

COUNCIL MEETING MINUTES
February 21, 2024

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

Niles City Council held its regular meeting on February 21, 2024, at 6:00 p.m. at the Niles Senior Center in Niles, Ohio.

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

Weddell- P, Johnstone-P, Sheely-P, Devorich-P, Julian-P, Lastic- P, Sollitto- P, Marino-P

It was moved by Weddell, seconded by Devorich to accept the minutes from the February 7th regular meeting and place them on file.

Motion carried.

REPORTS AND COMMUNICATIONS

FROM- Auditor's Office

Statement of cash from revenue and expense- January 2024

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

Motion Carried.

FROM- Auditor's Office

Check report by check number- January 2024

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

Motion Carried.

FROM- Ohio Division of Liquor Control

Notice to Legislative Authority – Eastwood Mall Event Centre LLC

It was moved by Sheely, seconded by Julian to accept, and refer to the Police Chief and Safety Director for their recommendation.

Motion Carried.

FROM- Ms. Dawkins

Letter to withdrawal from the nuisance abatement board.

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

Motion Carried.

FROM- Dee Sebben on behalf of the Shepherds House Ministries
Packet of information
It was moved by Lastic, seconded by Sollitto to accept, and place it on file.
Motion Carried.

MEMBERS OF THE AUDIENCE TO ADDRESS COUNCIL FOR AGENDA ITEMS

(Public comments began at 3:13 into recording)

NONE

COUNCIL COMMITTEE REPORTS

NONE

It was moved by Sollitto, seconded by Julian to adjourn into executive session per ORC section 121.22 G1 for appointment of public officials.

YEAS: 7 NAYS: 0

Council adjourned into executive session at 6:03 P.M.

Council reconvened from executive session at 6:31 P.M.

ORDINANCES AND RESOLUTION

(Legislation began at 5:23 into recording)

ORDINANCE NO. ____ (Draft No. 17-24)

**AN ORDINANCE AUTHORIZING THE DISPOSAL OF OBSOLETE FIRE
EQUIPMENT BY INTERNET AUCTION ON GOV DEALS AS IT IS NO LONGER
NEEDED FOR ANY MUNICIPAL PURPOSE BY THE CITY; AND DECLARING AN
EMERGENCY**

It was moved by Julian, seconded by Devorich to give a third reading to this Draft 17-24.

YEAS: 7 NAYS: 0

It was moved by Julian, seconded by Sollitto to adopt this Draft No 17-24.

YEAS: 7 NAYS: 0

This Draft No 17-24 has been adopted on the 21st day of February 2024.

RESOLUTION NO. ____ (Draft No. 28-24)

**A RESOLUTION ADOPTING AN AMENDMENT TO THE COUNCIL RULES; AND
DECLARING AN EMERGENCY**

It was moved by Julian, seconded by Sollitto to give a second reading to this Draft 28-24.

YEAS: 7 NAYS: 0

This Draft No. 28-24 has received its 2nd reading on the 21st day of February 2024.

Mr. Johnstone wanted to confirm that council was still having the public grounds meeting on Thursday to fill the open seats, which would be contingent on the passing of the rules with the third reading. President Marino did clarify that this would take effect upon the passage of the legislation.

ORDINANCE NO. ____ (Draft No. 35-24)

**AN ORDINANCE AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE
UNAPPROPRIATED FUND 221 PARK TO THE MISCELLANEOUS ACCOUNT AND
DECLARING AN EMERGENCY**

It was moved by Julian, seconded by Lastic to give a second reading to this Draft 35-24.

YEAS: 7 NAYS: 0

This Draft No. 35-24 has received its 2nd reading on the 21st day of February 2024.

The following drafts will be part of the consent agenda, being brought to the floor for the first time, passed together with suspension of three readings, and as an emergency.

