

## MINUTES

Niles City Council held its regular meeting of September 5, 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-P; Wilkerson-P; Marino-P

A motion was made by Lastic, seconded by Stredney to accept the Minutes of the regular meetings of June 25, 30 and August 15, 2007 and the Public Hearing of June 25, 2007 and place them on file. Motion carried.

## REPORTS AND COMMUNICATIONS

FROM The Auditor's Office

The Estimated VS Actual Revenues thru August 2007.

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

FROM The Office of the Building Inspector

The Housing Code Monthly Report for July 2007

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

FROM The Cemetery Department

The July 2007 Sales Report

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

FROM The City Income Tax Department

The Monthly Receipt Totals thru August 2007

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

FROM The Geauga-Trumbull Solid Waste Management District

A letter containing the list of designated facilities by the Board of Directors

It was moved by Papalas, seconded by Wilkerson to accept the letter and place it on file. Motion carried.

FROM The Weathersfield Township Trustees

A letter supporting the Weathersfield Township residents with their complaints against the noise at McMenemy's

It was moved by Stredney, seconded by Cox to accept the letter and place it on file. Councilman Scarnecchia opposed the motion and voted no. Motion carried.

## **MEMBERS OF THE AUDIENCE TO ADDRESS COUNCIL**

Mr. Dennis Thompson of 343 Trumbull Drive, Niles, Ohio: I believe the person in charge is Mark Hess and how is the bike trail coming along between the county line and I believe it is supposed to end on 169 Thomas Road?

Mr. Mark Hess: The plans are approved and they are down in Columbus and they are waiting for rail road certification which is typically the next step. We are not able to give them that because there are rail road agreements that we do not have. One is North folk Southern which is an aerial, we are planning to build a bridge over the Mahoning River and they are on the north side of the river and we are going to need to go over them. The other one is Ohio Central Rail Road and that is a (inaudible) crossing at Park Avenue. Both of those according to law require us to have an agreement with the railroads if we are going to utilize their property or their track for our bike trail. Right now Attorney Dull is working on one of them and another attorney is working on another one so as soon as we are able to resolve those issues we will be able to start construction on the bike path.

Mr. Thompson: Okay, just red tape.

Mr. Hess: Unfortunately yes sir.

Mr. Thompson: Thank you.

Mr. Raymond Rook 226 Emma St. Niles, Ohio: Right next store to me at 236 Emma Street they have between fifteen and twenty five dogs at all times on a lot that is (inaudible). When you put a house, a garage and a driveway on that you don't have much property. They cemented about half of their back yard we have had a problem since they moved in. It runs out of their yard from the dogs, they put a run back there. They clean it, they blow it off with the water, and it runs down next to the lot next to mine that I own. The dog warden has been out and looked at it and I think that he has pictures of how the grass grew and everything. It was muddy and everything but we didn't have the problems until they cemented the back yard. So now we have a problem with the run off and I told them that you got to do something about it. All year long is has been staying wet and kind of mucky sewage like. They got a company to come in; a contractor to come in and they have dug on the back side of the cement on the side of the cement and all the way out to the road. They filled it full of slag up near the cement so that the water can run into that now and it is perforated all the way out to almost the sidewalk, perforated pipe. Eight inches of slag, a pipe, slag, plastic and dirt. Now to me this is a health issue. When this all started when they started to dig I called the Health Board. The Health Board told me to get a hold of Mark Hess and gave me the number. I tried to call and he was in a meeting. By this time I had quite a few city workers at my place and they looked at it. Mark Hess calls me back and they were waiting for him and he says this is legal. These people really didn't have to do this; they could run it on my property. This drain now is running down, they wash it off I got to say that they keep it clean and it runs they are two foot off the line. I don't know if there are any regulations of how far you got to be off the line, they

call it a French drain. It is a leaching system I would say because it comes down and it goes right to the road. Now, when it rains it washes it out and spills it onto the road, down the lot down past my driveway and into the catch basin that is in front of my driveway. Before I go any further the storm sewer goes from Warren Avenue to the front of my house. That is all the farther it goes, there is no storm sewer for these people to hook into or anything. I think that we have a health problem here. Every time that it rains and I drive into my driveway I am picking that dog manure up and bringing it into the garage. I have a basketball court in the driveway and I feel that this is real bad health issue. They have had as high as fifty dogs there. They were watching them for some people but they keep fifteen to twenty five dogs at all time. They did admit to selling them whether they have a kennel license or not I don't know. I tried to get along with the people but this is just gone to far. Dog wise there has got to be some kind of ordinance to stop this. Fifty dogs on a lot like this you should come on over and look. To run this out on the road the way it is should have never been approved. It was trying to help me to stop the water from going across my property but now you are washing it on the road. Or if it is not going across my grass it goes down there. They say that I can't do anything about it they can pull the pipe out and let it run into my yard and there you go again another health issue. So what can we do about it? I think that the city should tell them to pull the pipe out of there and do what they can if they have to get rid of the dogs.

President Marino: Mr. Burke do we have anything in regards to fecal matter in the French drain emptying onto the street? If what he is saying is accurate, I don't know.

