

MINUTES

Niles City Council held its regular meeting, Wednesday, May 2, 2007 at 6:00 p.m. in Council Chambers, Safety-Service Complex in Niles, Ohio. The meeting was called to order by President Robert Marino, and the Clerk; Linda A. Yuhasz called the roll:

Lastic-P; Papalas-P; Scarnecchia-P; Cox-P; Stredney-P; Papas-A; Wilkerson-P; Marino-P

A motion was made by Lastic, seconded by Cox to excuse the absence of Councilman Papas and The Chief of Police Simeone. Motion carried.

It was moved by Stredney, seconded by Lastic to accept the Minutes of the regular meeting of April 18, 2007 and place them on file. Motion carried.

REPORTS AND COMMUNICATIONS

A letter from the Solid Waste Management District of Geauga and Trumbull County was read.

Councilman Scarnecchia: Is this going to cost us anything? Is there anybody involved in that?

Law Director Dull: It sounds like to me Tom that this is something that is going to directly affect the haulers initially whether that eventually comes back to us or not.

Councilman Papalas: I thought that the Supreme Court has made a decision concerning that sort of thing, saying that haulers cannot take refuse out-of-state when there is a nearby landfill. In other words they can't try to avoid higher fees by going out-of-state. I think that is worth looking into.

A motion was made by Stredney, seconded by Scarnecchia to accept the letter and place it on file. Motion carried.

A motion was made by Papalas, seconded by Stredney to refer the letter to the Law Director for an additional report and recommendation. Motion carried.

MEMERS OF THE AUDIENCE TO ADDRESS COUNCIL

Mr. Mike Williams of 562 Stanton Street, Niles, Ohio: About the cat law or ordinance or whatever you were going to do about that, is there anything going with it? I went on line and researched on line, Akron has a cat ordinance. In three days if the owner hasn't owned up to the cat they euthanized the cat. Right now we have probably ten cats just on my street alone using my kids sand box for waste and the flower beds. One minute you were going to do something and now you are not doing anything.

Councilman Scarnecchia: I would like to say that the Law Director and myself and the Safety Committee hopefully is going to get together to the legal objections we had on this last year. Still that is on the front burner to arrive at some type of law, I will tell you that.

Mr. Williams: If my dog were to bite someone we know whose dog bit someone. Now if I have a stray cat bite me and we don't get that stray cat who is to say that this cat doesn't have rabies. I have to prove that my dog is updated on shots and has to have a license; it feels like we are favoring the cat they should be equal. I have a cat and a dog and it is up to date on its shots. We have a stray cat in the neighborhood.

Councilman Scarnecchia: Sir when we have the Safety meeting on that if it is possible with your schedule would you be willing to come and address it? I think we have his name and address don't we?

President Marino: Mike at the end of the meeting see Mr. Scarnecchia and give him your phone number so that when he schedules the meeting he can get a hold of you. He can't do it right now.

Mr. Gary Coleman 45 Higley Ave. Niles, Ohio: We received a letter from the City of Niles saying that we had garbage all around our yard and the Health Department came out, Children Services came, the Animal Control man came out. I am not sure exactly how to make a complaint of the neighbor that is doing it. Your guy came out and our yard is not messed up, he did state that you are not allowed play toys in the front yard. The neighbors that came down here and complained have the worst looking house on our street.

President Marino: I don't mean to interrupt you but we are not going to get into a tit-for-tat thing with neighborhood disputes. Our philosophy has always been we will entertain any concerns you have relative to your situation; we are not going to get into tapes. That is not the rule of city council. If you have a concern with regard to that you can meet with Mr. Burke during his office hours, Mr. Vigorito's office during his office hours and with our Housing Inspector with those particular concerns. This is not the proper venue to state criticism or complaint about a specific home in your neighborhood. You are getting into a civil dispute.

Mr. Coleman: But for the safety of the children are we supposed to bring this up?

President Marino: Yes, but if you are going to start talking about a house and that, did you call a police?

Mr. Coleman: Yes.

President Marino: You can speak to Mr. Burke; you can speak to Mr. Vigorito about your individual concerns.

Mr. Mike Burke: (Inaudible) I am satisfied with how (inaudible) Mark was satisfied (inaudible) as far as I am concerned.

Mr. Coleman: Right but how do we make a complaint against them?

