

COUNCIL MEETING MINUTES

July 11, 2018

Audio recording of full meeting will be available on line on the city's website

Niles City Council held its regular meeting on July 11, 2018 at 6:00 p.m. in Council Chambers Safety Service Complex in Niles, Ohio.

The meeting was called to order by Pro Tem President Ryan McNaughton, and the Clerk, Nicole Bacak, called the roll:

Lastic- P, McNaughton-P, Profato-P, Cantola-P, Marchese-P, Mientkiewicz- P, Kearney-P, Steffey-P

It was moved by Marchese, seconded by Kearney to accept the Minutes from the June 20th meeting and place them on file.

Motion carried.

REPORTS AND COMMUNICATIONS

FROM – Attorney Matthew Blair

Letter regarding Genesis Outdoor Advertising- Clerk read letter.

It was moved by Marchese, seconded by Mientkiewicz to refer this communication to the safety committee.

Motion carried.

FROM – Auditor's Office

Statement of Cash from Revenue and Expense- May 2018

It was moved by Marchese, seconded by Profato to accept the report and place it on file.

Motion carried.

FROM – Auditor's Office

Check Report by Check Number- May 2018

It was moved by Lastic, seconded by Marchese to accept the report and place it on file.

Motion carried.

FROM – Service Director

Monthly Overtime Report- June 2018

Mr. Mientkiewicz wanted to touch base on a few of the department's overtime for June. The police department had a big month with overtime. Chief Holland said that summer is always high. He expects it to be high until about September. Chief Danielson said Fire department's

overtime went down from the week before. Mr. Mientkiewicz pointed out that the Street department is over. He asked Service Director Stredney why they would have overtime in June. He owes it was only \$100 but what would cause it. Service Director Stredney explained that he would have to pull the time cards but it could have been something such as a hot patch running over, or a cut out. The only thing that would pull that department out now would be a major storm. Mr. Mientkiewicz also pointed out that the Water department should be a concern. He knows the budget was cut. Service Director Stredney said they are monitoring this. Mr. Mientkiewicz asked when the Light Department is wrapping up the LED lighting project. He knows it is close. He sees the guys out working on the project. Service Director Stredney believes they are 3-4 weeks away from completion. Traffic lights are all done and we are just waiting on the street lights. Mr. Mientkiewicz said he does see them out working and rolling through this project and once this is completed, we should see a reduction in overtime for that department.

It was moved by Mientkiewicz, seconded by Lastic to accept the report and place it on file. Motion carried.

FROM – Treasurer’s Office

Monthly Receipt Totals-Income Tax Division- Beginning of July 2018

Mr. McNaughton asked Treasurer Telago how collections are looking. Treasurer Telago said they are coming in good. The city is about \$64,000 behind from last year. The city also had a company voluntarily pay a couple hundred thousand dollars. They came forward and said they owed money.

It was moved by Mientkiewicz, seconded by Lastic to accept the report and place it on file. Motion carried.

MEMBERS OF THE AUDIENCE TO ADDRESS COUNCIL

(Public comments began at 9:39 into the recording)

Dennis Gorito: 20 Highland Ave. Niles. He is concerned there are no bathrooms opened at the trailheads or parks. There is a lack of garbage cans in the parks. There was a clean-up day in the city a few weeks ago, which wouldn't have been needed if there were more garbage cans. There was a firework display and yes it was done wrong because the person did not have a permit but from his acknowledgement there are fireworks done all over the city of Niles. This guy has been letting them off for 18 years and now he gets punished for it. It's not right. If the city is going to crack down on one person, they should crack down on everyone. Mr. Gorito feels the bathrooms are a huge issue. What about the kids? What are they supposed to do?

Ms. Marchese asked Mr. Burke about the bathrooms because she thought this issue was already addressed. Mr. Burke said the Wellness center is open except for Sunday. The rentals are open on Sundays with the bathrooms. Stevens bathroom is open all of the time now.

Barry Steffey Sr.: 3636 Boston Ave. Mr. Steffey wanted to share something positive with council. Last week when the storm came through, he was without power for roughly 65 minutes and he had neighbors who have Ohio Edison who didn't have power for 12 hours. He would like to applaud the Niles Power Company for doing an incredible job.