Mr. Rook: I didn't call they had a complaint over there at 236 Emma Street it was the guy on the other side of them that bought the house he complained and they thought it was me, so then they put the drain in they weren't going to do it.

Mr. Burke's conversation with Mr. Rook was completely inaudible.

Mr. Hess: The only thing that I could speak to is that we got a call and I agree with you it is more a health issue than an engineering issue. The issue with the drain itself that is not a sanitary sewer that is a storm drain. It doesn't matter that there is run off and that there is animal feces back there it is still considered a storm sewer. Storm sewers are allowed to get drained. You are allowed to drain your yard as a resident you are allowed to put in a French drain. The law says even your down spouts at first have to go to an available storm sewer, if that is not available which you just said it is not, then they have to go to the public gutter which is the street, that is the law. They are in compliance with the law when it comes to the drain whether you think they are or not, they are in compliance. The fact that there are fifty dogs back there that is making it a little bit of a different issue. Now to me that is the area where you want to attack it, I don't know how you are going to go around the city making everybody take legal drains out that they put in from their back yards to the front. I don't know how you are going to do that. Talk to City Council about areas where people are bringing fifty dogs in their back yard and putting concrete down. I would think that affect me more than worrying about this drain. The drain is legal.

Mr. Rook: Okay the drain is legal. They didn't have to have the drain until they put that cement in and that dog (inaudible) running across there. Now they are washing the manure, the urine into this and they are putting that in there and it is just like a septic system.

Mr. Mark Hess: That happens every day in the city when it rains. Ground water runs across the ground and picks up whatever it is going to pick up and gets into the system.

Mr. Rook: You are talking about storm water I am talking about dog matter.

Mr. Hess: You are still talking about the drain for the back yard; they do not need your permission to do it. They are allowed to put any drain that they want to in their back yard as long as they run it to the proper place.

Mr. Rook: How close are they allowed to the line?

Mr. Hess: They are allowed right into the line.

Mr. Rook: Are you telling me that they can put that into my yard then, but was all clay? I will tell you what the guy that put this in said that this system would not even work. The company that put this in said that this won't work what you want done.

Mr. Hess: I can't speak for that I don't even know what...

Mr. Rook: Well at that point I thought that you should have been out there.

Mr. Hess: The people that work for me were out there.

Councilman Scarnecchia: First of all what is your address?

Mr. Rook: 226 Emma Street.

Councilman Scarnecchia: My questions are not so much the drain right now but you say this is fenced in and they have twenty five dogs out there?

Mr. Rook: When this all started to happen with the drain they cut back on the dogs. Usually they keep at least twenty five but now I look out there and I count about fifteen dogs. They let them out in the morning they let them out later on; they keep them in the house mostly.

Councilman Scarnecchia: Okay then you are not getting barking during the night?

Mr. Rook: I will tell what I don't mind the barking at first they thought I minded the barking and they were having the dog's barkers cut out of them. They sound like they have a soar throat when they bark. So, I said don't do that the dog's barking doesn't bother me.

Councilman Scarnecchia: I think that we do have to check into the possibility of them selling them. Whether this is an approved kennel, what department would do that?

Mayor Infante: Mark Morrall.

Councilman Scarnecchia: I think that we should ask the mayor and get a report from him on this. Are these dogs all licensed?

Mr. Rook: I don't know maybe she has a kennel license.

Mayor Infante: Well that is Mark's job to find out.

Mr. Rook: I talked to him, is that the dog warden?

Mayor Infante: Yes.

Mr. Rook: I talked to him and he seems like a dog lover to me. He is kind of bending with the people it seems.

Mayor Infante: I will call Mark.

Mr. Rook: The address is 236 where the dogs are at.

Councilman Scarnecchia: Mayor how about if we later in the week, next week around three o'clock meet with Mr. Rook in your office, with Mark. We can talk about it with Mike Burke. Can we do that around three o'clock?

President Marino: Mr. Rook, Mr. Papalas would like to meet ....

Councilman Papalas: Next week around three o'clock on Wednesday?

Mr. Rook: I can be there.

Councilman Papalas: Why don't we meet in the Mayor's office at that time, Mark Morrall and Mike Burke?

Mr. Burke's conversation with Mr. Rook was inaudible.

Mr. Rook: I look at this is I can put a toilet in my garage right now and as long as I didn't go to the bathroom in it and as long as I urinated in it, I could flush it out on the road. That is what it sounds like to me.

Councilman Papalas: Well we can sit and talk about this we don't know what the department heads are thinking and there are some questions they need to look into, so let's give them some time and we can all sit down together.

Mr. Rook: That would be fine.

Mr. John Laneve 625 Indiana Ave., Niles, Ohio: One of the things I wanted to ask you was when are we going to get our storm sewer in on the south side? What is going on with the matter of the rape case on the south side?

Mayor Infante: To answer your first question we are waiting for easements from the property owners on Nebraska and Indiana. We haven't gotten them back. Mark is getting ready to send out a second letter, the final letter and then if we don't get the easements then we can't do the projects.

