecting hundreds of people.

**Diane Hill** of Sumnerville, her mother Grace Singer lives on Creek Rd., and her aunt Alice Curry lives on White St. They are in their 90's and have been complaining about the sound and the vibration. She asked that Mayor Shelton let them know something through Facebook.

**Janet Frame** of Red Bird, passed Misty Acres. She stated that she has lived there 9 years and also cannot sleep. She is also curious about the lake level being the highest it's been in 8 years and wonders if that has anything to do with Indeck although she has been told that it doesn't.

**Sue Jurgonski** of Misty Acres, reported that she has done some research on the noise ordinance in Niles compared to Howard Township, in which they are very similar. She thought that she would have



some sort of answer by now. She asked the Council if any of them have been out to Misty Acres. Her main question is regarding the noise ordinance and why can't it be enforced.

**City Administrator Huff** responded by stating that he has not been given a deadline as to when the issue will be resolved. Indeck has brought in engineers, sound consultants and different individuals trying to find the key source of this change that occurred around March 26. Since they have been unable to isolate the exact cause, they have started construction of sound barrier walls last week. This is only the interim solution. Shutting down the plant is problematic for a lot of people. The City is taking this very seriously. There is a development agreement with Indeck that the City is in the process of enforcing that addresses sound levels and nuisances.

## **PRESENTATIONS:**

### **CONSENT AGENDA:**

1. Consideration of approving the minutes of April 10, 2023.
2. Consideration of approving the list of bills dated April 18, 2023.

Moved to 12a

- ~~3. Consideration of approving, by resolution, renewing the airport ground lease with HBH, Inc. for a five-year term expiring December 31, 2027.~~

Moved to 12b

- ~~4. Consideration of approving, by resolution, renewing the airport fuel tank ground lease with HBH, Inc. for a five-year term expiring December 31, 2025.~~

5. Consideration of approving the emergency repair to two Vaughan Chopper Pumps from JGM Valve Corporation of Commerce, Michigan at a cost of \$2750.00, for use at the Wastewater Treatment Plant and charged to the Utilities Department, Wastewater Division, Maintenance-Plant Equipment fund.

6. Consideration of approving the request of Remarkable, Inc. to hold a Wear Blue: Run to Remember run/walk on May 29, 2023 prior the Memorial Day Parade.

Moved to 12c

- ~~7. Consideration of adopting, by resolution, the Berrien County Trails Master Plan and incorporating it into our local plan.~~

**Councilmember Bertschy** moved, **Councilmember Rogers** seconded to approve the consent agenda as submitted with moving items 3, 4, and 7 to the City Administrator's Report.

**ROLL CALL: YEA:** Weimer, DiCostanzo, Thompson, Boggs, Bertschy, Dunnem, Rogers

**NAY:** None      **ABSENT:** McAfee      **MOTION CARRIED**

## **CITY ADMINISTRATOR'S REPORT:**

### **Introduction of Items for Discussion**

### **Items for Council Action**

8. Consideration of approving an agreement with L. J. Ross Associates, Inc. of Jackson, Michigan for a three year period, with an option for a two year extension, to perform account collections for delinquent utility and other City accounts, on a 30% commission basis, 40% if legal services are required, to be charged to the Utilities Department, Cut-off and Collection Expense if utilized for a



delinquent utility bill or to Professional Services of respective City departments utilizing their services, and authorize the Mayor to sign the agreement.

**Councilmember DiCostanzo** moved, **Councilmember Weimer** seconded to approve an agreement with L. J. Ross Associates, Inc. of Jackson, Michigan for a three year period, with an option for a two year extension, to perform account collections for delinquent utility and other City accounts, on a 30% commission basis, 40% if legal services are required, to be charged to the Utilities Department, Cut-off and Collection Expense if utilized for a delinquent utility bill or to Professional Services of respective City departments utilizing their services, and authorize the Mayor to sign the agreement..

**ROLL CALL: YEA:** DiCostanzo, Thompson, Boggs, Bertschy, Dunnem, Rogers, Weimer

**NAY:** None      **ABSENT:** McAfee      **MOTION CARRIED**

9. Consideration of accepting the bid from Great Lakes Chloride, Inc. of Grand Haven, Michigan for approximately 10,000 gallons of liquid calcium chloride, at a cost of \$1.009 per gallon, totaling approximately \$10,088.92 to be charged to the General Fund.

**Councilmember Bertschy** moved, **Councilmember Rogers** seconded to approve of accepting the bid from Great Lakes Chloride, Inc. of Grand Haven, Michigan for approximately 10,000 gallons of liquid calcium chloride, at a cost of \$1.009 per gallon, totaling approximately \$10,088.92 to be charged to the General Fund.

**ROLL CALL: YEA:** Thompson, Boggs, Bertschy, Dunnem, Rogers, Weimer, DiCostanzo

**NAY:** None      **ABSENT:** McAfee      **MOTION CARRIED**

10. Consideration of accepting the MDOT, Federal Aviation Administration Block Grant in an amount up to \$32,000.00 to be used towards expenses necessary to operate the Jerry Tyler Memorial Airport and authorize the City Administrator or the Public Works Director/Airport Manager to sign the grant documents.

