

**COUNCIL MEETING MINUTES**  
**September 19, 2018**

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

Niles City Council held its regular meeting on September 19, 2018 at 6:00 p.m. in Council Chambers Safety Service Complex in Niles, Ohio.

The meeting was called to order by Council President Barry Steffey Jr., and the Clerk, Nicole Bacak, called the roll:

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

It was moved by Marchese, seconded by Lastic to accept the Minutes from the September 5<sup>th</sup> meeting and place them on file.

Motion carried.

**REPORTS AND COMMUNICATIONS**

**FROM** – Auditor's Office

Statement of Cash from Revenue and Expense- August 2018

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

**FROM** – Auditor's Office

Check Report by Check Number- August 2018

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

**MEMBERS OF THE AUDIENCE TO ADDRESS COUNCIL**

(Public comments began at 1:38 into the recording)

Barry Steffey Sr.: 3636 Boston Ave. Howland Township. Mr. Steffey would like to know if he can get the number of residents in Howland Township that are serviced with water and electric with the city of Niles. President Steffey said he believes he can with a public records request.

Mr. Steffey stated that he has never had a problem with the electric problem. Whenever anybody needs them, they are out there immediately. In the last two years, he has had issues with water in his front yard. Last year, he had a swamp in his yard for 6 weeks before he could get anybody from the water department to come and look at it. It took another 2 weeks to replace it and fill it in. After that, it took another 2 weeks to get dirt. The first of which, they hauled in rocks and dumped those in his lawn.

This year, his neighbor called the water department because they have no one else to call. They do not have council members to call. They pay more for their electric and more for their water but are second rate citizens and he is tired of it. The second break this year they had to replace a half of block of water line. After 6 weeks of calling, his neighbor called and she was talked to very rudely by the water department, billing department, and secretaries telling her don't worry about a broken water line. You have a boiler alert.

He would like to know the amount of money taken in by the city of Niles from Howland and Weathersfield on a yearly basis. And yet, he doesn't have a council person to call. Ms. Marchese asked if the council at large members could help with these situations. President Steffey said they could. But it doesn't make up for the fact the resident has shared his bad experience. Mr. Steffey doesn't think if you were a citizen of Niles, it would take 6 weeks to get someone to come out and fix a swamp in your yard. He has talked to several people on his street and they are all fed up with it.

As far as the electrical department is, they have done an outstanding job and he would like to thank them and he appreciates them. He feels something needs done for citizens who live outside the city but pay for utilities.

Ms. Marchese asked Mayor Mientkiewicz what can be done to help assist these citizens. Mayor Mientkiewicz said he wasn't sure when this situation occurred. In his short 2 months, we have had some issues outside of city limits and they were addressed. He hasn't had any issues since the concerns were addressed. Mr. Steffey said the first time they reported the break on Boston, a Niles city pick-up truck and backhoe came out, stopped, looked, and left and it was over 2 weeks after that before anyone came back out to fix it. Service Director Flarey asked when this took place. Mr. Steffey said it was approximately the end of June, beginning of July. Mayor Mientkiewicz said that was under the previous Service Director and Mayor. He understands what he is saying and these things shouldn't happen.

Mr. Steffey asked who he can call instead of being treated like a second class citizen. Service Director Flarey said he can call him directly. He will give him his cell phone number after the meeting.

**COUNCIL COMMITTEE REPORTS**

None

**ORDINANCES AND RESOLUTIONS**

(Legislation began at 8:21 into recording)

**ORDINANCE NO. \_\_\_\_ ( Draft No. 90-18)**

**AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO PURCHASE A 50' DIGGER DERRICK FOR THE LIGHT DEPARTMENT; AND, DECLARING AN EMERGENCY**

It was moved by Marchese, seconded by Lastic to give a 3rd reading to this Draft No. 90-18.

**YEAS: 7      NAYS: 0**

It was moved by McNaughton, seconded by Kearney to adopt this Draft No. 90-18.

**YEAS: 7      NAYS: 0**

This Draft No. 90- 18 has been adopted on the 19th day of September 2018.

**RESOLUTION NO. \_\_\_\_ ( Draft No. 87-18)**

**A RESOLUTION APPROVING THE “SOCIAL MEDIA POLICY”**

It was moved by McNaughton, seconded by Lastic to amend the policy based on the recommendations of the Law Director since the 1<sup>st</sup> reading.

**YEAS: 7      NAYS: 0**

It was moved by Cantola, seconded by McNaughton to give a 2<sup>nd</sup> reading to this Draft No. 87-18.

Ms. Marchese has some concerns in regards to this legislation based on the research she has done. She is concerned that we can be sued at some point because we can't control what people



do on their personal site if they aren't doing it on work hours. She is against punishing someone after reading some stuff.

