

## MINUTES

Niles City Council held its regular meeting of May 7, 2008 at 6:00p.m. in Council Chambers, Safety-Service Complex in Niles, Ohio.

The meeting was called to order by President Pro-Tem Stephen Papalas, and the Clerk; Linda Yuhasz called the roll:

Lastic-P; Papalas-P; Scarnecchia-P; McCormick-P; Stredney-P; Papas-P; Marino-A

A motion was made by Councilman Scarnecchia to excuse the absence of President Marino. Motion carried.

A motion was made by Stredney, seconded by Papas to accept the Minutes of the regular meeting of April 16, 2008 and place them on file. Motion carried.

## REPORTS AND COMMUNICATIONS

FROM Lee A. Smith

A letter of resignation from Lee Smith, First Ward Councilman

It was moved by Scarnecchia, seconded by Papas to accept the letter and place it on file.

Motion carried.

FROM The members of the Line and Square Dancing and Tai Chi Members

A letter asking about the Senior Levy that was passed in Trumbull County to pay for the dance lessons.

Councilman Scarnecchia: Mr. President is this question for council, is this something that we are required to act upon?

Mayor Infante: No I have already addressed that. I spoke with the commissioners.

President Pro-Tem Papalas: What happened, Mayor what was the outcome?

Mayor Infante: I guess that it is through the process when the Senior Levy put out the specifications for the Scope Centers throughout Trumbull County. There was a criteria that you had to go by in order to ask for money. We chose not to go on our own and file a grant, Scope filed for everybody. It is really the (inaudible) that they put out that they have to do certain things. Everyone has to sign up, they have to budget I don't know how they do it. I am not involved in that.

Councilman Scarnecchia: So is as to whether they have to pay for lessons or not are not under our realm of responsibility?

Mayor Infante: What the seniors are saying is that as long as the levy was passed they weren't (inaudible) to pay for lessons.

Councilman Scarnecchia: Were they told that?

Mayor Infante: It has been but what happened is that it is the new funding year and the funds aren't allocated yet. We got the busing passed last month and we got our money for this year but the Scope Centers didn't get theirs yet. Hopefully they handle that and we will get a little bit involved.

President Pro-Tem Papalas: This really goes through the commissioners.

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

FROM The Auditor's Office

The Estimated Versus Actual Revenues through the end of April 2008

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

FROM The Auditor's Office

The First Quarter 2008 Status Report

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

FROM The City Income Tax Office

The Monthly Receipt Totals thru April 2008.

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

FROM The Building Inspectors Office

The Housing Code Monthly Report for April 2008

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

President Pro-Tem Papalas: We had another Appeals Court Meeting Monday and there were more houses on the list to be torn down. The effort continues.

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

Mrs. Mary Ann Flynn of Indiana Avenue, Niles: Back when our road was paved I asked them if our road could be leveled so the water wouldn't get on our side because everyone on the other side of the road has higher ground. Since residents have paved their road the water runs down across the road and into our driveway and into our basements. The poor man next door to me, it's pitiful. Those little tiny things that they have there are not going to matter. We need a big drain to catch the water where it comes across the road.

Mr. Mark Hess: Mrs. Flynn lives on the south side on Indiana Avenue. That is the side of the road where instead of putting in catch basins for every yard they put yard drains. We have thirty two or thirty five yard drains on that side of the road. The north side of the road there are yard drains also and also every so often there are catch basins. A yard drain is a twelve inch pipe that comes up to the top of the surface, a catch basin is a two by two structure. The engineers feel that these yard drains, if everything is graded properly will be sufficient to drain the water once the grading is done on that side of the road. One of the reasons that we went to this is because the cost of catch basins is astronomical. The cost of this project would have been one hundred to one hundred fifty thousand dollars more if we would have put catch basins in front of everybody's house. It was decided to put yard drains in. When Mary Ann called we talked about it. This yard drain was already in and she wanted me to switch it to a catch basin. I told her that I wasn't going to do that, I was going to build it according to plan. I wasn't going to save any money by switching it out now it was already in. If I ended up switching it out later when the project was done, I am still going to have a contractor excavate, cut pipe and take it out and I

am not saving anything. There is a chance that when the grading is done it is not even going to need it. If it is all done and she doesn't have a problem then the problem is solved.

