

## **MINUTES**

Niles City Council held its regular meeting of August 20, 2008 at 6:00 p.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; Wilkerson-P; Marino-A

A motion was made by Papalas, seconded by Lastic to excuse the absence of President Marino. Motion carried.

A motion was made by Stredney, seconded by Papas, to accept the Minutes of the Special Council Meeting of July 9, 2008 and place them on file. Motion carried.

## **REPORTS AND COMMUNICATIONS**

From The Auditor's Office

The Second Quarter 2008 Status Reports

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

FROM The Cemetery Department

The July 2008 Cemetery Sales Report

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

FROM The City Income Tax Office

The Monthly Receipts Totals thru July 2008

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

FROM The Ohio Division of Liquor Control

Permit Transfers from Imanarmo and Outback Steakhouse.

It was moved by Stredney, seconded by Wilkerson to forward these reports to the Safety Director and the Police Chief for their report and recommendation. Motion carried.

FROM The Ohio Division of Liquor Control

A Change of Corporate Stock Ownership for Max & Erma's

It was moved by Stredney, seconded by Lastic to forward the report to the Safety Director for his recommendation. Motion carried.

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

Mr. Nick Picciano of 302 N. Pleasant Street, Niles, Ohio: My concern is about Niles Expanded Metals, the noise has been really bad. My neighbors and I can't sleep at night and is there anything we can do to stop it? I talked to the plant manager, Ian Thompson he was passive and said we will see what we can do and nothing was done. As a home-owner I can't afford to move and I am stuck where I am right now. I would like to see something done as soon as possible.

Safety Director Guarino: I was there a couple months ago with you and some of your neighbors. One neighbor said that this noise was going on a long time and in the summertime you can hear it more because the windows are open. He said he didn't think there was much you could do and I don't know what you can do. That plant has been there for I don't know how many years and like you said the noise has been going on forever.

Mr. Picciano: The noise has gotten worse in the past two months they put a new press in and they have the doors open. If there is some way they can muffle the sound it would be beneficial to us.

President Pro-Tem Papalas: Have you talked to them about that, muffling the sound some way?

Safety Director Guarino: Management, no I didn't do that but I could. I don't know what they would do about that it is an industry and I feel sorry for the people that live around there, but we have been losing a lot of jobs as it is already.

Mr. Picciano: Well I don't want to see anyone lose their job but I would like to sleep at night.

Director Guarino: Well I guess I could go out there and ask them if they could muffle it a little bit.

Councilman Lastic: If they have a garage door and they have it open maybe they could close it.

Mr. Picciano: Yes they have a garage door open and a (inaudible) open but the manager was reluctant on closing it and I understand that.

Councilman Lastic: Maybe some type of mesh things that muffle the sound, an exhaust fan.

Ruth Crain of Ann Street in Niles: I am here on behalf of my mother, Mildred we are concerned with the burning that is going on. I have spoken with Chief Brown regarding it and he is working on it. I do have copies of the nuisance laws and the burning laws and I really would like to see what can be done. One neighbor, the fire truck has been out numerous times and she just continues to burn. The last time they were out they were able to talk to her and I think it was over this weekend and she hasn't been burning since. My understanding is that you are not allowed to burn unless it is for cooking and grills, but she is just burning debris from her yard. My mom has advanced emphysema and is on oxygen twenty four hours and I would consider this a nuisance with the nuisance law because it bothers somebody. (Inaudible) The fire truck has been out there numerous times and she is wasting city money.

Fire Chief Brown: I don't know if the police report has been filed, this is our first meeting in awhile. I have an article that I would love to get in the paper. Most people think that if you are cooking it is legal, my article is hot dogs don't make it legal. There are a number of others stipulations that you have to follow before you are allowed to have open burning. There are all kinds of fines under open burning. Our Niles ordinance is not real specific, the bottom line is if it is objectionable to somebody because someone has breathing problems that means that the fire has got to be out. I haven't talked with these people specifically I have dealt with a number of other ones but this is going to be handled probably within this next week.

Ruth Crain spoke again but it was inaudible.

President Pro-Tem Papalas: Chief we will wait for your recommendation on this but if it is a nuisance I think the fire department should notify the police also on being called over there.

Chief Brown: Well I need to talk to Terry about the fire department being able to cite (inaudible). I did get a copy of the Nuisance Ordinance to see if I could use that. I want to do an article to notify people and I will personally meet with the person she is talking about. This is going to be handled probably before our next council meeting.

Safety Director Guarino: Gary is it the same people doing this?

Chief Brown: I heard it was but apparently there is a new one.