ORDINANCE NO. _____ (Draft No. 38-24)

AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACT FOR THE BIKE TRAIL RESURFACING PROJECT; AND, DECLARING AN EMERGENCY

ORDINANCE NO. _____ (Draft No. 39-24)

AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACT FOR THE GEORGE STREET SANITARY DETENTION PUMP STATION PROJECT; AND DECLARING AN EMERGENCY

ORDINANCE NO. _____ (Draft No. 42-24)

AN ORDINANCE AUTHORIZING THE SAFETY DIRECTOR TO PREPARE AND EXECUTE ON BEHALF OF THE LOCAL PUBLIC AGENCY (LPA), CITY COUNCIL OF NILES, AN APPLICATION FOR SRFS FUNDS FOR THE SAFE ROUTES TO SCHOOL PROJECT AND TO SUBMIT SAME TO THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION AND, DECLARING AN EMERGENCY

ORDINANCE NO. _____ (Draft No. 43-24)

AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO ENTER INTO A WATER SUPPLY AGREEMENT WITH THE TRUMBULL COUNTY COMMISSIONERS; AND, DECLARING AN EMERGENCY

ORDINANCE NO. _____ (Draft No. 44-24)

AN ORDINANCE AUTHORIZING THE PARK BOARD THROUGH THE PARK DIRECTOR AND BRANDSTETTER CARROLL INC (BCI) TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACT FOR THE WADDELL PARK IMPROVEMENT GRANT; AND DECLARING AN EMERGENCY

ORDINANCE NO. _____ (Draft No. 46-24)

AN ORDINANCE AUTHORIZING MONTHLY CASH TRANSFERS; AND, DECLARING AN EMERGENCY

It was moved by Julian, seconded by Sollitto to suspend the rule requiring three readings to this consent agenda.

YEAS: 7 NAYS: 0

Rules are suspended.

It was moved by Julian, seconded by Lastic to adopt this consent agenda.

YEAS: 7 NAYS: 0

This consent agenda has been adopted on the 21st day of February 2024.

RESOLUTION NO. _____(Draft No. 40-24)

A RESOLUTION TEMPORARILY WAIVING THE PERMIT FEE FOR CITY-WIDE RESIDENTIAL GARAGE OR YARD SALE; AND, DECLARING AN EMERGENCY

It was moved by Julian, seconded by Sollitto to give a first reading to this Draft 40-24.

YEAS: 7 NAYS: 0

This Draft No. 40-24 has received its 1st reading on the 21st day of February 2024.

ORDINANCE NO. _____(Draft No. 41-24)

AN ORDINANCE AUTHORIZING THE DISPOSAL OF OBSOLETE VEHICLE BY INTERNET AUCTION ON GOV DEALS AS IT IS NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE BY THE CITY; AND DECLARING AN EMERGENCY

It was moved by Sollitto, seconded by Lastic to give a first reading to this Draft 41-24.

YEAS: 7 NAYS: 0

This Draft No. 41-24 has received its 1st reading on the 21st day of February 2024.

ORDINANCE NO. _____(Draft No. 45-24)

AN ORDINANCE AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED GENERAL FUND 101 TO THE GENERAL FUND MISCELLANEOUS ACCOUNT FOR THE CITY FUNDED BUSINESS GRANT AND DECLARING AN EMERGENCY

It was moved by Johnstone, seconded by Julian to give a first reading to this Draft 45-24.

YEAS: 5 NAYS: 0 ABSTAIN: 2 (Lastic, Sollitto)

This Draft No. 45-24 has received its 1st reading on the 21st day of February 2024.

President Marino said council will next appoint members to the nuisance board.

It was moved by Sollitto, seconded by Sheely to appoint Mr. Richard Strong and Mr. George Kuriatnyk as the council appointments to the nuisance abatement board.

YEAS: 7 NAYS: 0

Mr. Sollitto asked if they could advise these members to meet with the chief or whoever they need to in order to find out what their duties are. President Marino did encourage them to meet with Law Director Zuzolo and he can give them up to speed on what their duties and role would be on the board.

It was moved by Lastic, seconded by Sollitto to add a third member for the council appointments for the nuisance board.

