

**COUNCIL MEETING MINUTES**  
**October 21, 2020**

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

Niles City Council held its regular meeting on October 21, 2020 at 6:00 p.m. at the Niles Senior Center Complex in Niles, Ohio.

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

Lastic- P, McNaughton-P, Profato-P, Cantola-P, Marchese-P, Smith- P, Sollitto-P, Marino-P

It was moved Smith seconded by Marchese to accept the minutes from the October 7<sup>th</sup> meeting and place them on file.

Motion carried.

**REPORTS AND COMMUNICATIONS**

**FROM-**Ohio Division of Liquor Control

Notice to Legislative Authority- Columbus Hospitality LLC DBA Eastwood Event Centre

It was moved by Marchese, seconded by Cantola to refer to the Police Chief for his recommendation.

Motion carried.

**FROM-** Auditor's Office

Statement of Cash from Revenue and Expense- September 2020

It was moved by Smith, seconded by Sollitto to accept and place it on file.

Motion carried.

**FROM-** Auditor's Office

Check Report by Check Number- September 2020

It was moved by Smith, seconded by Lastic to accept and place it on file.

Motion carried.

**MEMBERS OF THE AUDIENCE TO ADDRESS COUNCIL**

(Public comments began at 2:23 into recording)

Dee Seeben: 611 Warren Ave. Ms. Seeben asked when the city building was going to opened. Mayor Mientkiewicz explained that the west entrance of the building is open to the public. You need to sign in and pick up the phone and call the department you are there to see. Currently, there are masks and hand sanitizer available and in a few weeks the city will have temperature checks and mask scanners. Ms. Seeben asked if you can pay your bill at this entrance and Mayor Mientkiewicz said yes. You can go in and call the billing office and someone will come down and take your payment. People can always use the drop off box or pay online.

Ms. Seeben also wanted to know where the laptops were going with the COVID money that is being distributed. Mayor Mientkiewicz said those are going out city wide to employees who need them to be on zoom meetings and/or work from home. The desktop computers do not have microphones or cameras.

Ms. Seeben wanted to know if the city needs a scrubber for the wellness center. Mayor Mientkiewicz said yes, they do because it also sanitizes.

Beth Nolan: 26 Beaver creek Dr. Ms. Nolan stated she has been asked by multiple people about the paving of West Park. She knows there has been talk about it being postponed until next year. She wanted Mayor Mientkiewicz to confirm if and when this was going to get done. Mayor Mientkiewicz said West Park is absolutely getting paved. The city does a grant secured for it. The project has been reviewed and approved by ODOT and it is currently out for bid. A lot of the federal projects were on hold and due to the delay because of COVID we may to wait and pave next year. If it cannot get done this year in November, it will be the first project next year.

## **COUNCIL COMMITTEE REPORTS**

**NONE**

## **ORDINANCES AND RESOLUTION**

(Legislation began at 6:53 into recording)

Prior to introducing legislation, President Marino wanted to inform council on how he is going to entertain motions moving forward. The first motion made and seconded is what will be entertained. If there is a delay to second a motion and a motion to suspend is made, he will entertain that motion. If someone makes a motion for a first, second or third reading and there is a delay to seconded it, if someone makes a motion to suspend, that motion will be entertained based on the direction of the law director and their rules.

President Marino said it would also be his preference that the individual sponsoring the ordinance, lead the vote of the item ordinance he/she sponsored so that we don't get caught up in confusion. He hopes this clarifies things.

Mr. Sollitto asked if the motion to suspend will take precedence. If he puts out a motion for a first reading and Ms. Marchese immediately says motion to suspend, then the motion to suspend takes precedence? President Marino said yes it does.

Mr. Cantola understands all of this but from a council standpoint, he thinks the second should only come after President Marino asks for a second motion. President Marino said if there is a motion for a first reading, he is going to look for a second. If there is a motion for a first reading and a motion for a suspension, he will entertain the motion for the first reading first. He hopes he doesn't have to prod for a second motion.

Mr. Profato asked if it would be a smart idea to have whoever sponsored the legislation to make the motion because that is a priority to the person. He thinks that is the way it should be. President Marino agreed with Mr. Profato. He reminded council that they have the right to review their rules on the way in which they want them to read.

President Marino said it would also be his hope that out of professional and collegial courtesy that council looks to the sponsor and then if there is a pause or a lag, and it does happen, there needs to be a point of personal responsibility in the individual who sponsored it. If council would like to meet on revising their rules, let him know because he would be happy to meet on this. Mr. Sollitto would suggest that they do that because he is hearing President Marino say two different things. If you put in for the first reading, then you will allow for the second but he would want a suspension of rules at that point it would take precedence.