Ruth Crain: They live right next door and I talked to the landlord today. I did talk to them trying to be a good neighbor. I said that I bet your landlord neglected to inform you that there were burning laws in the city. They had a roaring fire going the night before last and last night. I called the fire department and they went out. This gentleman next door told me that the fire department told him that he is allowed to burn wood for a small fire. I think that you need some definition here, somebody to interpret the laws.

Mayor Infante: Chief for the time being when you get a call for a fire you give them a warning for the first time and the second time you cite them in court. You let everyone else worry about it after that until city council needs to get together to change the ordinance. No way should a fire truck go out five times to the same house for a burning fire. We went through this four or five years ago before you were Chief and I told him the same thing.

Chief Brown: I agree. It is a nuisance, it is costing the city and she is on oxygen and it is bothering her then it is illegal.

Ruth Crain: I will say that the fire department is just excellent they have been out with my mom in emergencies and they are there before the ambulance is. The police department is great also. Thank you.

Councilman Scarnecchia: It sounds like our burning laws need to be updated and gone over and I know that the Safety Committee Chairman, Mr. Stredney would be happy to sit with the fire chief and update that.

Jerry Caicco, 969 Vienna Avenue, Niles: Yesterday I had a little incident with one of the city workers. I called Sam Villio because I have a drain at the bottom of my driveway that appears to be sinking. He promised me that he would take a ride out to look at it and while he was out there one of the city trucks pulled up and my eleven year old daughter went out to see what was going on. So after they had left my wife called me and told me that there wasn't going to be anything done with the drain. I said what did they say and she said I don't know. My daughter came in the house and she heard the man saying ---- them they can drive on the other side. I was a little fired up because nothing was getting done and more fired up because of the language so I called Sam and he knew right away what I wanted to know and he knew right away who it was. He assured me that something was going to get done and that they were going to take care of the problem. I wasn't thrilled about the guy's language and wasn't thrilled that my daughter had to hear it. I don't know if this is the right place to bring it up but I think that the guy should be disciplined. I have worked with people that have gotten fired for less and fired for the same. I don't want the guys' job but I believe he should be suspended. Maybe he was mad that he had to work so he probably should go to anger management.

Service Director Buccino: I was there last night and I apologized for the City. I stopped this afternoon and the employee was off on a scheduled vacation day and it will be handled in the morning.

Mr. Caicco: Okay.

Dave Anderson of 132 Gardenland Avenue, Niles: (Inaudible) I am here about McMenemy's again the noise coming from it. The weekend before last and the weekend before that, nice, we could hear it in the background outside but we were never disturbed. Last weekend it was terrible, we called the police and I was told by the dispatcher that the turn captain will no longer send a cruiser up there. Something needs to be done about this to tone it down. (Inaudible)

Councilman Stredney: Mr. Anderson I briefly talked to the Chief prior to this meeting here we have been working on something, the Chief and I will get together and hopefully get a Safety Committee Meeting before the next council meeting. We are hoping to bring new legislation in to address these issues we have been dealing with for a little bit of time. We are going to try to bring something in, hopefully if not this next council meeting, definitely within the next one or two meetings.

Mr. Anderson: (Inaudible) call the police and get it on record. It's not just Weathersfield residents, its Niles residents.

Councilman Stredney: I have looked into several other townships and cities ordinances on different noise violations and different noise laws that they have, so we have a pretty good idea where we are going with this. I have to have a committee meeting to get them to pass it and bring in it to vote.

Mr. Anderson: One more thing, you can have your meeting here where everyone is quiet and you can conduct your business, I don't have that luxury in my house where I conduct my business. (Inaudible) it is at least as loud as I am talking right now and I live a mile away from there. I close my windows up in the summer time and (inaudible). I can't enjoy my patio, I have to turn the air conditioning on and I have to turn the television on to block the noises. (Inaudible) shut it down. Anything you can do will be appreciated. Chief, when I call can they at least send a car up there?

Police Chief Simeone: (Inaudible)

Mr. Anderson: On August 6, 2008 at 8:32p.m. I believe Chris was on dispatch. They said no we are not going to send a car up. Which I could understand like the lady said about the fire department sure that is a pain in the neck. You won't have a problem if they quiet down, I won't call any more.

Chief Simeone: Well we are getting some conflicting stories, first of all the ordinance is not going to cover eight thirty in the evening. Secondly I have talked to some other people who live up there and they enjoy it. So, I understand that it is a problem for some people but other people don't have a problem. I enjoy watching guys race, does that mean they can do it on the streets?

Chief Simeone: I understand that we can go up there and talk to them but I don't know (inaudible).