President Marino said this is set by ordinance so he believes the proper motion would be to direct the law director to draft a proposed ordinance for council to vote on. Mr. Sollitto this would be based on council being down to just one application left outstanding. Law Director Zuzolo asked for clarification if they would be requesting an additional member on the mayor's side as well. President Marino again reminded everyone that this is set by ordinance, and they would need to amend the ordinance. Mr. Sollitto said the reason for this would be since they have one remaining applicant, they would not be shutting anyone out.

President Marno clarified that council is looking for Law Director Zuzolo to draft an amended ordinance to increase the council appointment and the mayor's appointment to each have three members. They are requesting that this legislation be brought forward at the next meeting.

It was moved by Lastic, seconded by Sollitto to have an amended draft prepared to increase the number of members of the nuisance abatement board to 3 for council and 3 for the mayor.

YEAS: 7 NAYS: 0

MEMBERS OF THE AUDIENCE TO ADDRESS COUNCIL FOR GENERAL PURPOSE

(Public comments began at 16:57 into recording)

Dee Sebben: Mrs. Sebben stated that before she begins, she would like to request an additional three minutes to speak to council.

It was moved by Devorich, seconded by Sollitto to grant an additional three minutes of time.

Mrs. Sebben said she doesn't feel that it is right that when you go on social media and you address someone about the "Howland couple", she finds that offensive. People don't know what this Howland couple has done for the city of Niles. Ms. Sebben mentions the six empty seats that

are at council this evening were for people who were loyal to the people of Niles. They are Maryann Murphy, Vicky Williams, Wanda Burns, Barry Steffey Sr., Barb Mayfield, and Paul Davis.

About a week ago, something was put on a social media about a book fair for Niles City Schools. She does not have children in the school system anymore. The group that she volunteers with, Shepherds House Ministries wanted to do something to help. A kid is a kid her eyes, regardless of skin color or wealth. Their group, which includes the Howland couple, donated 295 brand new books to the schools in memory of Barb Mayfield.

Mrs. Sebben stated that people don't realize what Shepherds House Ministries does. She wanted to inform everyone on a little bit of what the organization does. Four years ago, they took 200 stockings, filled them and donated them to overseas to members of the military. Years ago, the city went to light up the Christmas tree and all of the lights were burnt out. Their group went and bought all new lights with money from their own pockets. Also, the Howland company has been painting the fire station doors every year for Christmas for over 20 years. Ms. Sebben also wanted everyone to know that in August, they give bookbags filled with supply to any child that needs it.

Mrs. Sebben wanted to thank the safety forces, especially Chief Holland, for their support. Every year, their organization puts a Christmas tree in the police department for people to take an angel from. One year they did Akron Children's Hospital, and the safety forces went out and bought car seats and other big ticket items for the kids. They are always looking for ways to give back to the community. Their group only consists of 8 people, but they do what they can. President Marino thanked them for the work they do.

Richard Strong: Mr. Strong said last meeting there was a discussion about what can be done for a certain house that keeps getting crashed into. Mr. Strong said Mr. DeChristofaro did some research, and the city can do whatever they like. He said there was mention about a study that was supposed to be done and he was asking for an update. Mayor Mientkiewicz said they did ask ODOT for guidance on this issue about a guardrail. They did receive a response from ODOT, and that communication was shared with the law director.

ODOT does not warrant a guardrail at that location. Per ODOT's standards, guardrails are meant to protect from parrel traffic, or drop-offs and it is not intended for head on impact. This was verified last week with ODOT's traffic engineers. ODOT is recommending additional signage and illuminated reflectors. The city has already placed an additional illuminated reflector at the stop sign. The city is working with ODOT on placement for a dual arrow sign. As for guardrails on state routes, the city falls back on the recommendations of ODOT. As it was explained previously, ODOT does not warrant a guardrail at that location.

Mr. Sollitto asked Law Director Zuzolo if the city has the ability to protect that property or what would be the ramifications if they do such. Law Director Zuzolo said they would follow the recommendations of ODOT. To go against that and if there were to be an injury, that otherwise would not have happened in contravention of the ODOT recommendations, this could potentially expose the city to liability. The homeowner could probably do something of his own on his own

property, as long as it was in line with zoning regulations. He might have to ask for a variance. He does not want to give legal advice to a property owner. He would say for them to check with their homeowner's insurance.