President Pro-Tem Papalás: When will that be finished?

Mr. Hess: Right now we are going back and forth between both jobs and we have the same contractor on Mistletoe, Potomac project as we do on the Indiana project. The Mistletoe, Potomac was started first so we have instructed the contractor to finish them in the order that they started. They are still a month and a half from when they will actually be finished. One of the other concerns is with the large number of yard drains on the south side of the road, as soon as I replace hers everyone is calling me and saying when are you going to do mine? The logical approach to me would be build according to plan and if there are adjustments that need to be made after the plan we could put them in and see how it works.

Mrs. Flynn: Can I ask you something, Mark? Say those little things work, how is it going to go four feet off the road? Is there going to be a ditch on our front yards?

Mr. Hess: No there is not going to be a ditch in your front yard as a matter of fact you have a driveway that is holding water that is not in the project limits. There may be things that the property owners have to do to go beyond this project to help them. In your case the answer may be a (inaudible) drain going across the driveway, it has to be there in order to get into the catch basin. We put the main line storm sewers in and we don't solve every ponding problem that is there, because those things have to be able to be directed to the storm sewer. The storm sewer allows us to solve the problem. When this project is finished and we have had this conversation I will be out there. We will talk about what needs to be done, if something needs to be done.

Councilman Scarnecchia asked Mr. Hess a question that was inaudible.

Mr. Hess: Right now it is under construction so she is probably not noticing anything different or maybe a little bit worse. A little bit of grading solves a lot of problems.

Mrs. Flynn: I do have movie film where after our road was paved we still had the same problems. We get more debris in our driveway, we can't use the end of our driveway because of all the dirt and filth.

President Pro-Tem Papalás: Mrs. Flynn let him finish the project first we are still in the middle of it.

Mrs. Flynn: What I don't understand sir there is a catch basin right across the street from me, water doesn't go up hill they have no water. There is no water problem there. We are the ones right here (shows a picture) where you see the water run across the road, no one else needs them. If they had the main drain here (picture) no one else would get any water.

President Pro-Tem Papalás: Let's let the engineers work on this and when the projects finished we will look at it. Sometimes we have these issues and then when the project is completed it is solved. Can we watch this for awhile? A couple more months and it will be finished and then we will make those adjustments like Mark said.

Mrs. Flynn: My last question is when this little pie plate fills up with silt and debris on top of it where water goes over it, what happens? Is it our job to keep it clean?

Mr. Hess: Yes, property owners should try to keep those clean. Even if it was a two by two catch basin you should try to keep it clean.

Mrs. Flynn: You still did not answer my question on how is the water going to go into the drain?

Mr. Hess: I don't know yet, we don't know that it is not going to. That ponding at the end of your driveway has been there forever. It has been there before we got there. That is the way the road was built.

Mrs. Flynn: It can't be changed?

Mr. Hess: Well it can, but you are not going to fix it with a resurfacing project. You have driveways on the north side of the road that would have to be lowered. Everything would have to be adjusted. You would need to get into a re-construction project that would go through and actually re-construct a road and all the driveway approaches so that it would match with the road. Resurfacing is not going to do that.

Mrs. Flynn: What about a crown where it is even on both sides?

Mr. Hess: The elevation on the other side of the street from you is so much higher than you that a crown is not going to matter. It can't get high enough to send water to the high side.

Mrs. Flynn: It is running down their side of the road that is where the water is coming from, their side of the road.

Councilman Scarnecchia: Who engineered this project?

Mr. Hess: Thomas Fok and Associates.