Mr. Anderson: Whatever they had a week ago Friday and Saturday and Friday and Saturday before that was okay. I could sit out on my patio and just hear it in the background and carry on a conversation. Thursday night, bike night it gets pretty loud and gets louder until ten o'clock then shut it down. (Inaudible) but we go until one or two o'clock in the morning and you can't sleep (inaudible).

Chief Simeone: Well they should be done by twelve thirty or one o'clock.

Mr. Anderson: They could go all night if they turn it down, I don't care.

Chief Simeone: I understand but I am saying they should be done by one or one thirty.

Mr. Anderson: Would you like to have that outside your window at one thirty?

Chief Simeone: I guess it depends, everyone has issues of what is noise and what isn't.

Mr. Anderson: Well you can't make out what the music is saying all you can make out is the music thumping, the loud volume (inaudible).

Chief Simeone: Well I will definitely talk to the owners to see what ... I know we are getting close to the end of the season.

Mr. Anderson: Yeah I heard that last year and the year before and nothing is being done yet. (Inaudible).

### **COMMITTEE REPORTS**

A Finance Committee Meeting was scheduled for August 27, 2008 at 3:00p.m in Conference Room 1 at City Hall. The Utilities Committee will meet immediately following the conclusion of the Finance Meeting.

### **ORDINANCES AND RESOLUTIONS**

#### **ORDINANCE NO.\_\_\_\_(Draft No. 56-08)**

#### **AN ORDINANCE AUTHORIZING THE MAYOR AND SERVICE DIRECTOR TO ENTER INTO AN AGREEMENT WITH KLEESE DEVELOPMENT ASSOCIATES FOR A NON-DEVELOPMENTAL OIL AND GAS LEASE FOR CITY-OWNED PROPERTY; AND DECLARING AN EMERGENCY**

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

**YEAS: 7    NAYS: 0**

Rules are suspended.

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

**YEAS: 7    NAYS: 0**

This Draft No. 56-08 has been adopted on the 20<sup>th</sup> day of August, 2008.

**ORDINANCE NO.\_\_\_\_(Draft No. 57-08)**

**AN ORDINANCE ACCEPTING DRAINAGE EASEMENTS FOR THE STEVENS PARK WATERSHED DRAINAGE IMPROVEMENT PROJECT; AND DECLARING AN EMERGENCY**

It was moved by Stredney, seconded by Scarnecchia 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.

Councilman Stredney: I have a question, Mr. Hess are these all the easements that were needed up there?

Mr. Hess: These are actually easements on the first phase we are almost done with construction. These are easement s for residents on North Rhodes Avenue they have already been signed I just need to get them recorded.

**YEAS: 7 NAYS: 0**

This Draft No. 57-08 has been adopted on the 20<sup>th</sup> day of August, 2008.

**RESOLUTION NO.\_\_\_\_(Draft No. 58-08)**

**A RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED SEWER FUND TO SEWER DEPARTMENT ACCOUNT NO. 53-5650; AND, DECLARING AN EMERGENCY**

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

**YEAS: 7 NAYS: 0**

Rules are suspended.

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

**YEAS: 7 NAYS: 0**

This Draft No. 58-08 has been adopted on the 20<sup>th</sup> day of August, 2008.

**ORDINANCE NO.\_\_\_\_ (Draft No. 59-08)**

**AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO ENTER INTO CONTRACT FOR THE REPAIR/REPLACEMENT OF THE INTERCEPTOR SEWER SYSTEM; 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 Stredney, seconded by Papas that this Draft be adopted.

**YEAS: 7    NAYS: 0**

This Draft No. 59-08 has been adopted on the 20<sup>th</sup> day of August, 2008.

**RESOLUTION NO.\_\_\_\_ (Draft No. 60-08)**

**A RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED PARK FUND TO THE PARK DEPARTMENT'S CONTRACTED LABOR ACCOUNT; 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 Wilkerson, seconded by Stredney that this Draft be adopted.

Councilman McCormick: What is this for?

Auditor Nader: This was for a specific item. They collected money from Senior Softball and spent it.

**YEAS: 7    NAYS: 0**

This Draft No. 60-08 has been adopted on the 20<sup>th</sup> day of August, 2008.