Mrs. Coleman: We got in trouble for having toys in the front yard I didn't understand that. (Inaudible) We want her to clean up her yard that is what we are concerned about.

Mr. Mike Burke: Call the Health Department.

Mrs. Coleman: But, she said that she came here to the council meeting and that is why we came tonight wondering how (inaudible).

President Marino: I was gone for that meeting that is why this is not coming to me.

Tina Collins, 90 Higley, Niles, Ohio: The house that they are talking about my child walks up the street where there is path between the two houses to go to church on Sunday, now it is a hazard to these children. Walking from that path to that church the swimming pool has no fence no nothing. My boy said hey Mom on the way to church we are playing in the pool, it is a hazard.

President Marino: It sounds like Mr. Coleman that you are going to speak to Mr. Burke tomorrow?

Mrs. Coleman: Who do we talk to about if anyone is flying up and down the street; it is a dead end street. We had the police department up there yesterday and they are not doing anything about it.

President Marino: That is the proper place Ma'am.

Mr. Coleman: We have a family that lives at the end of Higley; you have two people that live in that household that do nothing but fly up and down that street. They are clicking forty, fifty, fifty five miles up Higley Street the dead end street. I have four children; there are tons on our street. I just don't want to see a kid hit or killed.

Mr. Guarino: This happened at the first council meeting in April they came down from Higley Street complaining about the four wheelers and the traffic and the Chief did do his job. He sent people up there and it slowed down a whole bunch. I called the individuals myself, the people that were here I don't even know their names. They said that it slowed down.

Mr. Coleman: I had an officer put a card on my door wanting to know, it said give me a call I have a question for you. He never gave nobody else in the neighborhood. The very next day we got papers from Children Services and the others here in Niles. We don't even own a four wheeler and we got an officer walking up to the door and knocking on

my door wanting to know. He never walked around the neighborhood; he never asked one other question to anybody else. There is a four wheeler issue.

Councilman Papalas: Mr. Coleman I think that he did knock at other doors and tried to find out. He spoke to somebody else on your street I know that.

Tina Collins: In getting back with that gentleman, he has talked with other people and it is slowing down and it is not. Those people are clocked at forty five and fifty flying up the dead end street and you have fifteen children on that street.

Mr. Guarino: (Inaudible) also at that meeting the individuals that were here complained about one of our dispatchers they even named our dispatcher Melissa. The Chief ran back the tapes, he investigated all of this and he said that our dispatcher did nothing wrong and she didn't hung up on anybody. Now he is not here but I am sure that if any councilman wants to call he can explain everything but Melissa did nothing wrong.

Mr. Coleman: What will they do call them or receive a letter?

President Marino: I can't speak for Mr. Burke.

Tina Collins: (Inaudible) we even went to their house and politely asked them to slow down (inaudible) and they won't slow down.

President Marino: The Safety Director said that he would address it tomorrow. We have faith that he will do what he says. As I was saying Mr. Coleman, Mr. Vigorito and his employees and Mr. Burke will follow up on what the ordinance permits them to do, sir.

Councilman Papalas: How high is that swimming pool? Is it in ground or above ground?

Mr. and Mrs. Coleman: Above ground. They have fencing around it with section of the fence completely gone. There are old storm windows on the side. When our kids go to church there is all this stuff lying about.

COMMITTEE REPORTS

None

ORDINANCES AND RESOLUTIONS

ORDINANCE NO.____ (Draft No. 31-07)

AN ORDINANCE PLACING A MORATORIUM ON THE AUTHORITY OF THE BUILDING INSPECTOR TO ISSUE PERMITS FOR CONSTRUCTION OF BUILDINGS OR ACCESSORY USES NEARER THAN 50 FEET FROM THE RIGHT OF WAY OF ANY STREET OR ROAD IN THE FRONT YARDS OF

**PARCELS WITHIN B-3 GENERAL COMMERCIAL DISTRICTS; AND,
DECLARING AN EMERGENCY**

It was moved by Scarnecchia, seconded by Papalas for a first reading.

Councilman Papalas: I have questions, what is this?