Mrs. Devorich had a question for the mayor about this. She questioned the bollards on 5th street that are there because of the dangerous curve. There are three yellow bollards there and she wanted to know if it was because it was a city street, and we didn't have to follow ODOT's recommendations. Mayor Mientkiewicz said that is one reason. The other is because they are trying to protect the highline pole. The bollards are protecting that highline pole and not the actual property. He also explained that people will see bollards placed around those highline poles and hydrants that are prone to being hit when cars go off the road. They do not install anything outside of ODOT's specifications on private property.

It was moved by Sollitto, seconded by Julian to grant an additional three minutes.
Motion carried.

Mr. Strong asked if ODOT is forbidding a guardrail at that property. He doesn't believe the issue is signage. It is an issue with drunk drivers. Mayor Mientkiewicz explained that ODOT did not forbid it, but they recommended that nothing be put up there. If the city were to put something up and someone were to hit it (drunk driver or not), as Law Director Zuzolo explained earlier the city could be liable and could be sued. Law Director Zuzolo said ODOT cannot dictate what the city does on their own streets. They set a standard and if we do not follow it, we could be liable. If a grant comes up for ODOT, they might potential not award it to us for not following their recommendations and standards.

Mayor Mientkiewicz said he knows the police chief has had cruisers on Hartzell due to the speeding. He told Chief Holland it might be time to revisit that. He also asked Chief Holland to provide the crash data for Hartzell and Robbins. Mayor Mientkiewicz said that it has been explained to the resident previously about the guard rail. 169 is a state route and the reason they were taken out previously is because of ODOT. Mayor Mientkiewicz wanted to be clear that the city does not install guardrails due to liability issues, especially on state routes. If you do research ODOT's standards, which is what the city follows, a guardrail is not meant to stop head on impact. Per ODOT, a guardrail is meant to protect parallel traffic from drop-offs or obstacles. There are areas where a guardrail was installed years ago. If something was to happen to that guardrail, like the one on Emma and Maple, the city does not reinstall it because of liability purposes. There are requests that come to the city to install guardrails, and the city follows the standards that are put out by ODOT. Law Director Zuzolo again stated that ODOT has explained that guardrails are not designed to stop head on collisions. If the city puts one up and someone is injured by it, then the city could be sued. He is not saying ODOT is telling the city what to do, but they are setting the standards. If the city chooses to deviate from those standards, we do at our own risk.

Mr. Strong wanted to know who is responsible for picking up dead animals on the street. There were three dead animals on the road and also siding pieces. Mayor Mientkiewicz asked where they were located and said either the Police department or the Street department will remove those. Mr. Strong asked if there was a policy for workers to remove those items if they see them

and Mayor Mientkiewicz said yes if it is a hazard. Mr. Strong claimed that workers had been over there and did not remove the dead animals. Mayor Mientkiewicz said they also coordinate with Republic Services to remove small animals.

Mr. Sollitto circled back to the issue with guardrail. He wanted to know how the city would be liable if someone put it up on their own property. Law Director Zuzolo clarified that the questions being asked to him were if the city were to put up the guardrail. Mayor Mientkiewicz again said they are working with ODOT on their recommendations for the double arrow sign.

Rory Biggins: Mr. Biggins said he has been in contact with Mr. Weddell with updates on what is happening at Timbercreek. He said nothing has happened. Since the last meeting, he has submitted another maintenance request which simply consisted of 18 U.S.C. 17.01, which is obstruction. 2 days ago on February 19th, he received a nasty gram from the community director. Timbercreek is alleging that the post office is stonewalling about the mail.

Mr. Biggins said he did some research on this issue and Mr. Weddell has documentation and photographs. As of now, they will no longer receive mail delivery until at least March 24th. He does not understand why the local law enforcement cannot enforce the 18 U.S.C. 17.01. President Marino told Mr. Biggins he was out of time.

It was moved by Julian, seconded by Devorich to grant an additional three minutes.
Motion carried.