**RESOLUTION NO.\_\_\_\_ (Draft No. 61-08)**

**A RESOLUTION INDICATING THE CITY'S WILLINGNESS TO PARTICIPATE IN A COOPERATIVE PLAN TO UTILIZE THE WESTERN RESERVE PORT AUTHORITY TO CREATE OPPORTUNITIES FOR ECONOMIC DEVELOPMENT IN TRUMBULL AND MAHONING COUNTIES; AUTHORIZING THE MAYOR TO EXECUTE A COOPERATIVE AGREEMENT FOR SAID PURPOSE; AND, APPROPRIATING FUNDS FROM THE CITY'S RESOURCE CONTRIBUTION FOR THE COOPERATIVE PLAN; AND, DECLARING AN EMERGENCY**

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

Councilman Scarnecchia: It could be a very good thing for the area but if we are going to contribute I certainly hope that the Port Authority keeps us abreast on the progress and we don't forget about or don't hear anything about it until next year's request of the funding.

Mayor Infante: That is why I only supported a year one and not three.

President Pro-Tem: Not only that as we said at our Roundtable you were invited to last week, there an advisory committee which our community will have a member. So the Mayor will make that appointment or nomination and that person will certainly make sure that there is communication.

Councilman Stredney: Is there a possibility that we know the other cities that have chipped in or are going to put money towards this?

President Pro-Tem Papalas: Youngstown, Warren is committed and they are saying they will, Niles, Mahoning County Commissioners, Trumbull County Commissioners and the congressman has stated that there is one other township in Trumbull County that is interested and he is going to be approaching others.

Councilman Stredney: Good this is a great thing; we should have been doing this a while ago.

**YEAS: 7    NAYS: 0**

Rules are suspended.

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

**YEAS: 7    NAYS: 0**

This Draft No. 61-08 has been adopted on the 20<sup>th</sup> day of August, 2008.

**ORDINANCE NO.\_\_\_\_ (Draft No. 62-08)**

**AN ORDINANCE PROHIBITING ILLICIT CONNECTONS AND DISCHARGES TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM; AND, DECLARING AN EMERGENCY**

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

Councilman McCormick: This particular incident happened before I came into office and my predecessor; Mr. Cox made me aware of it. This isn't something that we have a choice on. The EPA has been here to visit the situation and this is something that has to be done. We have to have this on file to be in compliance with the EPA.

Councilman Stredney: If I am not mistaken isn't this already in practice and taken care of?

Councilman McCormick: There was one particular incident that the EPA came and inspected and thought it was out of compliance and they found that we didn't have city legislation to cover it so they recommended that we do.

Mr. Mark Hess: This is being mandated by the EPA but what they are saying is that any discharge to waters of the state has to be one hundred percent storm water. Any thing not one hundred percent storm water will be considered an illicit discharge. Now with swimming pools the ordinance does provide some exceptions. Obviously we want people to be able to wash their cars and not have someone knocking on your door saying that you are polluting. We don't want people to drain their swimming pools and going out to the middle of the road and open up the manholes. We would rather them be able to discharge to an available storm sewer. Those are some of the things that are being allowed but the EPA is taking a stronger stance and these

laws have been in place for a long time. It is going to get worse and we are going to have to monitor (inaudible). This was actually supposed to have been done in 2006 and we are a little bit behind and we are trying to get caught up now.

**YEAS: 7    NAYS: 0**

Rules are suspended.

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

**YEAS: 7    NAYS: 0**

This Draft No. 62-08 has been adopted on the 29<sup>th</sup> day of August, 2008.

**ORDINANCE NO.\_\_\_\_ (DraT No. 63-08)**

**AN ORDINANCE AMENDING NILES ORDINANCE NO. 36-06; CHANGING THE ZONING OF A PORTION OF THE PROPERTY KNOWN AS TRUMBULL COUNTY AUDITOR'S OFFICE PARCEL NO. 25-488390, OWNED BY MICHAEL & ANGELINA RAZZANO, FROM R-A RESIDENTIAL DISTRICT TO B-3, GENERAL COMMERCIAL DISTRICT; AMENDING THE ZONING MAP AS REQUIRED THEREIN; AND, DECLARING AN EMERGENCY**

Mr. Anthony Vigorito: A retail establishment is looking to take that corner over. This R-A property is actually in the rear of property that is already zoned as R-A. When we did the rezoning in the city we just followed it back line where the alley already was, that is why the back portion of that property is already zoned R-A. This is on the corner of East Federal and Route 46 and the back portion is Mrs. Razzano's property. In the next ordinance you will see that we are asking to vacate Plum Alley.

A motion was made by Councilman Stredney and seconded by Councilman Wilkerson to send Draft No. 63-08 to the Planning Commission for their recommendation. Motion carried.

**ORDINANCE NO.\_\_\_\_ (Draft No. 64-08)**

**AN ORDINANCE VACATING A PORTION OF PLUM ALLEY**

A motion was made by Wilkerson, seconded by Stredney to send Draft No. 64-08 to the Planning Commission for their recommendation. Motion carried.