George Kuriatnyk: 1206 Mason St. He would like to get a clarification on the first reading/second reading. Doesn't a first reading give council four weeks to discuss it and then vote again? Ms. Marchese explained that a first reading takes them to the next council meeting. It gives any council member time to ask questions and get facts. Mr. Kuriatnyk mentioned that at the last council meeting he brought up the MS consultant. Four weeks later, he would have hoped there would have been a meeting to discuss this. Here we are four weeks later, nobody looked into it. Council had all this time to figure this out and now they want to come out on council and ask all these questions and pass it as an emergency when no one really knows what is going on. He wants to know if anyone looked into this. Mr. McNaughton reminded him that this was a public comment section and asked Mr. Kuriatnyk if he had any other comments and to please move on.

Mr. Kuriatnyk brought up the meeting that took place last year at the Niles High School when a resident came up and asked if the rules would change when Mr. Steffey became President and Mr. Steffey assured him no. They still wanted the residents to come up. Now, it's nothing but comments. Mr. Kuriatnyk thinks it's disrespectful that Mr. Steffey put Mr. McNaughton as President ProTem. He feels that Mr. Lastic and Mr. Profato have more experience and should be sitting up there. President Steffey would not comment on this.

Mr. Kuriatnyk asked Mr. McNaughton is he was the chair of the Utility and if the utility bills fall under that. He wants to know if someone has a problem with their bill, is he responsible for the bills? Mr. McNaughton said no. Mr. Kuriatnyk stated that Mr. Papalas said in 2012 the Utilities department was a train wreck. He wants to know if Mr. McNaughton has done anything to fix it. Mr. Kuriatnyk said everyone clams up every time someone asks a question about a touchy subject. He told President Steffey to stand up and defend himself. He said people laugh at the city because no one wants to give answers.

Mr. Kuriatnyk asked if the city was on schedule with the installation of the water meters. Mr. McNaughton said the city is moving forward with the contract. He didn't know where we were at this moment but we were moving forward. Mr. Kuriatnyk said that was a typical answer. Mr. McNaughton said if the answer he gives isn't good enough for him, it isn't a good answer. Mr. Kuriatnyk responded that it wasn't good enough because it was bullshit. Mr. McNaughton told him he wasn't going to curse and asked him to sit down. He also told him if he continued to make comments he would be escorted from the premises. Mr. Kuriatnyk said he was leaving.

Dee Sebben: 225 High Ave. She wants to know some answers. She has been to council meetings. There have been problems on her street since the fire truck went down her street. She just put \$7500.00 worth of a furnace and air conditioner in her house. There is still a water issue over there. She wants to know what the answer is. Mr. McNaughton asked Service Director Stredney what the answer is to this issue. Service Director Stredney said he has talked to Mr. Robertson

about getting this engineered out. There would have to be a drain put in and sent back to either Mason Street or down to one of the other streets. It will probably have to be through a CDBG project. Mr. McNaughton asked if there was a short term fix for Mrs. Sebben. Service Director Stredney said he has had a few people out there and he does not think there is a short term fix. Mrs. Sebben said she has never had this problem until the fire truck went down the street. Mr. McNaughton said he understands her frustration. This has not been ignored but it has not been fixed either. The city has done something to try and rectify it, but they just have to do more. Mr. McNaughton wants the city to come up with a short term/long term plan to get this fixed for her because he does not believe she should have to pay any more money to get this fixed.

Mrs. Sebben said the whole street floods. She has been a Niles resident for 53 years and she is disgusted. There is one more thing she wants to know. She says her taxes faithfully. When she filed her taxes this year, she had to pay \$553.00 because that's what she owed. Why did she have to pay an extra \$33.00 and still is getting billed \$133.00 for the quarters? If her husband decides to retire, why is she paying in advance? Mr. McNaughton deferred this to Treasurer Telago. Treasurer Telago explained that if you are not having withholdings taken out of your check, you have to pay estimated taxes. You are in fact paying for this tax year. Instead of having the taxes taken from your check, you get the quarterly bill sent to you. That's the rule.