Mr. Sollitto wanted to clarify with Mr. Biggins that he was an attorney because he had mentioned that at a prior meeting. Mr. Biggins said he was a licensed attorney in Florida and is able to practice here in Ohio. Mr. Sollitto asked him if he was an attorney, why didn't he file an action against them himself since he would be able to without having to hire an attorney. Mr. Biggins said for the minuscule amount of rent he that does pay into a court registry is not going to do anything to a big corporation like them. Mr. Biggins also shared that the owner of the company was in court and pleaded guilty to conspiracy to falsify financial statements. This was issued by the Department of Justice through a press release.

As he was saying before he ran out of time, he did some research, and he does not believe there is anything precluding local law enforcement to enforce a federal statute. The information he found on this case law mainly speaks about immigration and federal drug warrants. But he could not find anything that would stop the local police department from enforcing it. Mayor Mientkiewicz asked if he had reached out to the local police department and Mr. Biggins said he had not. Mr. Sollitto would like to refer Mr. Biggins to Law Director Zuzolo about what he can file to see what he could advise him and what avenues he would have. Mr. Biggins said his lease is up on May 31st and he has already found a property.

President Marino said regarding law enforcement action, that is handled by the police department, and they are the investigative agency. They make the determination on conduct if it rises to the level of criminality. When they make this determination, they do confer with the prosecutor. Council will absolutely not extinguish the right of an individual to come to council and share his/her concerns. But it is important for context to understand what each entity (

council, police, prosecutor) can and cannot do. Council absolutely wants to hear from people and does understand the frustration. It makes no sense to anyone. However, council does not make those determinations. It is the police department in conjunction with the prosecutor.

MISCELLANEOUS REMARKS

(Miscellaneous remarks began at 42:01 into recording)

Mayor Mientkiewicz wanted to give a quick update on the Stevens property. The city did have to consult with the Ohio EPA about the demolition. They did receive guidance and quotes are expected to be returned by 10:00 A.M. tomorrow morning. They are hoping to pass this at BOC tomorrow.

Mayor Mientkiewicz also wanted to recognize Ralph Ciletti on his upcoming retirement from the park department. He wanted to thank him for all of his years of service and wish him the best of luck in future endeavors.

Finally, Mayor Mientkiewicz had an update on the Ohio History Connection grant that the city applied for. The City of Niles was one of fourteen cities throughout that state that was recently awarded the grant. This grant is for ADA updates to the Thomas house, carriage house, and the greenhouse. The city was awarded approximately \$20,000.00 with a \$12,000.00 match from the city. He hopes this project will begin this summer.

President Marino asked about the demolition of the Stevens house. He wanted to know if this would be an expense to the city and would it be reimbursed through insurance. Mayor Mientkiewicz said it will be a city expense, but it would be a lien to the property. Law Director Zuzolo said there will be a lien against the property, but it will not go through insurance. The insurance claim was withdrawn so the city will have to go against the property owner. Mayor Mientkiewicz explained it was already ordered by the housing board to move forward if they did not comply. Mr. Sollitto also asked about the burnt building in McKinley heights. Mayor Mientkiewicz said there is a new property owner who is working on this. The new owner might be coming to council for a zoning change.

Auditor Merlo wanted to remind council that late last week, they would have received an email from the clerk about the State Auditor's Conference. If council is interested in going, the dates are March 26th- 28th. Mr. Johnstone has already reached out to him about attending this training. Mr. Sollitto said this is an excellent training for new members to attend. President Marino reminded council to take their ethics training and submit their forms.

Mr. Weddell asked for an update on the theater building. Mayor Mientkiewicz said approximately a quarter of the building is down and the owner of the demolition company did come down to meet with him and the service director. They talked about the progress or lack thereof. Since that meeting, there has been substantial progress. The entire building should be down within the next few weeks. Mayor Mientkiewicz said they should know in April or May about the Appalachian grant that they applied for.

Mr. Weddell stated that he has been getting questioned on a bill that Republic Services has sent out for about \$1.75, and he wanted some clarification on it. Mayor Mientkiewicz said he believes that comes up every year and it is some sort of reconciling that they do. The city advises residents to contact Republic directly.