Councilman Scarnecchia: Would it help them because I am sure they haven't seen this situation if perhaps they could see those pictures to get a better idea.

Mr. Hess: The only thing to do at this point is to finish the project and then (Inaudible). How much is grading and how much is because this is under construction? I think I had the consulting engineers call and talk to you. Didn't they?

Mrs. Flynn: No.

President Pro-Tem Papalas: Can we have somebody call her from that engineering company and discuss this so they are aware of this also?

Mr. Hess: Sure.

President Pro-Tem Papalas: Thank you Mrs. Flynn, Mark will make sure that somebody contacts you from that engineering office to discuss this.

Mr. Harry Serena, 25 Ambrose, Niles: Mr. Serena read a prepared state asking The City of Niles to buy or fund the Park Department scoreboards for baseball and soccer at Waddell and Stevens Park. Mr. Serena estimated the cost to be about three thousand dollars a piece. Mr. Serena asked council for a resolution to support the efforts of the Niles Youth League to generate funds.

President Pro-Tem Papalas: Have you discussed any of this with the Park Board?

Mr. Serena: I have discussed only with Tom Mikesell who is the Baseball Commissioner. I have made a call inquiring with Carmen Vivolo and Carmen responded politely that he was funded "x" amount of dollars to maintain the park system, which I understand. I am not asking council or the city to pay for the scoreboards, I am asking for your help in helping us to generate funds. We want to be able to go to the businesses and solicit money. If we, Niles Youth League, Tom Mikesell and the people who are involved in The Youth League if we get fifteen thousand dollars by (inaudible) people, would you match it?

Councilman Scarnecchia: How many scoreboards are you thinking of sir?

Mr. Serena: Tom and I yesterday looked at the ball park in general; there are really only four fields in Waddell that need scoreboards and definitely one in Stevens where soccer is played. We are looking at roughly between eighteen and twenty thousand dollars in total. We talked about going to Pepsi and going to Coke and try to get sponsors. I am not asking you for twenty thousand dollars, I am asking for your help to help us solicit funds and any way you can help us to achieve those funds.

Councilman Scarnecchia: I think I do know in some communities where they do have scoreboards, they do have businesses signage that does that.

Mr. Serena went on to explain about the features of the scoreboard.

Councilman Scarnecchia: Does that fall under a particular committee in council?

Councilman Scarnecchia was told Buildings and Grounds.

Councilman Lastic: You have concession stands correct? You have contacted Coke and Pepsi?

Mr. Serena: According to Tom Mikesell there is a contract already in place with Coke that has one more year to go. Coke and Pepsi are trying to downsize their program of supplying scoreboards. They are going to generate "x" amount of dollars for their income to generate the scoreboards, it is a five or ten year contract. Based on who was at the ball fields last night I don't know if we can generate that much. We have a scoreboard out there right now that hasn't worked in five years.

Councilman Lastic: Who maintains that scoreboard?

Mr. Serena: The park department, but it doesn't work. They have lost parts to it over the years, because it had a key pad that plugged into it. The newer ones don't have a key pad they have a little clicker that they use. The umpire will just sit there and click it and it will change the scoring.

Councilman Lastic: I am telling you right now if you have one year left on your contract with Coke or Pepsi next year you tell them this is the end of the deal unless you put up that scoreboard. Tom has got to get a hold of his representative. Who does he talk to Pepsi? They will supply it if not go to Coke and you will get a scoreboard.

Mayor Infante: The other idea is they have concessions there and they make a lot of money and they have (inaudible) come in on weekends, they should put some of that money aside. I am sure the city or council wouldn't have a problem matching some of it. They have to start

themselves because we light all the ball fields, we fertilize all the ball fields, we fix the fences on all the ball fields, and we have restrooms on all the ball fields. The city really does a lot for the youth.