Law Director Swauger stated he understands but you can control what they post on their own personal time if it's disparaging to the city, if they are using the official city logo. Even if it is their own personal time, we are allowed to regulate how they act in that regard. They still have their first amendment rights. They can post their own personal opinions but we can have policies in place to protect the city.

Ms. Marchese mentioned if an employee is having a problem that isn't being settled and maybe they wrote it on their own time. She knows they aren't allowed to do it during working hours. She just isn't sure about this policy as a whole. Law Director Swauger said he drafted it based on various social media policies and seminars. This is not an uncommon policy. Ms. Marchese wants to make sure he looked at the lawsuit side. Law Director Swauger said you lose lawsuits when you don't have policies in place and then you try to react afterwards. The problem we get into is when we have uneven application because we have no policy in place.

Law Director Swauger mentioned about the billing policy. We want to have a billing policy in place that makes it consistent so everyone can know what the rules are. We don't want to make them up as we go along. Ms. Marchese asked if each case will be evaluated based on the comments being made on or off company time. Law Director Swauger said we can punish for either if he falls within the parameters. Ms. Marchese wants to know how we go about saying an employee is wrong if they are having a problem and they are not getting anywhere with anything and maybe nobody is listening to that employee's side and they decide to bring it out. Law Director Swauger stated that if they have a personal problem with their working condition, there is a process to go through. Report it your direct supervisor, then it goes to the Mayor, and then after that they have government recourses to go. They can go to their union, the civil service commission. There are all kinds of opportunities available for them if they follow procedure. They all have a copy of their contract.

Mr. McNaughton also pointed out that the research shows that whistleblowers are protected. If an employee brings something to light from a whistleblower perspective, they will not be punished. This is common sense. He has a full time job and works at Kent State. He can go on-line and complain about his employer and they can punish him. Why would he do that? These types of policies are beyond common sense. The city has the right to conduct its business as it deems fit to be able to provide basic and necessary services. The first amendment rights are protected. Niles is in a better position to be able to write something like this today because of the missteps that others have made. He is a big fan of professionalizing a city and common sense goes a long way with of professionalizing a city.

Ms. Marchese asked what a whistleblower does. Mr. McNaughton explained they bring to light things. If people are stealing, breaking the law, crap that happened in this city for 20 years, that's what. He encourages people to whistle blow. He doesn't want other council members to go through what they have had to go through to fix it.

Mr. Cantola asked if we have a Facebook person in the city. Law Director Swauger doesn't believe they do. The Park's department does run their own page through the Park Director. And the Police and Fire do. Part of the changes to the policy that were submitted were adopted from Chief Holland's policy. One of the things it said in there was if what you write, you wouldn't be comfortable saying to your boss or having your boss read it, then really you should consider not putting it on social media. President Steffey asked Chief Holland how long he has had this policy in place. Chief Holland replied since he took over as Chief so approximately 2 and a half years. And he hasn't had any issues in regards to this policy. Any time he issues a new policy, the unions have to review it and he has not had any issues.

**YEAS: 7    NAYS: 0**

This Draft No. 87-18 has received its second reading on the 19th day of September 2018.

**RESOLUTION NO. \_\_\_\_ ( Draft No. 102-18)**

**A RESOLUTION AMENDING RESOLUTION NO. 68-18 AUTHORIZING THE MAYOR AND/OR SERVICE DIRECTOR TO ADVERTISE FOR BIDS FOR THE McKEES LANE EMERGENCY BYPASS SANITARY SEWER PROJECT; AND, DECLARING AN EMERGENCY**

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

**YEAS: 7    NAYS: 0**

Rules are suspended.

It was moved by McNaughton, seconded by Cantola to adopt this Draft No. 102-18.

**YEAS: 7    NAYS: 0**

This Draft No. 102- 18 has been adopted on the 19th day of September 2018.

**RESOLUTION NO. \_\_\_\_ ( Draft No. 103-18)**

**A RESOLUTION APPROVING THE EIGHTH REVISED FINANCIAL PLAN REQUIRED BY OHIO REVISED CODE SECTION 118.06 FOR SUBMISSION TO THE FINANCIAL PLANNING & SUPERVISION COMMISSION FOR THE CITY OF NILES; AND, DECLARING AN EMERGENCY**



It was moved by Marchese, seconded by Kearney to give a 1<sup>st</sup> reading to this Draft No. 103-18.

**YEAS: 7    NAYS: 0**

This Draft No. 103- 18 has been adopted on the 103th day of September 2018.