Mr. Laneve: You taxed us on our water and sewer.

Mayor Infante: We didn't tax anybody.

Mr. Laneve: According to the bill it was. There was an increase for the sewer.

Mayor Infante: There was a two dollar fee that started three years ago per household in the City of Niles. Everybody paid that two dollar fee to do all these projects. We are held up because people won't sign the easements that live on the street where we are going to put the storm sewers.

Mr. Mark Hess: There are two places that we haven't heard from, the Gun Club. We have to send these storm sewers outside the city limits because that is where the water goes. We actually have to send this storm water to the trailer park that is behind you so we have to actually go in and replace their systems to make it large enough to accept their water. So there are two (inaudible) one is Mr. Pantalone and the other is The Trumbull Metropolitan Housing Authority which is also the Gun Club. Both of them have to give us an easement in order for us. We broke it into two phases. The first phase is going to be going down into the trailer park and the storm sewers in Indiana. The second phase would be going down the old vacated Fourth Street and doing all of Nebraska, it would be two phases. Even the second phase we sent out we sent out two or three and we haven't heard from any body there. I don't need those yet, if I get the two that I need for phase one I'll do phase one.

Mr. Laneve: What about the second issue the rape case on our street? (Inaudible) a girl was raped in her own room. It don't seem like there is nothing going on. I got teenage daughters and there are a lot of teenage kids in the neighborhood and everybody is concerned (inaudible). We have dope houses in the neighborhood. You guys chased them off the southeast side to the south side. It is just bringing more and more trash everyday.

Mayor Infante: Well I think that our drug unit is aware of the episode going on over on Indiana, I know that. As far as the rape case I don't know.

Police Chief Simeone: It is being investigated and that is (inaudible).

Mr. Laneve spoke to the police chief but it was inaudible.

Rose Bird of 616 Indiana Ave, Niles, Ohio: I want to know why there is a cruiser at those two houses every day of the week, three to four times and nothing is done. Me and my husband was coming up his street one day and two was on a four wheeler, when they went around us they gave us an obscene gesture. He called the cruiser and you know what the cruiser said, stay off that. Why didn't he take it and impound it? Why do they run over there every day if that aren't going to do nothing? It is a nuisance.

Councilman Papalas: My question was when did that episode happen?

Mrs. Bird: Maybe a week ago.

President Marino: I also have received phone calls from the residents on Indiana. They have read in the paper about council considering revising those ordinances and were appreciative that council is going to be taking steps to address hopefully what has been taking place on Indiana. I have been getting calls as well.

Councilman Papalas: I know that in this room the chief and the safety director informed us that they told officers to confiscate these vehicles and fine them. (Inaudible) confiscate the vehicles so we don't have any more problems. We can't chase them down we are afraid of an accident. If we know who those people are those things should have been confiscated.

Mrs. Bird: You know that he didn't have to chase him down the four wheeler was in right in the driveway. All he said was keep it off the road. That happens four or five times every day. We still get tired of calling the police station because it is a nuisance. They don't do anything for us.

Mr. John Madden of 646 Indiana Ave. Niles, Ohio: (Inaudible) these are a number of issues going on. I know of course that the Niles Police can't be everywhere at once. I think that they are doing a great job. They do show up in a timely fashion. There was instance in December where the guy went right up on his porch (inaudible) and fired nine rounds and Niles Police showed up and didn't find the casing so there is no case against the guy. There has been (inaudible) stuff, I have walked over and said could you please turn it down. We are trying to keep things on an even keel.

President Marino: Is it the same house, John?

Mr. Madden: Yes, 639 and 651 Indiana Avenue they are side by side. Is there some type of ordinance for people that rent out houses or whatever that they can be removed from the premises for erratic behavior or illegal activity? I am sure exactly what is going on over there but the ATV that Rose was talking about was actually a stolen ATV from Girard Police Department and I guess it was recovered by a Weathersfield Cop or Girard Police Department. As for the other ATV I don't know where it is at or where it went but they were doing brodies in the driveway and they have disgraced the property. He

worked so hard, she passed away a year and ever since the wife died he has no desire to be in the house what so ever. He has two grandsons that he has fought to the bitter end for; they are both in their twenties. (Inaudible) vulgarity or whatever the case may be, it has gotten to the point where it is intolerable. I have got to a point where I walk over and without even calling the police because they are called up there every day.

Councilman Papalas: I want the folks to know that on behalf of all of us, we all met and we are working on an ordinance now in which after three calls in the same year, same residents with the input of the police department and law director steps can be taken so we can prosecute them or evict them. It is just a rough draft and we have to talk to the department heads yet but the law director is working on it. It is early yet but it is coming up.

Mr. Madden: There might be another problem too but the girl that lives in the house refuses to press charges against the person in question and the police keep insisting that you have to press charges. Friday I was sitting on the porch with Mary and I we were having a discussion when all of a sudden out of the clear blue the person in question comes up and throws a beer (inaudible) through the window. Then he throws like rocks and whatever to the other three. It is not her house it is 651 but the boy in 631 threw rocks or beer cans through the windows of this house. It was just really far fetched and we were just looking at each other in shock. This is the neighborhood that we grew up in our whole lives and we never had problems like this before. Of course he made a bee line to a vehicle and took off.