What I am saying is it should be a two fold, they have all those groups out there, the soccer league and the base ball league. One day we should just turn around and have a meeting with The Buildings and Grounds and get everybody in and set a (inaudible) where we go (inaudible) plan where we could start buying scoreboards for the fields. Everybody has to take a part in it.

President Pro-Tem Papalas: You need to bring the Park Board into this also. I think a committee of parents and grandparents should go to the Park Board and explain to them what you have explained to us and what you have heard here, they are a part of it. You can't go off in a direction without them and vice versa, we have to work together all of us.

Mr. Serena asked about the Park Board but it was inaudible.

President Pro-Tem Papalas: No, the Mayor appoints those member and it is an autonomous group. They oversee the Park Board. We oversee the funding.

Mr. Serena: That is what Carmen said. His funding doesn't allow enough(inaudible). I am asking for a resolution from you(inaudible) to raise funds.

President Pro-Tem Papalas: You have unanimous support in here.

Mr. Serena: We go to all the businesses and we say this is for The City of Niles so you are aware of what we are doing. We need your support as well so someone doesn't call and say ...

Councilman Lastic: Come down and get the permit and get started.

Jackie Malcomson of 550 Indiana Avenue, Niles:I have a few questions about the construction that Schimley is doing over there. I don't know if they have any plans I am sure they are not going to go around and take pictures of everybody's grass or lawns. How do we know that they are going to put it back to the way it was.

Mr. Hess: They are under contract with us to put it back the way it was and I have inspectors out there that you should see all the time.

Mrs. Malcomson: Well they were going to do my driveway wrong when they were just out there last Thursday. They were going to do my driveway and tear it up and they weren't even going to put it in that day. They are going down one side of the street now which is the smart thing to do. I think they started to come up now towards my house, but my driveway according to the plans he said it went straight and it doesn't. My driveway fans out it is real wide at the bottom. We have pictures on the digital of everything.

Mr. Hess: They would have videotaped the entire job. (Inaudible) we would be able to verify that if they didn't do it.

Mrs. Malcomson: I was concerned about that it took us ten years to get our stuff that way.

## **COMMITTEE REPORTS**

A Finance Committee Meeting was scheduled for May 14, 2008 at 3:10p.m. in the first floor conference room at City Hall. A Utilities Meeting will follow.

**ORDINANCES AND RESOLUTIONS**

**ORDINANCE NO.\_\_\_\_(Draft No. 21-08)**

**AN ORDINANCE PLACING A MORATORIUM ON THE AUTHORITY OF THE BUILDING INSPECTOR TO ISSUE PERMITS FOR INSTALLATION OF ANIMATED SIGNS WITHIN THE CITY; AND, DECLARING AN EMERGENCY**

It was moved by Stredney, seconded by Papas to table Draft No. 21-08. Motion carried.

**ORDINANCE NO.\_\_\_\_(Draft No. 26-08)**

**AN ORDINANCE APPROVING THE RECODIFICATION, EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES OF NILES, OHIO, AND THE DECLARING OF AN EMERGENCY**

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

Councilman Stredney: Tony this got the approval of the Planning Commission right?

President Pro-Tem Papalas: This doesn't need it. I do have a question that I would like to ask. We used to have an ordinance concerning water run off from one property on to another. As I recall one neighbor was not allowed to cause more water to run off on to another neighbor without making some sort of drainage system. Now we have had at least twice issues where new homes went up and neighbors next to them had problems with water. There is nothing that says they have to have a swale, nothing that says they need to retain the water or run into the sewer. So, in your opinion do you believe that we should work on something like this, because if we don't that situation is going to keep on occurring.

Mr. Anthony Vigorito: I know Mark and I have discussed this issue (inaudible) at least one of the items you are talking about. I believe the way the ordinance reads now there are three ways I think, Mark can verify this, if there are storm sewers available they have to run to the storm sewer. If there are no storm sewers available and they can get to the street, they have to (inaudible). If there is neither of those two all they have to be able to do is put it to the ground. Code says it has to be two feet away from the house without directing it to anybody in particular. I am not sure if that is what you are, I know that we have a lot of places in town that have no storm (inaudible).