Beth Nolan: 26 Beaver creek. Mrs. Nolan wanted to know if there was a cutoff date set for July 3rd for the Mayor candidates and then we extended it to July 22nd, she wants to know who sets those cutoff dates and how many extensions are there? And will there be any more extensions? And when is date actually happening? Mr. McNaughton responded that it is the Trumbull County Board of Elections who makes those decisions. July 3rd was the deadline to apply if you were interested in the position. The meeting was going to take place on July 17th, which was pushed back to July 27th. If it is pushed back, it comes from the Board of Elections.

Aimee Cantola: 208 Vienna Ave. As a resident, she has a question on draft 75-18. She wants to clarify that the city would not be applying for an alcohol permit. Law Director Swauger confirmed this. Only nonprofit organizations could apply for this permit through the State of Ohio. The City of Niles would have nothing to do with it. Mrs. Cantola asked if she wanted to rent the Wellness Center and if she wanted to have alcohol, could she? Law Director Swauger said no. Again, only if she was a nonprofit and qualified as a nonprofit through liquor control. She asked if you were a band, would you be able to get a permit? Law Director Swauger said no. They are not a nonprofit organization.

COUNCIL COMMITTEE REPORTS

Mr. Mientkiewicz stated that the Finance committee met on June 25th to review the city budgets. He wanted to thank all of the city council members and department heads that attended to sit down and review their budgets. Everything seemed to be on pace so far. It was very successful. Mr. McNaughton agreed. He wanted to thank everyone for doing this. He hopes this is something that the city will continue can do every 6 months.

ORDINANCES AND RESOLUTIONS

(Legislation began at 32:30 into recording)

Mr. McNaughton reminded council that a motion was needed to remove Draft No. 82-18.

It was moved by Marchese, seconded by Kearney to withdraw Draft No 82-18 from the agenda. It was passed in April of 2018.

YEAS: 7 NAYS: 0

RESOLUTION NO. _____ (Draft No. 73-18)

A RESOLUTION AUTHORIZING THE SALE BY INTERNET AUCTION OF CERTAIN OBSOLETE ITEMS NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE BY THE CITY; AND, DECLARING AN EMERGENCY

It was moved by Mientkiewicz, seconded by Lastic to give a 3rd reading to this Draft No. 73-18.

YEAS: 7 NAYS: 0

It was moved by Mientkiewicz, seconded by Cantola to adopt this Draft No. 73-18.

YEAS: 7 NAYS: 0

This Draft No. 73-18 has been adopted on the 11th day of July 2018.

ORDINANCE NO. _____ (Draft No. 75-18)

AN ORDINANCE AMENDING SECTION 159.03 OF THE NILES CODIFIED ORDINANCES; AND DECLARING AN EMERGENCY

Mr. Lastic asked Law Director Swauger if this becomes law. Law Director Swauger explained that in the past we have codified our park rules as an ordinance to make them misdemeanors for violations. That's what this would do. If council does not pass them, there are existing laws on the books that are different from the ones you are passing now. Our park rules would be different. Mr. McNaughton asked if council did not pass this, if the park board could still move

forward with this. Law Director Swauger said yes. There would just be two different sets of rules. We would have ordinances that are a violation that are no longer park rules. For the police department, the officers would not have any authority to enforce that rule. It would be a park board matter. There would not be any arrest for it or anything of that nature. We would have conflicting rules and laws. Our police could enforce some of them but not all of them.

Mr. McNaughton asked Chief Holland what is his perspective on this. Chief Holland explained about open container laws within the parks. If the officer is called out for a call and someone has an open container and the ordinance says one thing and the park rules say another, they cannot enforce. Things become convoluted. He also pointed out there is no revised code about being in the park after dark, but there is a park rule. That's what makes these park rules enforceable. If this is passed and there is a complaint with the police department with someone renting the pavilion, this allows them to enforce them.

Ms. Marchese asked Law Director Swauger if they can take out the alcohol clause. Law Director Swauger said yes they can make any amendments they want. Mr. Cantola thinks we are creating a ginormous monster here. He really struggles with the park board even passing this kind of information. Law Director Swauger pointed out that there is already an ordinance that says no alcohol in the park. If they don't pass this, those old rules still exist. There are some new ones like leashes, cleaning up after your pet. Mr. Cantola also brought up item U about campers. Law Director Swauger explained that was set up because of some case laws in regards to homeless camps being set up in parks. They aren't trying to discourage people who have an RV that are coming into town for their kid's baseball tournament. But , we do need to take some steps if a homeless camps sets up camp out there. It's a very fine line.