President Marino: How does that nuisance ordinance work? How do we declare a property a public nuisance?

Law Director Dull: What we were discussing is three calls and then there is a fine system.

President Marino: I understand what Councilman Papalas and Council are considering proposing but what do we have on the books right now? I am thinking about a home on Mason Street that we kind of got after.

Mr. Madden: We are kind of at a point where we can't take it any more. We have kind of stepped back and we have gathered our thoughts. If we want anything to be said or if we want our voice to be heard, approach it united. I know that both dwellings aren't being occupied by the owners. I know that my sister had an issue recently that she was staying with my mother and the insurance agency said that to insure your home you have to be living in that house. That is one example, so I am thinking that two of his grandsons live in the house and 651 she isn't occupies her daughter is. The whole nuisance thing is are these guys tenants, or are they owners or are they taxpayers? I moved away for five years I came back here from Florida and I am thinking what in the world happened to my side of town, it was never like this before.

President Marino: What are the rules regarding non-owner occupied with a relative living in the house?

Mr. Anthony Vigorito: A lot of time we just kind of look at it as the parents helping the kids and don't consider it a rental and we don't treat it as such. Technically speaking they are not the owners of the property and is there an issue that you would rather pursue it that way.

President Marino: Maybe you and the law director could speak tomorrow and come to terms of what we can and can't do non owners residing on property, and see what our ordinances and laws permit. I know that the chief is working on it and council is working on the three strikes and you are out. Maybe there are some immediate things we could take to account and help the situation.

Mr. Madden: My last question and I do appreciate your time is 640 Indiana. A guy bought the house for fifteen thousand. It was condemned because of the mold and how much money is this guy going to spend to make this house right. He put in a black top driveway and it has been sitting vacant for four years. You had house across the street and thanks very much for moving on that but this house was actually a head of that to be torn down. If this house was condemned and not even livable how is this guy going to move in? They went in there in HAZMAT suits cleaning this house out where there were two or three foot of standing water and human feces. It is a health issue just like this gentlemen was talking about.

Mr. Vigorito: Actually that was brought in by (inaudible) we took over the house. We condemned the house because of the living conditions in the home. The house was the son in laws. The son in law had to go in there and clean the house up and sanitize it and paint the home and clean it all up. It was on the condemned list and they sold it. I know that the buyers now plan on going in there and refurbishing the house (inaudible). They have the exterior looking okay and they are going to go back in the interior in the winter.

Mary Lamb of 634 Indiana Avenue, Niles, Ohio: I would like to comment on the drug activity I see even in the day time across the street at 639 Indiana. There is rift raft running in and out all the time. There are five, six, seven cars parked in the driveway and the yard. We have to listen to the four wheelers go around and around up and down our street. Also at 651 she has activity all the time and she has people over there all the time. I am tired of it. She woke me up at three o'clock one morning screaming profanity, swearing and crying. She was beating a car at 639 Indiana Avenue in the driveway, beating it with a stick. She was swearing, you have never heard such filth come out of a women's mouth. She woke me up and this is something we contend with every day over there. I am sick of it. I have called the police and they have not shown up. I can not remember the date but I called. They took stolen property out of his garage where his grandson took from (inaudible) only there house isn't there any more. He let his grandson use his truck to take it to wherever and sell it. Has something been said to him about that?

President Marino: Ma'am I think that council, the mayor and his administration and the police chief have a solid understanding of the displeasure from the residents on Indiana. They are aware of the issues now and it is in the administrations hands in terms of trying to get over there to start addressing the drug activity and what not. We now must give the

Chief of Police and the mayor and his administration a chance to begin to get over there and address it. Council has spoken in terms of what they intend to do with regards to ordinances and nuisance properties. In short of that, at this very moment there is nothing more that this body and this chair can do.

Mary Lamb: Well I hope that you can do something fast.

Mayor Infante: Well I think that what else we can do right now, I think that the chief will put a little more emphasis on the patrols on afternoon and midnight. He can relay that to his captains.

Mary Natali of 622 Indiana Avenue, Niles, Ohio: I would just like to be part of the public record that I am tired of the nuisance that is going on. We just want to show our support as a neighbor. We have generations, I have lived there for thirty years and I have grandchildren and I am single and I don't appreciate being by myself and having to worry about the security issue.

Councilman Cox: I am almost certain that the chief will start having more people come over and more policemen. You will see that things will start to calm down.

President Marino: Folks I will offer one more suggestion for you before we move on to other matters, you can call Chief Simeone in his office. He is here every day. Or you can call our safety director, Mr. Guarino if you see things unfold that don't seem right to you. If you are not seeing actions pick up the phone and ask to speak to the chief and express your displeasure. You are always welcome here, always to express yourself, but please make sure you keep in contact with the Chief of Police or our safety director in terms of how things are going. I would like to think that we see improvement from here on out because I know that everybody in this room is keenly aware now of your issues. So, we thank you all for coming and expressing yourself.