**ORDINANCE NO. \_\_\_\_ ( Draft No. 104-18)**

**AN ORDINANCE CREATING THE POSITION OF OPERATOR TRUCK DRIVER OPERATOR WORK LEADER; AMENDING THE AUTHORIZED WORK FORCE ORDINANCE TO REFLECT THIS NEWLY DESIGNATED POSITION; AND, DECLARING AN EMERGENCY**

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

**YEAS: 7    NAYS: 0**

Rules are suspended.

Mayor Mientkiewicz clarified that this is not an additional hire in the work force.

It was moved by Lastic, seconded by McNaughton to adopt this Draft No. 104-18.

**YEAS: 7    NAYS: 0**

This Draft No. 104- 18 has been adopted on the 19th day of September 2018.

**RESOLUTION NO. \_\_\_\_ ( Draft No. 105-18)**

**A RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED GENERAL FUND 101 TO THE GENERAL FUND BUILDING AND ZONING REFUNDS ACCOUNT; AND, DECLARING AN EMERGENCY**

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

**YEAS: 7    NAYS: 0**

Rules are suspended.

It was moved by McNaughton, seconded by Smith to adopt this Draft No. 105-18.

**YEAS: 7    NAYS: 0**

This Draft No. 105- 18 has been adopted on the 19th day of September 2018.

**RESOLUTION NO. \_\_\_\_\_( Draft No. 106-18)**

**A RESOLUTION AUTHORIZING THE CASH TRANSFER FROM THE GENERAL FUND 101 TO THE VARIOUS FUNDS; AND, DECLARING AN EMERGENCY**

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

Mr. Cantola asked Auditor Merlo what account the 255 Cemetery fund that was. In August we did the same thing for \$12,000. Auditor Merlo explained that 255 is the Cemetery fund. We transfer money from the General fund to the Cemetery to operate the Cemetery. This is wages, benefits, operations, as needed. Cash transfer we used to do quarterly, but as we expressed in the past, as the General Fund now starts to become healthy we should do these monthly so there is never a carry of a negative balance.

**YEAS: 7    NAYS: 0**

Rules are suspended.

It was moved by Cantola, seconded by McNaughton to adopt this Draft No. 106-18.

**YEAS: 7    NAYS: 0**

This Draft No. 106- 18 has been adopted on the 19th day of September 2018.

**ORDINANCE NO. \_\_\_\_\_( Draft No. 107-18)**

**AN ORDINANCE APPROVING A THEN AND NOW PAYMENT REQUEST AUTHORIZING THE AUDITOR TO MAKE PAYMENT TO THE EASTGATE REGIONAL COUNCIL OF GOVERNMENTS; AND, DECLARING AN EMERGENCY**

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

**YEAS: 7    NAYS: 0**

Rules are suspended.

It was moved by Kearney, seconded by McNaughton to adopt this Draft No. 107-18.

**YEAS: 7    NAYS: 0**

This Draft No. 107- 18 has been adopted on the 19th day of September 2018.

**ORDINANCE NO. \_\_\_\_\_( Draft No. 108-18)**

**AN ORDINANCE AMENDING CODIFIED ORDINANCE NO. 925.03(A) BY INCREASING THE MONTHLY SERVICE FEE RATES CHARGED FOR THE USE OF THE SANITARY SEWAGE SYSTEM: FOR THE YEARS 2019 THROUGH 2022; AND DECLARING AN EMERGENCY**

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

**YEAS: 4    NAYS: 3**

Rules are not suspended.

It was moved by Cantola, seconded by Marchese to give a 1<sup>st</sup> reading to this Draft No. 108-18.

**YEAS: 7    NAYS: 0**

This Draft No. 108- 18 has received its first reading on the 19th day of September 2018.



## MISCELLANEOUS REMARKS

(Miscellaneous remarks began at 29:15 into recording)

Mayor Mientkiewicz wanted to inform everyone that there is a rededication that will be taking place at 2:00 P.M. at Veteran's Memorial Park, the Circle Street Park across the street from Giant Eagle. If anyone has a chance to stop out, they will be rededicating the park to veterans.

Mayor Mientkiewicz also gave an update on the water meter project. If council has any constituents that are calling, please make sure that they are scheduling their appointments on time. The only hiccup seems to be people not scheduling their appointments. President Steffey asked if we are about 20% complete in the project. Mayor Mientkiewicz said most of the first zone has been completed. They are four zones. They will start moving into the second zone. He has received some calls from people about not receiving their letter yet. People will not receive their letters at the same time. We have been over this multiple times. The letters are sent out by zones and areas.

Ms. Marchese asked if Mayor Mientkiewicz is getting any complaints on people making appointments and then them not showing up. Mayor Mientkiewicz did confirm he has received a couple complaints on this. His neighbor has his happen. His neighbor had an appointment scheduled and no one showed and called NECO and were told they did not have them in the appointment book. At his last progress meeting with NECO, this was brought up. He was told they would be talking to the office in Cincinnati where all of the scheduling goes through. This was brought to their attention.