Mr. Cantola struggles with item B. But, item U is also very touchy. He thinks the park board should have some sort of meeting if they want to move forward on something like this. We already stated a band can't apply for a permit so it has a nonprofit organization that's applying and they bring in the band. Law Director Swauger said that's not the intention. They still the permission of the Park board and the park director. Mr. Cantola said that's still going to happen and going to occur because they already said they have a band that approach him about wanting to have something in the park.

Ms. Marchese said we have all been to fundraisers in the park where alcohol has been served. Law Director Swauger said there are a lot of rules where the police come out and deal with people face to face. They don't all result in an arrest. They make a judgment call.

Mr. Cantola understands that but feels that item B on here just creates more tension and uncertainty. He doesn't feel the police department should be getting calls for things like this. They should be on the streets. Mr. McNaughton is concerned about what Chief Holland said earlier if they go out and cannot go out and fully do their job because of two different rules. HE doesn't want to make their jobs harder than it needs to be. Mr. Cantola agrees but council didn't create this, the Park board created did. This was created and put in front of them to digest. Council didn't make his job harder. It was already made harder and it's going to made harder because the Park board has already accepted this as their guidelines. Not council.

Mr. Lastic asked when the Park board accepted these rules. Law Director Swauger said he believed it was at their May meeting. Mr. Lastic asked if it was the same board as they have now. Law Director Swauger said no. They have had one resignation since then. Mr. Profato wanted to confirm with Chief Holland that his officers could enforce these rules if they were codified. Chief Holland said yes as long as they were to become a city ordinance.

Law Director Swauger said if council doesn't feel comfortable passing these tonight, maybe look at setting a date certain to pass them because there are things in these rules that need to be adopted such as the time of the park opening. The current rules say 7 but the Wellness Center opens at 6. Ms. Marchese has a concern with if she is at a concert and say she is drinking a Malibu and Rum and she walks out the door because she is hot, can she get arrested because she walked outside? Law Director Swauger explained that would be a violation of the Liquor Laws of Ohio. That would be a State law she is breaking so it doesn't matter what the park rule is at that point. When you get a liquor permit, you cannot take it off the premises. When bars get patios, you have to get a patio permit.

Mr. Lastic asked how many officers you would need for an event at the Wellness Center? Chief Holland said it depends on the size of the event. The event organizer would pay for that charge though. Mr. Mientkiewicz asked if there could be a permit fee separate from the liquor fee to go to the city for an event like that. Like an administration fee. Law Director Swauger said he was not sure but he could look into it. He would have research it because normally it is controlled through the State.

It was moved by Profato, seconded by Lastic to postpone this Draft No. 75-18 to the August 15th meeting.

YEAS: 7 NAYS: 0

This Draft No. 75-18 has been postponed until August 15th.

RESOLUTION NO. _____ (Draft No. 76-18)

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO CONTRACT WITH MS CONSULTANTS, INC. FOR THE PURPOSE OF ADMINISTRATION OF BACKFLOW PREVENTION PROGRAM; AND DECLARING AN EMERGENCY

It was moved by Marchese, seconded by Lastic to give a 2nd reading to this Draft No. 76-18.

Mr. McNaughton commented that it was suggested that they suspend the rules on this. Ms. Marchese said he can't intervene once they've made a motion. Mr. McNaughton said he wasn't asking for a change. He was making a comment. He hopes the EPA does not come down on us in the mean time.

YEAS: 7 NAYS: 0

This Draft No. 76-18 has received its second reading on the 11th day of July 2018.

RESOLUTION NO. _____ (Draft No. 80-18)

A RESOLUTION AUTHORIZING THE SALE BY INTERNET AUCTION OF CERTAIN OBSOLETE ITEMS NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE BY THE CITY; AND, DECLARING AN EMERGENCY

It was moved by Marchese, seconded by Mientkiewicz to suspend the rule requiring three readings.

YEAS: 7 NAYS: 0

Rules are suspended.

It was moved by Mientkiewicz, seconded by Cantola to adopt this Draft No. 80-18.

YEAS: 7 NAYS: 0

This Draft No. 80- 18 has been adopted on the 11th day of July 2018.