Mr. Jerry Altobelli of 576 N. Rhodes, Niles, Ohio: Steve you mentioned something about an ordinance reprimanding landlords when you do that are you doing that by address or by rental complexes?

Councilman Papalas: By address, we talked about that. In other words if you have a fourplex with two different families and you have calls there during the year we don't combine that. That is separate families.

Mr. Altobelli: I think that it is a great idea and I think that it is something that you need to address, the police are busy enough (inaudible) let alone babysitting landlords.

Councilman Papalas: With this ordinance or without it they still have to do that.

Mr. Altobelli: What I am saying is do the landlords get billed for that; basically it gets tricky that way. What I am saying is if you go to a big complex and I am sure that you get more calls with the big ones, if you have a complex that has a hundred units and you have

unit one, two, three, four and if you get three disturbance in one, three in two, three in five does the owner get any bills for that? After so many calls or do they have to be per unit? The ordinance should be for the complex.

Councilman Papalas: We have already gone over that, we did the rough draft and we will go over that. The owner will get fined; he is going to be paying for those police calls.

President Marino: Rather than debate this issue here what generally what council does is they prepare a draft as Councilman Papalas said. I am certain that there will be round tables and opportunities of more dialogue.

Councilman Papalas: We are waiting for a rough draft so we can sit down again and bring other people in on this and I think from what you are hearing you understand how important this is to us. That is why I hope we have this here, we need it.

### **COMMITTEE REPORTS**

None

### **ORDINANCES AND RESOLUTIONS**

#### **RESOLUTION NO. \_\_\_ (Draft No. 54-07)**

**A RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED CAPITOL PROJECTS FUND TO THE CAPITOL PROJECTS GENERAL CONSTRUCTION ACCOUNT; AND DECLARING AN EMERGENCY**

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

**YEAS: 7    NAYS: 0**

Rules are suspended.

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

**YEAS: 7    NAYS: 0**

This Draft No. 54-07 has been adopted on this 5<sup>th</sup> day of September, 2007.

#### **RESOLUTION NO. \_\_\_ (Draft No.55-07)**

**A RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED POLICE AND FIRE ½% TAX FUND TO THE POLICE DEPARTMENT EQUIPMENT PURCHASE ACCOUNT; AND, DECLARING AN EMERGENCY**

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

**YEAS: 7    NAYS: 0**

Rules are suspended.

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

**YEAS: 7    NAYS: 0**

This Draft No. 55-07 has been adopted on this 5<sup>th</sup> day of September, 2007.

**ORDINANCE NO. \_\_ (Draft No. 56-07)**

**AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACT FOR THE POTOMAC AVENUE AND MISTLETOE ROAD STORM SEWER IMPROVEMENT PROJECT; AND, DECLARING AN EMERGENCY**

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

Mr. Mark Hess: This project is our Issue Two Project for this year. This is going to put storm sewers on Potomac and Mistletoe. This is an Issue Two Grant for \$376,000; the estimated construction cost is \$508,000. We hope to open the bids by October 21st, hopefully that will get us finished by early spring.

**YEAS: 7    NAYS: 0**

Rules are suspended.

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

**YEAS: 7    NAYS: 0**

This Draft No. 56-07 has been adopted on this 5<sup>th</sup> day of September, 2007.

**RESOLUTION NO. \_\_ (Draft No. 57-07)**

**A RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED GENERAL FUND TO THE SERVICE DIRECTOR PERS ACCOUNT; AND, DECLARING AN EMERGENCY**

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

**YEAS: 7    NAYS: 0**

Rules are suspended.

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

**YEAS: 7    NAYS: 0**

This Draft No. 57-07 has been adopted on this 5<sup>th</sup> day of September, 2007.

**RESOLUTION NO. \_\_ (Draft No. 58-07)**

**A RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED SEWER FUND TO THE SEWER DEPARTMENT EQUIPMENT PURCHASE ACCOUNT; AND, DECLARING AN EMERGENCY**

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

**YEAS: 7    NAYS: 0**

Rules are suspended.

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

**YEAS: 7    NAYS: 0**

This Draft No. 58-07 has been adopted on this 5<sup>th</sup> day of September, 2007.

**RESOLUTION NO. \_\_ (Draft No. 59-07)**

**A RESOLUTION AUTHORIZING DISBURSEMENT OF FEMA FUNDS; AND, DECLARING AN EMERGENCY**

It was moved by Papas, seconded by Stredney to suspend the rule requiring three readings.

**YEAS: 7    NAYS: 0**

Rules are suspended.

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

**YEAS: 7    NAYS: 0**

This Draft No.59-07 has been adopted on this 5<sup>th</sup> day of September, 2007.

**RESOLUTION NO.\_\_\_\_ (Draft NO. 60-07)**

**A RESOLUTION AUTHORIZING DISBURSEMENT OF UNCLAIMED MONIES; AND, DECLARING AN EMERGENCY**

It was moved by Papas, seconded by Wilkerson to suspend the rule requiring three readings.