Mr. Anthony Vigorito: What has happened when 422 was developed the commercial zoning as down town was zero setback from the road because all our town was built right to the sidewalks. When we started developing 422 and annexing it in they put certain sections in B-3 and then some one must of realized that it is not a correct zoning out there and changed everything to B-1, the majority of the strip. B-1 has a setback of fifty feet. Well even when we did the rezoning nobody caught that. When the Planning Commission and I went over all that we didn't catch it until just now I was asked to put an additional on front of a building and move up within twenty five feet of the road. I denied the permit but we don't actually have anything that stops them from building twenty five feet from the road. So, that is why I was asking for a moratorium and I need it right away so that we can incorporate some language into B-3 that if it isn't in the downtown area it has to follow B-1 rule that has a proper setback from the road. It is a safety issue, they move back from 422 plus you are widening the road all the time. You don't want a business that sets right up on the curb of the highway. That is what this is about.

Councilman Lastic: I don't know which building you are talking about but is that going to be a grandfather clause that they are going to fight it? Later on when the moratorium is over what happens then?

Mr. Anthony Vigorito: We go for language in the zoning rules to eliminate that setback except for certain areas in town.

President Marino: In light of the building inspectors comments what is council's pleasure? Would you like to remove the first reading?

It was moved by Scarnecchia, seconded by Papalas to withdraw the first reading motion. Motion carried.

It was moved by Scarnecchia, seconded by Papalas to suspend the rule requiring three readings.

Councilman Scarnecchia: That was my fault that we did this because at the time I didn't totally understand it but now with Mr. Vigorito I do. I apologize for it.

YEAS: 6 NAYS: 0

Rules are suspended.

It was moved by Papalas, seconded by Wilkerson that this Draft be adopted.

YEAS: 6 NAYS: 0

This Draft No. 31-07 has been adopted on this 2nd day of May, 2007.

RESOLUTION NO. _____ (Draft No. 32-07)

A RESOLUTION OPPOSING OHIO SENATE BILL 117 AND SUPPORTING THE LOCAL CABLE FRANCHISING PROCESS; AND DECLARING AN EMERGENCY

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

President Marino: In your legislative bulletin that was provided to you by the clerk there were hearings held on this last week. It might behoove us to have this mailed to The Senate Energy and Public Utilities Committee straight-a-way so that our voice too is heard amongst all the others.

YEAS: 6 NAYS: 0

This Drat No. 32-07 has been adopted on this 2nd day of May, 2007.

MISCELLANEOUS REMARKS

President Marino: To all the candidates I wish you the best of luck in Tuesday's upcoming election.

Mr. Anthony Vigorito: Just to thank council for the moratorium and we will work to try and get that language straighten around.

Auditor Charles Nader: I just want to remind everyone Tuesday get out and vote. It's the greatest right we have here in America. Many people died for it, so get out and vote. Thank you.

Councilman Papalas: The last council meeting the Mayor announced that Mr. Robertson was coming today at 5:15 and he was here with Atty. Adler. They went through the discourse on what we need to do to set up a land bank. He left some information with the Mayor as well as directions for an ordinance which I would like to (inaudible) to Terry Dull. I am going to make a motion at this point we have Mr. Dull bring an ordinance out at the next council meeting forming a land bank. From that point the Mayor will set up a small committee and we will set in motion the process by which we identify and get rid of some of these properties put back in the tax duplicate. I know of one person right now that is interested in purchasing one of these lots that is vacant perhaps we could cobble enough of them together we could even form a business partner, a very strong possibility.

A motion was made at this time by Papalas, seconded by Lastic to prepare an ordinance for the land bank as Council as a Whole. Motion carried.

Councilman Papalas: I was given this very interesting document by Mr. Swauger, our Treasurer at the beginning of the meeting. It is the Housing Preservation Plan for Shaker Heights; it deals with what they do for their housing issues. There are a couple of excerpts in here that I thought very interesting. I am going to ask if the Mayor's Office could run off copies for us and everyone can have one at the next meeting. There is a very strong possibility that we should look at adopting some of these codes in here. They will help us a great deal I believe, but we will have some meetings I think as round tables to first discuss after I have copies. This is very interesting material.

Councilman Stredney: Mr. Vigorito, if we could make a phone call to keep the noise down at night to Inalex down on Henry. I got a few complaints from the people on Belmont.

It was moved by Papalas, seconded by Stredney to adjourn this meeting at 6:28p.m. Motion carried.

Linda A. Yuhasz, Clerk of Council

Robert Marino, President of Council