RESOLUTION NO. _____ (Draft No. 81-18)

A RESOLUTION ADOPTING THE ALTERNATIVE TAX BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2019; AND DECLARING AN EMERGENCY

Auditor Merlo explained that every year the county Auditor's office has the city pass an alternative tax budget. We record what we received in the previous year, what we anticipate this year, and we anticipate the following year. This gives us a certificate from the county that allows us to do the budget for 2019.

It was moved by Mientkiewicz, seconded by Kearney to suspend the rule requiring three readings.

YEAS: 7 NAYS: 0

Rules are suspended.

It was moved by Mientkiewicz, seconded by Cantola to adopt this Draft No. 81-18.

YEAS: 7 NAYS: 0

This Draft No. 81- 18 has been adopted on the 11th day of July 2018.

RESOLUTION NO. _____ (Draft No. 83-18)

**A RESOLUTION APPROPRIATING FUNDS FROM THE UNAPPROPRIATED
COMPUTER FUND 219 TO THE FOLLOWING LINE ITEMS; AND, DECLARING AN
EMERGENCY**

It was moved by Mientkiewicz, seconded by Kearney to suspend the rule requiring three readings.

YEAS: 7 NAYS: 0

Rules are suspended.

It was moved by Mientkiewicz, seconded by Cantola to adopt this Draft No. 83-18.

YEAS: 7 NAYS: 0

This Draft No. 83- 18 has been adopted on the 11th day of July 2018.

RESOLUTION NO. _____ (Draft No. 84-18)

**A RESOLUTION AUTHORIZING THE LINE ITEM TRANSFER OF FUNDS FROM
COURT WAGES TO THE COURT CONTRACTED LABOR ACCOUNT; AND
DECLARING AN EMERGENCY**

Mr. Mientkiewicz explained that this for court security. We are contracting with Weathersfield to provide security within the court.

Auditor Merlo noticed an error in the legislation that needed to be addressed. In Section one, it says six thousand and 0005/100, it needs to be all zeros. And the account number 101-10065, it should be 101-1006. No 5.

It was moved by Profato, seconded by Lastic to make the following amendments to the legislation: In Section one, it says six thousand and 0005/100, it needs to be all zeros. And the account number 101-10065, it should be 101-1006.

YEAS: 7 NAYS: 0

It was moved by Mientkiewicz, seconded by Lastic to suspend the rule requiring three readings.

Mr. Mientkiewicz also asked Ms. Rose if someone will be at the council meetings. Ms. Rose said yes. Someone will be available for all of the council meetings beginning at 5:15 P.M. unless otherwise needed. There are several people trained on the new equipment. Ms. Rose asked council not to go to the fire department and unlock the doors because they want to make sure that they have someone trained on the equipment letting people into the courtroom.

YEAS: 7 NAYS: 0

Rules are suspended.

It was moved by Mientkiewicz, seconded by Kearney to adopt this Draft No. 84-18.

YEAS: 7 NAYS: 0

This Draft No. 84- 18 has been adopted on the 11th day of July 2018.

RESOLUTION NO. _____ (Draft No. 85-18)

A RESOLUTION AUTHORIZING THE ENGINEERING DEPARTMENT TO PREPARE AND SUBMIT APPLICATIONS AND ENTER IN AGREEMENTS FOR GRANT MONEY FOR 2019 STREET RESURFACING PROGRAM; AND, DECLARING AN EMERGENCY

Ms. Marchese asked if this was for our engineering department or the county. Mr. Mientkiewicz explained that this is for city council to agree to matching dollars for next year's grant program. Mr. Robertson needed to have a number to provide.

It was moved by Mientkiewicz, seconded by Lastic to suspend the rule requiring three readings.

YEAS: 7 NAYS: 0

Rules are suspended.

It was moved by Mientkiewicz, seconded by Kearney to adopt this Draft No. 85-18.

YEAS: 7 NAYS: 0

This Draft No. 85- 18 has been adopted on the 11th day of July 2018.

MISCELLANEOUS REMARKS

(Miscellaneous remarks began at 1:04:01 into recording)

Mr. McNaughton wanted the record to show that he was appointed to council President Pro-Tem on January 1, 2018. Every Council President gets to choose his/her replacement at the beginning of his/her term. He was not chosen in the last three or four months.