President Marino said what he would consider a disrespectful situation is if the chairperson of the committee is making a motion for a first reading and someone else jumps on and makes a motion for suspension. He is going to look for a second to that motion and then it is up to council anytime to make a motion to overrule him. He serves at the pleasure of council. Mr. Sollitto respects whatever the Law Director says, and he has given his ruling.

Law Director Zuzolo stated that on the direction of council, he did his own research and took our rules and spoke to the Ohio Attorney General's office for the way they interrupt Robert's Rules and operating them. These are council's rules. They are not law and they can change them if they chose. They just cannot be in violation of ORC. For example, you cannot adopt an ordinance unless it has been read three times, unless it has been suspended. For order purposes, there are orders of precedence for motions.

What the first and second motions are doing is bringing the item up for debate. It is in that period, any motion that is at a higher precedence can be made by any member of council. For example, there is a motion for a first reading (which is the lowest precedence) and a motion to suspend is made, that would take precedence. It also would need a super majority and it bumps the first reading. You deal with them in the order in which they come. If the motion to suspend would not have received 6 votes, then it goes back to the first reading and then you have your questions and comments.

President Marino agreed. If he has a motion for a first reading, he is going to look for a motion for a second and that is the motion they will act on. He has been here a long time and this has never ever happened to the best of his recollection. It is his hope, moving forward, the committee chair lead their ordinances through and vote and move on.

Mr. Cantola asked if those are Robert's Rules and not necessarily city council's rules and Law Director Zuzolo said that is correct. However, council has rules that reference motions and voting in different areas. So, to interpret how these play out in practice, the only reference he has is Robert's Rules. You can vote no as council and you can change your rules.

Mr. Sollitto said you can have a hybrid of the two, but all city meetings are governed by Robert's Rules of Order. It is the backbone of it all and it is the general guideline for everything.

**ORDINANCE NO. \_\_\_\_\_ (Draft No. 103-20)**

**AN ORDINANCE ALLOWING THE SERVICE DIRECTOR TO APPLY FOR FEDERAL SURFACE TRANSPORTATION PROGRAM (STP) FUNDS PROGRAMMED BY THE EASTGATE REGIONAL COUNCIL OF GOVERNMENTS (EASTGATE) FOR STREET RESURFACING; AND, DECLARING AN EMERGENCY**

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

**YEAS: 7      NAYS: 0**

Rules are suspended.

It was moved by Lastic, seconded by Smith to adopt this Draft No. 103-20.

**YEAS: 7      NAYS: 0**

This Draft No. 103- 20 has been adopted on the 21st day of October 2020.

**ORDINANCE NO. \_\_\_\_\_ (Draft No. 109-20)**

**AN ORDINANCE AUTHORIZING BUDGET TRANSFERS FROM THE FOLLOWING SEWER FUNDS ACCOUNT 5430 OPERATIONAL SUPPLIES TO THE CONTRACTED LABOR ACCOUNT 5398; AND, DECLARING AN EMERGENCY**

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

**YEAS: 7      NAYS: 0**

Rules are suspended.

It was moved by Cantola, seconded by Sollitto to adopt this Draft No. 109-20.

**YEAS: 7      NAYS: 0**

This Draft No. 109- 20 has been adopted on the 21st day of October 2020.

**ORDINANCE NO. \_\_\_\_\_( Draft No. 110-20)**

**AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR OR HIS DESIGNATED REPRESENTATIVE TO ENTER INTO CONTRACT WITH BURGESS & NIPLE FOR PROFESSIONAL ENGINEERING SERVICES IN RELATION TO THE “DIZZY BRIDGE” SANITARY SEWER AND, DECLARING AN EMERGENCY**

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

**YEAS: 7      NAYS: 0**

Rules are suspended.

It was moved by Smith, seconded by Sollitto to adopt this Draft No. 110-20.

**YEAS: 7      NAYS: 0**

This Draft No. 110- 20 has been adopted on the 21st day of October 2020.

**ORDINANCE NO. \_\_\_\_\_( Draft No. 111-20)**

**AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR OR HIS DESIGNATED REPRESENTATIVE TO ENTER INTO CONTRACT WITH DUKES ROOT CONTROL FOR PROFESSIONAL SERVICES RELATED TO “DRAGON DRIVE” SEWER STORM AND SANITARY STUDY 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 Lastic, seconded by Smith to adopt this Draft No. 111-20.