A motion was made by Councilman Stredney, seconded by Councilman Wilkerson to schedule a Public Hearing for Drafts 63-08 and 64-08. Motion carried. A Public Hearing for Draft No. 63-08 will be held on October 1, 2008 at 5:40p.m. in Council Chambers. A Public Hearing for Draft No. 64-08 will be held on October 1, 2008 at 5:45p.m. in Council Chambers.

Mayor Infante: If possible would Council be willing to put that on the agenda that night?

President Pro-Tem Papalas: Yes.

Law Director Dull explained that by statute the vacation of a portion of an alley takes a longer period of time for it to lie before council than a zone change does. That requires a six week period of time for the alley and there has to be a notice that runs once a week for six weeks.

Law Director Dull said that Council could still have the Public Hearing on October 1, 2008 but couldn't take any final action on October 1<sup>st</sup>.

Councilman Scarnecchia: I noticed on this one that we don't have a copy of the petition signed by the owners of the lands. Is it many signatures or just two?

Law Director Dull: All of the land owners surrounding signed.

Councilman Scarnecchia: By vacating that alley whoever is going to be the owner they can close up that alley, right? But yet that alley is used for waste services for the back of the corner lots?

Law Director Dull: I think eventually the plan is that this is all going to be developed into one parcel.

Mr. Vigorito: I do plan on recommending to the Planning Commission that the vacating of the alley plus the zone change if approved have a stipulation that it reverts back that it doesn't vacate and doesn't change zone if no project is started within two years. They said that it was going to take some time to get it off the ground.

**ORDINANCE NO.\_\_\_\_ (Draft No. 65-08)**

**AN ORDINANCE AUTHORIZING THE MAYOR AND SERVICE DIRECTOR TO ENTER INTO AN AGREEMENT WITH EVERFLOW EASTERN PARTNERS, LP FOR A NON-DEVELOPMENTAL OIL AND GAS LEASE FOR CITY-OWNED PROPERTY; AND, DECLARING AN EMERGENCY**

A motion was made by Papas, seconded by Wilkerson to suspend the rule requiring three readings.

**YEAS: 7    NAYS: 0**

Rules are suspended.

A motion was made by Stredney, seconded by Papas that this Draft be adopted.

Councilman McCormick: Is this underneath the bridge on both sides; is that the area we are talking about here?

Mayor Infante: Yes.

**YEAS: 7    NAYS: 0**

This Draft No. 65-08 has been adopted on the 20<sup>th</sup> day of August, 2008.

**ORDINANCE NO.\_\_\_\_ (Draft No. 66-08)**

**AN ORDINANCE AUTHORIZING THE MAYOR AND SERVICE DIRECTOR TO ENTER INTO AN AGREEMENT WITH EVERFLOW EASTERN PARTNERS, LP FOR A NON-DEVELOPMENTAL OIL AND GAS LEASE FOR CITY-OWNED PROPERTY; AND, DECLARING AN EMERGENCY**

A motion was made by Papas, seconded by Stredney to suspend the rule requiring three readings.

**YEAS: 7    NAYS: 0**

Rules are suspended.

A motion was made by Stredney, seconded by Papas that this Draft be adopted.

**YEAS: 7    NAYS: 0**

This Draft No. 66-08 has been adopted on the 20<sup>th</sup> day of August, 2008.

**MISCELLANEOUS REMARKS**

Mr. Vigorito: Mr. Lewis is here from that developmental company. If you have any questions for him I am sure he will be glad to answer them and he will have a presentation at the Public Hearing.

Councilman Lastic: Tony, would you explain to the other councilmen what you found out about Mt. Carmel?

Mr. Vigorito: I had some calls that there was some activity going on at Mt. Carmel and I had already had a call from Head Start looking to relocate in Mt. Carmel. The fire chief and I took a ride up, walked through and talked to one of the administrators. Mt. Carmel has sub-leased to two organizations, one is called Trumbull Academy who will have about thirty students and counselors on duty. They are taking the east end of the school. At the south end of the school is going to be Head Start who will be coming in about October or November. They have approximately one hundred thirty students plus teachers. The therapy is already in a portion of the school now and bingo is still on Friday and Saturday nights. I did check to see if everything was okay through zoning the building standards in Columbus. It was already educational so there were none, everything is good to go. I am sure you will get some calls; I do have a couple of not so happy neighbors who possibly might draw up a petition and fight it.

A motion was made by Stredney, seconded by Papas to adjourn the meeting at 6:55p.m. Motion carried.

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Linda A. Yuhasz, Clerk of Council

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Stephen Papalas, President Pro-Tem