President Steffey wanted thank the residents and his colleagues. He thinks it's important to everyone to get the street resurfacing program going. Between this year and next year, we are looking about investing about a million dollars into the streets of Niles. They are desperately needed. He wanted to thank everyone for getting this going again after it being idle for the last couple of years.

Chief Danielson gave council an update on his new hire testing. He is hoping to have his new employee through the remainder of the testing and hired by the second week of August. He went for his physical today and things are moving along quickly. This will bring them up to their authorized strength of 33 employees.

Chief Holland informed council that they are conducting interviews for their vacant patrol officer spots Friday and Monday now that they have received their list from Civil Service. He is hoping for late August or early September to have those positions filled.

Mr. Crowley gave council an update on demos. There were three residential demos done this week. One on Woodglen, Cedar, and Third. And they finally have both properties done on Robbins Ave thanks to Mr. Vigorito brining it over to the court and the Judge hitting the gavel and saying it's time.

Mr. Robertson stated that the resurfacing project did finish up today. They did complete 12 streets and they were completed under the budget by approximately \$10,000.00. Mr. McNaughton pointed out that this \$10,000.00 is in addition to the \$53,000.00. So that's a savings of \$63,000.00. As a tax payer, he thanked Mr. Robertson.

Mr. Telago wanted to touch base on some items from the last council meeting. Ms. Marchese asked about letters that RITA had sent out about tax collections. RITA has sent out letters to the residents and these letters are based on the previous tax year's filing and/or if they do not have taxes withheld by their employer or if they receive a 1099 form with income, etc. Since the city of Niles no longer has an Income Tax Department or any previous staff that processed all tax related issues, the Treasurer's office no longer handles any tax related issues. All questions and concerns are deferred to RITA.

Mr. Telago also wanted to give an update on the open checkbook for Ohio. He has the State of Ohio coming in on Monday, July 16th to get the process started. The city's checkbooks will begin being online again.

Mr. Cantola wants to get a head of some things. Since we had the firework issue, he doesn't know what we have on the book but he is going to strongly recommend that we work with our safety in putting something together. He realizes people watching them in their own yards in their own responsibility. But on city property, it's our responsibility to cover. Proper credentials to launch them, safety being there in case something were to occur. Law Director Swauger pointed out that most of this is covered under the Ohio Revised Code by the Fire Marshall. It's State Code. Our Fire Inspectors would know all of those so if he wants to do something like that, he recommends getting with Mr. Bickerstaff involved because he is very well versed. Mr. Cantola said we if someone comes to the city and says they want to do something, we should know what licenses are required to make this occur. Chief Danielson stated that anyone who wants to come in and put a show on through the city, they have to apply for a permit through the Ohio Fire Marshall. There is a permit process through the State. For example, November Rain fireworks there was a permit they had to get through the State Fire Marshall that proved things. It's about a week process.

Ms. Marchese just wanted to say that our Police and Fire departments did a good job on handling that.

Mr. Mientkiewicz asked if have sprayed for mosquitoes or if it is in the works. Service Director Stredney said the city was awarded a grant. Auditor Merlo explained that we are not allowed to contract for the spraying until we physically receive the money. Service Director Stredney doesn't believe we receive the money until the end of July or beginning of August. Mr. McNaughton asked if we can check on that because August is not mosquito season. Mr. Mientkiewicz asked if we can front the money and then reimburse ourselves? Service Director Stredney said no. We can spray now and then spray again when we receive the grant money. If we sprayed now, it would have to be with our own money. The grant specifically says it cannot be reimbursed.

Mr. Mientkiewicz asked if the cemetery truck was going on govdeals or if it was going to scrapped? Service Director Stredney said it is going to be put on govdeals. He will get it posted either Monday or Tuesday of next week.

Mr. McNaughton added that it will look different the next time that we meet. We will continue to move forward.

Service Director Stredney asked council if they could have a meeting prior to the next council meeting on August 15th with the Regional Chamber. The meeting will be at 5:15 P.M.

ADJOURN

It was moved by Lastic, seconded by Kearney to adjourn the meeting.



Nicole Bacak, Clerk of Council



BARRY STEFFEY, JR., President of Council