**YEAS: 7     NAYS: 0**

This Draft No. 111- 20 has been adopted on the 21st day of October 2020.

**ORDINANCE NO. \_\_\_\_\_( Draft No. 112-20)**

**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$410,000 TO PAY COSTS OF ACQUIRING AND EQUIPPING VEHICLES FOR THE CITY'S SERVICE DEPARTMENTS, INCLUDING A STREET SWEEPER AND HOE RAM, INCLUDING ALL NECESSARY APPURTENANCES, AND DECLARING AN EMERGENCY.**

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

Mayor Mientkiewicz wanted to clarify to council the next few pieces of legislation on the agenda. The items that they will be voting on is to replace a Ram Hoe that is a 1997, a street sweeper that is a 2005, and Rescue 8 is a 2000. All three pieces of equipment have reached their lifespan and ran their course. There are mechanical issues with these items, and they are in need of constant work.

Ms. Marchese asked how long these items will take to come in and Mayor Mientkiewicz said they will be publicly bid out. They hope to have specs out by Friday and put out for bid the following week.

**YEAS: 7     NAYS: 0**

Rules are suspended.

It was moved by Cantola, seconded by McNaughton to adopt this Draft No. 112-20.

**YEAS: 7     NAYS: 0**

This Draft No. 112- 20 has been adopted on the 21st day of October 2020.

**There were three letters to city council for three pieces of legislation for the bond. The clerk read the three letters into the minutes:**

**FISCAL OFFICER'S CERTIFICATE**

To the Council of the City of Niles, Ohio:

As fiscal officer of the City of Niles, Ohio, I certify in connection with your proposed issue of bonds in the maximum aggregate principal amount of \$610,000 (the "Bonds") for the purpose of paying the costs of acquiring and equipping a fire truck, including all necessary appurtenances (the "Improvement"), that:

1. The estimated life or period of usefulness of the Improvement is at least five (5) years.
2. The maximum maturity of Bonds, calculated in accordance with Section 133.20 of the Ohio Revised Code, is ten (10) years.

**FISCAL OFFICER'S CERTIFICATE**

To the Council of the City of Niles, Ohio:

As fiscal officer of the City of Niles, Ohio, I certify in connection with your proposed issue of bonds in the maximum aggregate principal amount of \$410,000 (the "Bonds") for the purpose of paying the costs of acquiring and equipping vehicles for the City's Service Departments, including a street sweeper and hoe ram, including all necessary appurtenances (the "Improvement"), that:

1. The estimated life or period of usefulness of the Improvement is at least five (5) years.
2. The maximum maturity of Bonds, calculated in accordance with Section 133.20 of the Ohio Revised Code, is ten (10) years.

**SUPPLEMENTAL FISCAL OFFICER'S CERTIFICATE**

TO THE COUNCIL OF THE CITY OF NILES, OHIO:

As fiscal officer of the City of Niles, Ohio, and supplementing my prior certificates, I certify in connection with your proposed issue of bonds in the maximum principal amount of \$4,745,000 (the Bonds) for the purpose of refunding certain of the City's outstanding Various Purpose Improvement Bonds, Series 2011, dated November 8, 2011 (the Series 2011 Bonds), which were issued to pay costs of (i) constructing, furnishing and equipping a multiuse indoor municipal recreation facility and the site thereof, (ii) improving the City's water system by the construction of a pump station, waterlines and all necessary appurtenances, and (iii) improving the City's sanitary sewer system, including all necessary appurtenances (collectively, the improvements), that:

1. The estimated life or period of usefulness of the improvements described above was, at the time of issuance of the Refunded Bonds, at least five years.

2. The estimated maximum maturity of the Bonds, calculated in accordance with Sections 133.20 and 133.34(A)(3) of the Revised Code, is not later than December 31, 2031, which is the year of last maturity permitted by law for the Series 2011 Bonds and was calculated consistently with the provisions of Section 133.20 of the Revised Code.

It was moved by Sollitto, seconded by Lastic to accept these letters and place them on file. Motion carried. (Unanimously)

**ORDINANCE NO. \_\_\_\_ (Draft No. 113-20)**

**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$610,000 TO PAY COSTS OF ACQUIRING AND EQUIPPING A FIRE TRUCK, INCLUDING ALL NECESSARY APPURTENANCES, AND DECLARING AN EMERGENCY.**

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



**YEAS: 7      NAYS: 0**

Rules are suspended.