Mr. Johnstone said he reached out to Terry Thompson at Republic Services about this charge, and he has spoken to Law Director Zuzolo and reviewed the contract. There are built in increases every January in the agreement. The increases are not defined and are based on the consumer price index for water, sewer, and trash from the Department of Labor and Statistics. It is hard to say what the increase will be every year. There are too many variables that go into the factoring of what the increase will be. Mr. Johnstone said the contract is up at the end of this year, so the city will be renegotiating anyway. Law Director Zuzolo did confirm the city will be doing a request for proposals closer to the expiration date of the contract. The last time the city did this, Republic Services was the only company that bid.

Mr. Johnstone reminded everyone that there is Community Development/Neighborhood Stabilization meeting on Monday, February 26th @ 4:00 P.M. in the lower conference room of the city building. They plan on discussing the RFP that was created for the CIC about the property on 3rd street and St. Rt. 46 on the southside. He is looking forward to showing everyone what they came up with and bringing it to council on March 7th. Also, it has been mentioned that they have an interest in the bank building drive thru. They would like to make contact with the owner.

Lastly, Mr. Johnstone wanted to thank Park Director Pallante. There was a meeting at Iowa Park about how to use the increase in money that council has awarded. They discussed what would get them the most bang for their buck. He wanted to thank Mr. Pallante for meeting them on President's Day, which he appreciated.

Mr. Sheely wanted to thank Mrs. Sebben for everything her organization does. He appreciates it from the bottom of his heart. Mr. Sheely said he is very mission minded, which a lot of people might not know. He said we need more caring, and loving people like that in the world. It improves the community.

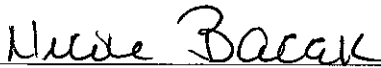
Mr. Sollitto reminded everyone of the Public Grounds committee meeting tomorrow. They will be meeting to fill the Cemetery Advisory Committee. Mr. Sollitto said he is a little bit concerned. The money that has been put into the building was well spent on upgrades to this building. The Senior Center building needed to be renovated, even if they did not have council there. He does have concerns. It is not to the point that they are ready to say they have to go, but the other day there was a committee meeting scheduled. This meeting had to be cancelled due to a knitting class taking place. Council has legislation and time sensitive issues taking place so this is concerning. Regardless of what is going on, the back room should be left open all of the time for council to use for meetings. He thinks that room should be theirs at all times. With all due respect to the seniors, if they want to have this building just for them, they can. Council has business that has to happen. They cannot be put on hold due to a knitting class.

Next, Mr. Sollitto wanted to touch base on the shoreline. He knows the city has allotted roughly \$100,000.00 for this project. He knows the Army Core Engineers, along with ODNR, and a private sector, will be consulted and used for this project to remove trees, logs, etc. He asked Mayor Mientkiewicz if he has a time frame on this. Mayor Mientkiewicz said they have been in ongoing discussions with the Army Core Engineers about a stream restoration plan and an updated hydrological study to address the flooding.

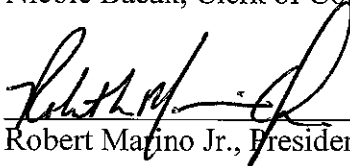
ODNR is more about the discussions with whose responsibility the stream is and how to go about cleaning up in the proper manner. As Mr. Sollitto mentioned, there is approximately \$100,000.00 set aside for a private company to come in and perform some of the work, especially in areas the city cannot get to with their vehicles, or do not have the equipment to do so. For example, the property behind Leonard's glass is heavily congested with trees, wood, and debris. They go through the quote process and see how far the \$100,000.00 will take the city on the cleanup. This is the first time the city has done this type of work. They were told by ODNR that in the past if a tree was down on private property to the waterway, it was the responsibility of the property owner. The city is taking this a step further and starting with properties that are city owned and then expand it.

ADJOURN

It was moved by Julian, seconded by Sollitto to adjourn the meeting.



Nicole Bacak, Clerk of Council



Robert Marino Jr., President of Council