Mr. Mark Hess: Actually that language that you are talking about going to the public gutter that was the language that I approached you on before. The city used to have language in codified ordinance form that said as a matter of fact it used the term courtyard and your downspouts. You could only drain downspouts in your courtyard you had to go to the available storm sewer first, if that wasn't available you went to the public gutter and if that wasn't available you splashed off on to the property. Now we have had some issues that come up especially this year with all the rain, some of the neighbors they are claiming that somebody is running water on them. I went back and tried to find that language and couldn't find it. When I went to talk to Tony about it Tony seems to think that as ordinances get amended over the years that

everything from that ordinance doesn't get carried over. I don't know if that has happened or not. There was an issue that came up with one of the residents of Niles up on Taft Avenue.

President Pro-Tem Papalas: Yes and we had one over on Shadowridge a couple years ago.

Mr. Mark Hess: So he wanted a copy of that and the reason is because I had told him. He was the one getting water and he wanted a copy of that and I told him I would get him a copy and I looked through everything. Now the ordinances are on the computer so when you do a search on downspouts the only language that comes up is that you can't run downspouts in the sanitary sewers. That is the only thing that it says about it. I think that there used to be something but I don't know how in depth you want to be. Right now there is Ohio law that tells property owners that somebody can't directly do something that adversely affects their neighbor and if that can be proven it is a civil matter that is in the Ohio Revised Code. We have taken that approach in giving property owners advice and try to make the sound judgment as to where they should drain their facilities to.

President Pro-Tem Papalas: It is not any ones fault in here, but here is the way that it is. The city is giving a building permit to a citizen who has put quite a bit of money into an investment. The next thing that person knows it constructed their home that caused a water problem for somebody else. What are we going to do to stop that problem between two good neighbors? I believe that if we had an ordinance in place that we could show people ahead of the game this would be headed off before it ever occurred, because these are responsible people we are talking about. They just got caught up in an area where we don't have an ordinance right now as far as I am concerned. How can you enforce something that doesn't exist? It used to I know it did, ten years ago, twenty years ago I know that it was enforceable, it was. Now suddenly the ordinance is gone and I know that we didn't repeal it and so therefore I believe we need to sit down and work something out to prevent this in the future. We have a lot of areas where construction can still occur in our city. So, where do we go from there? We have got these new ordinances wrapped in ordinances but there is nothing on here that states something about flooding, so what can we do?

Law Director Dull: I think I need to sit down with Mark and Tony to get some background information on that and I can start to process together drafting something so we can get it as part of our ordinance.

President Pro-Tem Papalas: We have got to, you guys how do you feel about it? If we don't do something now we are going to be staring like a deer in the headlights because it's happening over and over again and we all are going to be jingling our change in our pockets while we stand there talking to the neighbors.

Councilman McCormick: Steve can we approve these ones that we have here, I think that they are all appropriate and address that issue separately at the next meeting? The ones that are on here seem to be appropriate and everything vote on them and I agree with you something needs to be done. Let's address that as a separate issue rather than delay this one.

President Pro-Tem Papalas: Sure, right. These contractors go ahead and build a home for someone and cover up swales and everything else that was there in the past, the guy that moves into the new house doesn't know that. The neighbors getting the water he knows. What can we do? The contractor has to be responsible for this at the beginning. Tony, do you understand what I am saying, do you agree?

Mr. Vigorito: I do but I think that there is only one issue that you are missing upon I know Mark and I looked at one of the issues and I am not sure about the other one that you are talking about. It was in my opinion that the new home didn't cause the problem. The new home actually sheds more water away than originally was there. So, I was not in the opinion that the new home caused the problem. Maybe by reconfiguring the ground they were getting more street water that might bring in a problem. I am not real sure I know that we looked at it. I didn't think that the house itself caused more water problems into that particular property because all the water from that home, there is over two thousand square feet of roof area, and it is being shed back behind it. So, if there is a water problem it should be the three houses down the street from it.