It was moved by Cantola, seconded by Sollitto to adopt this Draft No. 113-20.

**YEAS: 7      NAYS: 0**

This Draft No. 113- 20 has been adopted on the 21st day of October 2020.

**ORDINANCE NO. \_\_\_\_\_ (Draft No. 114-20)**

**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$4,745,000 FOR THE PURPOSE OF PAYING COSTS OF REFUNDING AT A LOWER INTEREST COST CERTAIN OF THE CITY'S OUTSTANDING VARIOUS PURPOSE IMPROVEMENT BONDS, SERIES 2011, DATED NOVEMBER 8, 2011, AND DECLARING AN EMERGENCY.**

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

**YEAS: 7      NAYS: 0**

Rules are suspended.

It was moved by Lastic, seconded by McNaughton to adopt this Draft No. 114-20.

**YEAS: 7      NAYS: 0**

This Draft No. 114- 20 has been adopted on the 21st day of October 2020

**RESOLUTION NO. \_\_\_\_\_ (Draft No. 115-20)**

**A RESOLUTION AUTHORIZING THE SAFETY DIRECTOR TO ISSUE A REQUEST FOR PROPOSALS FOR THE PURCHASE OF A NEW FIRE TRUCK FOR THE CITY OF NILES AND, DECLARING AN EMERGENCY**

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

**YEAS: 7      NAYS: 0**

Rules are suspended.

It was moved by Marchese, seconded by Cantola to adopt this Draft No. 115-20.

**YEAS: 7      NAYS: 0**

This Draft No. 115- 20 has been adopted on the 21st day of October 2020.

**RESOLUTION NO. \_\_\_\_\_( Draft No. 116-20)**

**A RESOLUTION AUTHORIZING THE SERVICE DIRECTOR TO ISSUE A REQUEST FOR PROPOSALS FOR THE PURCHASE OF A NEW STREET SWEEPER FOR THE CITY OF NILES AND, DECLARING AN EMERGENCY**

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

**YEAS: 7      NAYS: 0**

Rules are suspended.

It was moved by Marchese, seconded by Smith to adopt this Draft No. 116-20.

**YEAS: 7      NAYS: 0**

This Draft No. 116- 20 has been adopted on the 21st day of October 2020.

**RESOLUTION NO. \_\_\_\_\_( Draft No. 117-20)**

**A RESOLUTION AUTHORIZING THE SERVICE DIRECTOR TO ISSUE A REQUEST FOR PROPOSALS FOR THE PURCHASE OF A NEW RAM HOE FOR THE CITY OF NILES AND, DECLARING AN EMERGENCY**

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

**YEAS: 7      NAYS: 0**

Rules are suspended.

It was moved by McNaughton, seconded by Lastic to adopt this Draft No. 117-20.

**YEAS: 7      NAYS: 0**

This Draft No. 117- 20 has been adopted on the 21st day of October 2020.

**ORDINANCE NO. \_\_\_\_ ( Draft No. 118-20)**

**AN ORDINANCE AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE CORONAVIRUS RELIEF FUND 220 FOR THE PURPOSE OF PURCHASING THE FOLLOWING ITEMS TO PREVENT FURTHER SPREAD OF COVID19 AND DECLARING AN EMERGENCY.**

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

**YEAS: 7      NAYS: 0**

Rules are suspended.

Law Director Zuzolo reminded council that now that they are ready to do a motion to adopt, Mr. Cantola could ask for the amended draft to come in.

It was moved by Lastic, seconded by Sollitto to adopt this Draft No. 118-20.

**YEAS: 7      NAYS: 0**

This Draft No. 118- 20 has been adopted on the 21st day of October 2020

**ORDINANCE NO. \_\_\_\_ ( Draft No. 119-20)**

**AN ORDINANCE AUTHORIZING THE APPROPRIATION FROM THE UNAPPROPRIATED WATER FUND 501 AND THE UNAPPROPRIATED SEWER FUND 503 TO THE WATER FUND TECHNOLOGY ACCOUNT 501-5151-56800 AND THE SEWER FUND TECHNOLOGY ACCOUNT 503-5353-56800 IN A TOTAL AMOUNT OF \$16,050.00 AND, DECLARING AN EMERGENCY**

Mayor Mientkiewicz reminded council that this piece of legislation is time sensitive on this software upgrade. Our current software will not be supported.

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

**YEAS: 7     NAYS: 0**

Rules are suspended.

It was moved by Smith, seconded by Sollitto to adopt this Draft No. 119-20.