**Councilmember Rogers** moved, **Councilmember Dunnem** seconded to approve of accepting the MDOT, Federal Aviation Administration Block Grant in an amount up to \$32,000.00 to be used towards expenses necessary to operate the Jerry Tyler Memorial Airport and authorize the City Administrator or the Public Works Director/Airport Manager to sign the grant documents.

**ROLL CALL: YEA:** Boggs, Bertschy, Dunnem, Rogers, Weimer, DiCostanzo, Thompson

**NAY:** Thompson      **ABSENT:** McAfee      **MOTION CARRIED**

**RESOLUTION 2023-04/2181**

11. Consideration of approval for the Utilities Department to decommission and remove the Broadway Substation at an approximate cost of \$140,000.00, charged to the Electric Division.

**Councilmember Bertschy** moved, **Councilmember Rogers** seconded to approve for the Utilities Department to decommission and remove the Broadway Substation at an approximate cost of \$140,000.00, charged to the Electric Division.

**ROLL CALL: YEA:** Bertschy, Dunnem, Rogers, Weimer, DiCostanzo, Thompson, Boggs

**NAY:** None      **ABSENT:** McAfee      **MOTION CARRIED**

12. Consideration of approving the Utilities Department to purchase a 2024 Chevrolet V8 gasoline pickup truck from Tyler Automotive of Niles, Michigan at a price of \$57,691.00, to be charged to the Utilities Department, Capital Improvement plan, and authorize the Mayor to sign the purchase agreement.

**Councilmember DiCostanzo** moved, **Councilmember Rogers** seconded to approve the Utilities Department to purchase a 2024 Chevrolet V8 gasoline pickup truck from Tyler Automotive of Niles, Michigan at a price of \$57,691.00, to be charged to the Utilities Department, Capital Improvement plan, and authorize the Mayor to sign the purchase agreement.

**ROLL CALL: YEA:** Dunnem, Rogers, Weimer, DiCostanzo, Thompson, Bertschy

**NAY:** None      **ABSENT:** McAfee      **MOTION CARRIED**



**12a.** Consideration of approving, by resolution, renewing the airport ground lease with HBH, Inc. for a five-year term expiring December 31, 2027.

**Councilmember DiCostanzo** moved, **Councilmember Dunnem** seconded to approve, by resolution, renewing the airport ground lease with HBH, Inc. for a five-year term expiring December 31, 2027.

**ROLL CALL: YEA:** Rogers, Weimer, DiCostanzo, Thompson, Bertschy, Dunnem

**NAY:** None **ABSENT:** McAfee **MOTION CARRIED**

**RESOLUTION 2023-04/2182**

**12b.** Consideration of approving, by resolution, renewing the airport fuel tank ground lease with HBH, Inc. for a five-year term expiring December 31, 2025.

**Councilmember DiCostanzo** moved, **Councilmember Weimer** seconded to approve, by resolution, renewing the airport fuel tank ground lease with HBH, Inc. for a five-year term expiring December 31, 2025. **ROLL CALL: YEA:** Weimer, DiCostanzo, Thompson, Bertschy, Dunnem, Rogers

**NAY:** None **ABSENT:** McAfee **MOTION CARRIED**

**RESOLUTION 2023-04/2183**

**12c** Consideration of adopting, by resolution, the Berrien County Trails Master Plan and incorporating it into our local plan. **RESOLUTION 2023-04/2184**

**Councilmember Bertschy** moved, **Councilmember Dunnem** seconded to approve, by resolution, the Berrien County Trails Master Plan and incorporating it into our local plan.

**ROLL CALL: YEA:** DiCostanzo, Thompson, Bertschy, Dunnem, Rogers, Weimer

**NAY:** None **ABSENT:** McAfee **MOTION CARRIED**

**RESOLUTION 2023-04/2184**

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

#### **COUNCILMEMBER'S REPORT:**

**Councilmember Rogers** shared that May 4<sup>th</sup> is National Day of Prayer. Prayers for the City, the State, the Country, and anything else.

**Councilmember DiCostanzo** acknowledged the folks that came out and stated that he feels bad for what they are experiencing. Sometimes it is very difficult to isolate issues like this as he has experienced with his time working for AM General.

**Councilmember Thompson** encouraged the Councilmembers that if they know of any City Ordinance that they do not approve of, he will help in getting rid of it. As far as he's concerned, he would like to get rid of most of them.

**Councilmember Boggs** added that she was also very sympathetic of all the people affected by the noise. She hopes that the problem can be solved.

**Councilmember Bertschy** attended the Capital Convention for Municipalities. She wanted to publicly thank Tina Bergman for all that she does.

**Councilmember Dunnem** shared that she did go out to Misty Acres after the last Council meeting around 8:00pm. She said that she does sympathize with the residents of Misty Acres.

#### **MAYOR'S REPORT:**

**Mayor Shelton** added that he also went to Misty Acres twice last week. He said that he heard it and felt it. There have been daily conversations with Indeck and the City is trying to bring a resolution to this as

soon as possible. He said he appreciated all the public comment. The Downtown Sidewalk Replacement Project is moving along and will be great for the downtown district. The Mayor attended the Polar Plunge which raised \$17,000 for downtown beautification.

**CLOSED SESSION:**

**ADJOURNMENT**

Councilmember Weimer moved to adjourn at 6:37 p.m.



Tina Bergman  
Niles City Clerk

  
Date