President Pro-Tem Papalas: Well they are getting it too. There are three neighbors in a row that are catching water. They didn't have much water before. The other problem you fellows may remember was over on Lantern Lane, remember that. A new home went up and the neighbor got a lot of water.

Councilman Lastic: Part of our problem is these contractors building new homes where there are no sewers, no draining systems, and no ditches. We would have to address that before they start building. Where is that water going to go when you start building? That is where we should start looking. That is why we are in this problem.

President Pro-Tem Papalas: That is what I am saying Mike, we need an ordinance to discuss this and address it.

Councilman Lastic: The area that we are talking about I know the water is being pushed back to a natural swale.

Mr. Hess: New construction would be easier, where it is difficult is we have a lot of older neighborhoods. Like Councilman Lastic said you have areas where there are not a lot of options. In short of the city going to storm sewers and that is what we are trying to do now and even when we build storm sewers we are not catching the water.

Councilman Lastic: When they clear the lands when they build, here is what we are going to do with the water; we are going to go to the storm sewer. All of a sudden there is no storm sewer, where do we go now. Well we are going to exit through the back of the property.

President Pro-Tem Papalas: What does business do? They retain the water.

Councilman Lastic: That may not be a bad idea.

President Pro-Tem Papalas: Something on a smaller scale. This is something that needs to be addressed.

**YEAS: 6    NAYS: 0**

Rules are suspended.

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

**YEAS: 6    NAYS: 0**

This Draft No. 26-08 has been adopted on this 7<sup>th</sup> day of May, 2008.

**ORDINANCE NO.\_\_\_\_ (Draft No. 27-08)**

**AN ORDINANCE GRANTING AUTHORITY TO THE BUILDING INSPECTOR TO ISSUE A PERMIT FOR THE CONSTRUCTION OF AN ADDITION TO SCHIMLEY'S EXCAVATING AT 1256 NORTH MAIN STREET NEARER THAN FIFTY FEET (50') FROM THE RIGHT OF WAY WITHIN A B-3 GENERAL COMMERCIAL DISTRICT; AND, DECLARING AN EMERGENCY**

Councilman Stredney: Tony did this go to the Planning Commission already?

Mr. Vigorito: No.

Councilman Stredney: I think in the past we have normally sent it to the Planning Commission. It was moved by Stredney, seconded by Scarnecchia to refer Draft No. 27-08 back to the Planning Commission for review. Motion carried.

**MISCELLANEOUS REMARKS**

President Pro-Tem Papalas announced that city council was taking applications to fill the vacancy of the First Ward council seat. Applications and resumes will be accepted in the Clerk of Council's Office from May 1 thru May 14, 2008. City Council will meet at 5:30 p.m. on May 28, 2008 in the first floor conference room at City Hall to choose a candidate.

Councilman McCormick: Mrs. Flynn I know that I have talked to you over the phone and I know that you are looking for a solution, like Steve said if you just be patient and see if this will work. If it does than we are all going to be happy, if it doesn't I will be right along with you to try to make it so that it does work. Don't feel frustrated or anything, let's see if it will work.

Councilman Stredney: I was at the Housing Board Meeting on Monday, Tony, Steve Yovich and the Housing Board is doing an incredible job. It is not easy and Tony if you could pass that along to Steve Yovich. You guys do an awesome job down there. Something I don't hear too often, me, my wife and my kids were out walking the other day and we had residents complementing neighborhoods saying that they were starting to look better. A couple of those neighborhoods were getting a little rough but Steve and I are working on it.

It was moved by Stredney, seconded by Papas to adjourn the meeting at 6:50p.m Motion carried.

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Linda A. Yuhasz, Clerk of Council

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Stephen Papalas, President Pro-Tem