**YEAS: 7     NAYS: 0**

This Draft No. 119- 20 has been adopted on the 21st day of October 2020

### **MISCELLANEOUS REMARKS**

(Miscellaneous remarks began at 38:12 into recording)

Mayor Mientkiewicz wanted to add to his comments earlier about the city building. The constituents are more than welcome to come to the building and meet with him or other elected officials. He meets with people daily. There is only the one entrance due to COVID. He does not want anyone to think that the entire city building is locked down. That is not the case.

Mayor Mientkiewicz updated council that the cemetery resurfacing did begin. Most of the sections are ground out and they are hoping the paving is completed next Friday.

Auditor Merlo said he will get all of the information over to bond counsel once everything is signed. There are more COVID items that need to be discussed. He hopes that there can be a committee meeting soon because there are items for the police and fire departments that need to be addressed. We do have to spend this money by the end of the year and have it encumbered by the middle of November. He hopes that between Safety and Finance there can be a meeting scheduled sooner rather than later. President Marino asked if there are any carryover provisions and Auditor Merlo said no.

Law Director Zuzolo told council he is going to need an executive session to speak about pending litigation. It will be very brief.

Treasurer Telago gave an update that RITA has sent out non filing letters to people within the city for the filing year of 2019. There were approximately 3785 non-filers and letters were sent out. He does have copies of the forms that were sent out. There was some confusion because

some people might have received only half of a form instead of the full form. He has also asked the Tribune to put an article in the paper about this.

Also, he sent out his monthly report on income tax collections. Totals are \$778,387.70 for the month. YTD \$7,631,602.10. For the same time period for 2019, MTD was \$1,575,000 in gross and YTD \$8,511,573. We will have a better idea at the end of the year where we will be.

Mayor Mientkiewicz asked if the number of non-filers is up from last year and Treasurer Telago said it is about the same.

Mr. Vigorito wanted to update council on the new businesses coming in. There is a Rally's going in on the corner of Robbins Ave. BOSCOV'S at the mall is moving along and would like to be open by the end of the year. There is a new buffet going in at the location of Old Town Buffet. As soon as the governor allows buffets to open, United Buffet will open.

Mr. McNaughton wanted to publicly give appreciation to Auditor Merlo and his team for their steadfast work on allowing us to save money but still improving the city. He really appreciates that work that he and his office has done, especially being in a pandemic.

Mr. McNaughton did ask Mayor Mientkiewicz about trick or treat. He has been getting some questions about if it will still happen. Is it still going to be the 31<sup>st</sup>, or will they push it back if the COVID numbers continue to climb? Mayor Mientkiewicz said he is getting the same calls. The city is still moving forward with traditional trick or treat and following the guidelines set out by Trumbull County Health Department and the Ohio Department of Health. If things escalate and the governor or health department says no, they will cancel, and notices will be sent out. If people do not feel comfortable, they do not have to participate. No one is being forced to participate. Right now, nothing has been discussed about cancelling.

Ms. Marchese did say that the numbers are increasing, and things are getting bad. Mr. McNaughton agreed and said that we have gone from 19 cases to 74 cases in four weeks and it is not slowing down. He wanted to applaud the administration for the measures they are taking in the city. He knows it is frustrating for some of the citizens that the building is not completely open. But they are following what the professionals are telling you to do. Sometimes it is really difficult to do and you need to take a tough stance and he thinks it is the right one at this time. Everyone needs to consider what our next steps will be if the numbers continue to rise.

Ms. Marchese would like to schedule a Safety Meeting for Wednesday, October 28<sup>th</sup> @ 4:45 P.M. in the lower level conference room.

Mr. Sollitto wanted to piggyback on what Mr. McNaughton said. The numbers he has received show Trumbull County at the highest it has ever been. He knows the Mayor will make the right call and they will probably need to look at this very aggressively soon.

It was moved by Marchese, seconded by Profato to adjourn into executive session pursuant to ORC code 121.22 for the purpose of pending litigation.

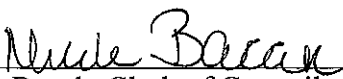
**YEAS: 7      NAYS: 0**

Council adjourned into executive session at 6:51 P.M.

Council reconvened from executive session at 7:00 P.M. Motion was made by McNaughton, seconded by Lastic.

**ADJOURN**

It was moved by Cantola, seconded by Profato to adjourn the meeting.

  
\_\_\_\_\_  
Nicole Bacak, Clerk of Council

  
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Robert Marino, Jr, President of Council