Auditor Nader: What happens is the city has over probably the past ten or fifteen years collected what is called non claimed money. Those are if someone pays a court fine and they never claim the money. They never get the money back and the court sends it over to the City of Niles. If someone pays a utility deposit and they move out of town and the city can't find them that goes to uncollected monies. Someone is issued a check they never cashed the check after so many months it is outstanding and it comes back to the city. What the state examiners, we get audited every year they said that after five years the monies should be moved into the general fund and this should be done every six months and that is what we are finally starting to do, so this may turn out once a year.

Councilman Papalas: What does ten general mean Chuck?

Auditor Nader: That is just general fund, the number ten means general. If one of these people ever was to know that they have money outstanding and come back to claim it that comes out of the general fund.

**YEAS: 7    NAYS: 0**

Rules are suspended.

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

**YEAS: 7    NAYS: 0**

This Draft No. 60-07 has been adopted on this 5<sup>th</sup> day of September, 2007.

**RESOLUTION NO.\_\_\_\_ (Draft No. 61-07)**

**A RESOLUTION AUTHORIZING THE QUARTERLY CASH TRANSFERS; AND, DECLARING AN EMERGENCY**

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

**YEAS: 7    NAYS: 0**

Rules are suspended.

It was moved by Stredney, seconded by Cox that this Draft be adopted.

**YEAS: 7 NAYS: 0**

This Draft No.61-07 has been adopted on this 5<sup>th</sup> day of September, 2007.

**ORDINANCE NO\_\_\_ (Draft No.62-07)**

**AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO ADVERTSE FOR BIDS AND ENTER INTO CONTRACT FOR SITE WORK FOR THE REPLACEMENT OF THE WALNUT STREET SUBSTATION; AND, DECLARING AN EMERGENCY**

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

**YEAS: 7 NAYS: 0**

Rules are suspended.

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

**YEAS: 7 NAYS: 0**

This Draft No. 62-07 has been adopted on the 5<sup>th</sup> day of September, 2007.

**RESOLUTION NO.\_\_\_\_ (Draft No. 63-07)**

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

It was moved by Stredney, seconded by Papas to suspend the rule requiring three readings.

Councilman Papalas: Mr. Chairman we have depleted the account for the demolition account in tearing down homes. There are more coming possibly on the list and so we are appropriating ten thousand more in case we need it. There is a meeting of the Housing Board of Appeals next month some time, everybody should go to that. It is interesting to see how that board works in so many cases that it hears. (Inaudible) meet some of the landlords (inaudible).

**YEAS: 7 NAYS: 0**

Rules are suspended.

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

**YEAS: 7 NAYS: 0**

This Draft No. 63-07 has been adopted on this 5<sup>th</sup> day of September, 2007.

**ORDINANCE NO. \_\_ (Draft No. 64-07)**

**AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACT FOR A GENERATOR PACKAGE FOR THE IT PROJECT; AND, DECLARING AN EMERGENCY**

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

**YEAS: 7 NAYS: 0**

Rules are suspended.

President Marino: One thing in the ordinance itself if I read it correctly it says “council hereby authorizes the safety director”.

Law Director Dull: That should be service director.

It was moved by Papalas, seconded by Lastic to amend Draft No. 64-07 to read Service Director instead of Safety Director. Motion carried.

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

**YEAS: 7 NAYS: 0**

This Draft No. 64-07 has been adopted on this 5<sup>th</sup> day of September, 2007.

**ORDINANCE NO. \_\_\_\_ (Draft No.65-07)**

**AN ORDINANCE ACCEPTING THE PARK PLACE STREET DEDICATION PLAT NO. 1 FROM HOME AND LAND DEVELOPERS, LLC FOR THE PARK PLACE VILLAS PROJECT; AND, DECLARING AN EMERGENCY**

It was moved by Papas, seconded by Stredney to suspend the rule requiring three readings.

Mr. Mark Hess: All the improvements were Phase One of this development have been installed and have been accepted, with the exception of the (inaudible) course of asphalt and the sidewalks. The developer has bonded the improvements and is going to install sidewalks as he built the buildings.

**YEAS: 7    NAYS: 0**

Rules are suspended.

It was moved by Stredney, seconded by Lastic that this Draft be adopted.

**YEAS: 7    NAYS: 0**

This Draft No.65-07 has been adopted on this 5ht day of September, 2007.

### **MISCELLANEOUS REMARKS**

Mayor Infante: Next week is the tire pick up, so each day they will be in a different ward. I think Monday is First Ward then Second Ward, Third Ward, Fourth Ward and then Friday is pick up for the whole city what's left. We put in on the utility bill and advertised in the paper anybody that has tires they can put them out front and they will be picked up.