Mr. Robertson informed council that a couple of weeks ago, he received a letter about the application he submitted through CBDG. We did receive a \$300,000 critical infrastructure grant to do Difford Drive. Repair water lines. President Steffey said this is great.

Mr. Catanzarite thanked the administration for filling his two vacant positions in the water department. This will help out. President Steffey stated this will help with out of city repairs. Service Director Flarey reminded everyone that these employees will be a little green so give them a little time.

Mr. McNaughton wanted to follow up on what Mayor Mientkiewicz said about the park. He wanted to thank BethAnn and Aimee and that group for all the work they put in. It looks fantastic. He wanted to thank them for doing that for honoring the folks that should be honored.

Mr. Cantola had just one piece he would like to air or bring up. He is a little disappointed in the McKees Lane thing. It had gone through council that we were going to \$260,000 on the \$288,000 job that has now turned out to be a \$500,000 job. And we are still only receiving the \$260,000, which means the city will have to absorb \$241,000 where we thought we were only going to be absorbing \$29,000. He understands that things came about and he is okay with that and that's why he voted the way he did today. But his concerns are where did we receive those initial numbers from that we look very hard the next time we look at from those individuals of



how that got quoted out like it did. He thinks that if we would have approached emergency with a \$500,000 we probably would have received more than the \$260,000 we got, which wouldn't have hurt the city as much as the \$241,000.

Mr. Robertson explained that he did talk to the State about this and he was told that there will be money available. The State isn't sure, based on the amount we came back with, how much more money we would be able to receive but there will be an opportunity to possibly get additional funding towards it. He cannot give us an exact number at this time though. But once it is bid out and we get a fine number, we may be able to get more money.

Mr. Cantola thanked Mr. Robertson for staying on top of this and for bringing that up to council. That's a key piece to the puzzle. He appreciates all of his efforts going forward. Again, he doesn't know where that first number came from, that \$288,000. Not saying it was Mr. Robertson or anybody at the County or anybody in particular. He is just saying we need to be careful because of how urgent it was to move forward on this. Now that we are moving in the right direction with true numbers, hopefully we can get the State to absorb some more of the funding. That would be great.

Ms. Marchese would like to call a Safety Meeting for next Tuesday. She would like Mr. Vigorito and Law Director Swauger to get together on the metal roofs so she can get that package put together and finalized. She is looking for 4:00 P.M. for the meeting.

Also, Ms. Marchese wanted to inform Chief Holland that she is getting complaints about the four wheelers. They are cutting the corners, the grass. They are flying up and down Olive Street, Henry, and Summit. It is getting out of hand again. They are going on the sidewalks also. Chief Holland stated the calls on Summit Street were responded to within less than 5 minutes. A patrol car would get there and then the four wheeler would duck into the woods. It is hard for them to catch them then but when they do, they do take action. Ms. Marchese has also received complaints from people coming out of Autumn Hills almost getting hit because they are flying down there and driving on the sidewalks. It is going until 1:00 A.M.- 3:00 A.M. It is crazy on the weekends. She thinks they are coming down Henry. Chief Holland said he will have night turn pay more attention to that.

Ms. Smith called a Finance Committee Meeting for next Thursday at 4:00 P.M. in the lower conference room. Ms. Smith also wanted to thank Ms. Ford for providing the zoning information from NECO. It will be very helpful for when people call and ask questions.

Mr. Kearney asked Mayor Mientkiewicz about the letters from NECO. He wanted to know if the property is a rental, does the letter go out to both the homeowner and the renter? Mayor Mientkiewicz said he would double check on that. Mr. Kearney stated he is aware of a situation of where this has happened. Ms. Ford said if the tenant's name is on the account, it's going to the tenant. They do have some of the landlords separately so they are trying to send them to the landlords as well.

President Steffey asked Ms. Ford if they have both the owner's information and renter's information on rentals in the system. Ms. Ford said a lot of the accounts have a second contact

which is the landlord. If that is there, then they are also getting a letter. Mr. Kearny said he had a situation where one renter got a letter and one renter did not and the landlord was curious how that works.

President Steffey asked City Council to consider moving the time of the October 3<sup>rd</sup> from 6:00 P.M. to 6:30 P.M. due to scheduling. If so, he needs someone to make a motion.

It was moved by Cantola, seconded by Lastic to move the October 3<sup>rd</sup> meeting start time to 6:30 P.M.

**YEAS: 7    NAYS: 0**

Motion carried.

**ADJOURN**

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

  
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Nicole Bacak, Clerk of Council

  
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Barry Steffey Jr., President of Council