Safety Director Guarino: In regards to the letter from the Weathersfield Trustees we have had several meetings with the Chief and I, Councilman Scarnecchia and members of the Safety Committee. We are doing something about it and Mr. Scarnecchia assured us that come spring time we will have an ordinance that will be more effective. This ordinance we have now, the original ordinance was written in 1977 and it was amended in 1994. Now our prosecutor said that he don't think this ordinance can be enforced at all if you bring someone in. It says several things; four things the amended ordinance says "disturb or destroy the peace and quiet of the neighborhood, cause inconvenience, annoyance or create a condition which is physically offensive to persons of ordinary sensibilities; be dangerous or detrimental to health or safety; permit the sound pressure level to exceed 60 decibels at the boundary line". Now this is what I said to the Director, Chief Simeone and the supervisors until we get the new ordinance in line "upon answering a call regarding noise/loud music, etc. the officer will attend these calls with a decibel meter. The officer is required to take a decibel reading and notifying the proper people during the time of the reading. Officers are required to follow the city ordinance and the person is required to turn it down or further actions will be taken. If you have questions please see me." Terry I will have to turn this over to you and let them know what the prosecutor told me.

Law Director Dull: The concern is how those readings are going to be taken by the recorded decibel readings. The one thing to keep in mind is the existing ordinance that we have talks about other factors and the decibel reading is a factor in what a judge has to look at when trying to decide whether or not an ordinance has been violated. So what we are going to do is fine tune that in coordination with the prosecutor, so that we come up with an ordinance he is going to feel comfortable with when going to court. I think the instructions that the safety director gave them in the meantime at least does show that our police departments is trying to at least gather some information and some evidence and try to accommodate people and try to get these situations calmed down in the mean time while this new ordinance is being developed. We will work so that we have the best

possible ordinance that we can try to prosecute with. These are difficult situations, you look over the years at court cases there is always arguments about is this ordinance too vague? Decibel levels everyone thinks that if you have this decibel level here is a hard and fast number you can go with but then you get into arguments about what other background noises, that is something that Terry Swauger talked about is the decibel meter picking up at that particular time. We are going to work to get the best ordinance that we can and probably never say that no one is going to try to attack whatever ordinance that you have. I think that between all of us we can get a good ordinance. That is where we are headed.

Safety Director Guarino: One thing that I would like to add is that Chief Simeone did get some alternatives to start addressing. One is the time limit, time during the week and later during the weekend. (Inaudible) city to see what they do. We are doing something and write the letter to the township trustees and let them know we are and I'll promise by spring that I will have something in writing.

Council asked Safety Director Guarino to draft a letter to the Weathersfield Township Trustees in regards to the noise ordinance.

Mr. Vigorito: Thank you for the additional appropriations, I managed to save sixty five hundred dollars we got a grant from CHIPS and it took care of the two demolitions we did have. It will extend my demolition account a little longer this year than normal. The extra ten I think we have twelve or thirteen homes coming up in that board meeting plus we still have about four out on injunctions.

President Marino: Also convey to Mr. Yovich that the appreciation of council for his continued efforts of carrying out the mission of the city. I am sure he hears it but it never hurts to give him a "that a boy" even more. I know I pester him and I appreciate his efforts. I probably don't give him enough compliments so convey to him our appreciation for his efforts.

Mr. Tom Telego: For Council we are prepared to move into our next step to upgrade 911 Cad and RMS packages. In talking with Terry the packages do not have to go out to bid according to Ohio Revised Code because it is an upgrade to the proprietary software. Is that correct Terry?

Law Director Dull: Yes, it will still take council's action.

Mr. Tom Telego: Correct so we would be approaching council this evening in the hopes that we can get a resolution that will allow us to complete this final phase of our upgrade.

President Marino: How much will that cost?

Mr. Telego: Approximately \$195, 000.00.

Councilman Papalas: How is the heading to read on this?

Law Director Dull: The resolution that I had in mind was we authorize it to be enter into without bid.

Mr. Telego: What this is going to give them to do is the ability to work...

President Marino: I understand what it is going to do it is just the number without bidding is a tad bit.

Mr. Telego: Yes it is a large package; there is a good portion of install that they have to do.

Councilman Papalas: Why are we not bidding?

Law Director Dull: It is my understanding that the hardware and software combination the only interface that you could have would be software with this particular company.

Mr. Telego: Correct, the software licensing does not allow us to tap into their software. If we brought other software and we knew this going into this, this was a separate phase of the project the first phase was getting the 911 system and the CAD and RMS online. This gives the ability of the police officers to do work from their cars and RMS access to the public.

President Marino: When we are all said and done how much money has have we spent downstairs?

Mr. Telego: Equipment wise and software wise? Well I couldn't answer you on the personnel side I could answer you on the equipment side. The original package was \$500,000.00 and we appropriated for it and we stayed under budget with that by about \$10,000.00. This is just the next phase of it.

Councilman Scarnecchia: Are there more phases?

Mr. Telego: Not unless technology changes. This is going to give us everything that there is to offer.

Councilman Scarnecchia: Where will this money come from?

Mayor Infante: It is already appropriated. But I think safeguard is make sure we have all the information why we are not going out for bid. That is a lot of money so maybe we should call the state and found out if we are doing the right thing by not going out for bid.

Law Director Dull: Yes I could talk to the state auditor's office and get a confirmation on that. I would be glad to do that.

Councilman Papas: Yes why don't you do that, Terry?

Councilman Lastic: We would be up to \$700,000.00.

Councilman Papalas: How soon do you need this?

Mr. Telego: I have spoken with the Chief and I would like to act on it as soon as possible because we want to get the cruisers loaded with the equipment that they need so that they're not at the station doing their record keeping when they could be out on the road, is that correct Chief?

Chief Simeone: Does last year mean anything? We already have nine laptops in the cruisers.

Councilman Scarnecchia: How many more to go Chief?

Chief Simeone: Well we have approximately thirty eight.

Mr. Telego: We do have plans for that in next year's budget to get the rest of the vehicles out fitted so that every vehicle has all the same equipment.

Councilman Papalas: Well how does this sound if Terry checks and it is verified by the state that we can do this it is not a problem. We will bring the ordinance in the next time otherwise no ordinance. Is that alright with every one? How does everyone feel about it? Bring it in as Council as a Whole then?

Councilman Stredney: There is no way another company can come in and do the same thing that is this other company...

Mr. Telego: The software licensing doesn't allow the software company tap into their software. We don't want to bring different software into... We wouldn't have to get all new software but what it does is we want to keep it cohesive, one package that does everything. They are going to be able to do everything from their cars to run LEADS to doing the records right into the vehicles. It brings the whole package all together. The reason we didn't go forward with it in the beginning is because we didn't have the wireless technology that we are putting in place now, so it had to wait for this package.

President Marino: Who is the company, Tom?

Mr. Telego: Emergitech out of Columbus.

Councilman Scarnecchia: Tom we were cautious of the original \$500,000.00 and this is the first we are hearing about this \$200,000.00. I wish we knew about this in the beginning.

Mayor Infante: This has nothing to do with the 911 Center.

Councilman Scarnecchia: Nothing to do?

Mayor Infante: It is mainly for the cruisers. To run their LEADS and (inaudible) wireless.

Councilman Scarnecchia: Oh okay. I thought it was 911.

Councilman Papalas: This as they said wasn't possible a year ago or two years ago because they didn't have the technology in place, wireless they didn't have that.

Mr. Telego: If we would have paid for it two years ago it would have been just sitting on the shelf.

President Marino: It would have been outdated by now, Tom technology changes so quickly.

Mr. Telego: Right it changed so drastically in the last two years (inaudible) wirelessly it is leaps and bounds from where we were two years ago.

Mr. Mark Hess: FYI as of this Friday the Wellness Center officially will be out to bid. (Inaudible) will be September 24<sup>th</sup>. I just want to give you a heads up.

Councilman Lastic: I just wanted to thank Bonnie from the mayor's office for a quick removal of a dead carcass in the road. (Inaudible)

Councilman Papalas: I have a couple of remarks to Mr. Thompson who came in earlier this evening and asked about the bike trail, thanks I sometime wonder if its just a few who is concerned about it. Although every once and awhile it feels good that somebody at the super market will ask about it. It is one of my pet projects and I ask Mark periodically what is going about it. The railroad seems to have us temporarily over a barrel and I think we can steer our way out of this pretty soon. Thanks for asking about it. When that bike trail does come through I will tell you what it is going to be pretty awesome. Terry, at South Cleveland Avenue can you explain for the record what is going on there so that I could tell the neighbors over there.

Law Director Dull: We just got the order in from the Bankruptcy Court and they are releasing the stay on that so we can go ahead and put it out for bid and get it torn down.

Councilman Papalas: The injunction is over and we are clear with that? Does Steve Yovich know?

Law Director Dull: Not yet I just got in today and haven't had a chance to call him.

Councilman Papalas: Would you let him know tomorrow so that he can do his thing with this?

Law Director Dull: I will.

Councilman Papalas: He has been waiting a long time so he will be a very happy camper. The Land Bank, you will be moving on this since we spoke earlier?

Law Director Dull: Yes, there are several letters that I have to officially send to different county officials that will trigger some other things to happen in terms of lists that we will start to receive from properties that are going up for foreclosure. Then we have the ability to select properties that we would be interested in (inaudible) into the bank. I will be getting those letters out tomorrow, actually Friday. I will follow up next week to see what kind of time line we might have in getting information from folks in the treasurer's office and the county prosecutor.

Councilman Papalas: We talked about that in May so we don't have to wait too much longer, right?

Law Director Dull: That is correct.

Councilman Papalas: You will have something for us in the next meeting as far as an update on where we are at?

Law Director Dull: Sure.

Councilman Papalas: Then our nuisance ordinance are we going to have a rough draft pretty soon so that we can get to work?

Law Director Dull: Yes if you like by next meeting I will have a rough draft I can pass out.

Councilman Papalas: That would be great we will all appreciate it.

Councilman Cox: You folks on Indiana Avenue next week I will start coming down to see if we can get some progress okay? (Inaudible)

Councilman Stredney: For Mr. Vigorito on my way down here I got a phone call for one more house that Mr. Yovich can take a look at, 537 Fenton.

It was moved by Stredney, seconded by Lastic to adjourn this meeting at 7:18p.m.

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**Linda A. Yuhasz, Clerk of Council**

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**Robert Marino, President of Council**



