

MINUTES

Niles City Council held its regular meeting of September 17, 2008 at 6:00p.m. in Council Chambers, Safety-Service Complex in Niles, Ohio.

The meeting was called to order by President Robert Marino, Jr. and the Clerk; Linda A. Yuhasz called the roll:

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

A motion was made by council as a whole and seconded by council as a whole to excuse the absence of Mayor Infante and Service Director Buccino. Motion carried.

The President of Council did not occupy Mayor Infante's chair and the President Pro-Tem maintained his position as a member.

A motion was made by Stredney, seconded by Wilkerson to accept the Minutes of the Regular Meeting of September 3, 2008 and place them on file. Motion carried.

REPORTS AND COMMUNICATIONS

FROM The Office of the Building Inspector

A letter recommending Drafts No. 63-08 and 64-08

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

Motion carried.

FROM The Building and Zoning Department

The Housing Code Monthly Report for August 2008

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

Motion carried.

FROM The Cafaro Company

A letter expressing their concerns with the noise ordinance.

Councilman Papalas: I think that he worded this letter very well especially in citing those six examples, those six factors of establishing a reasonable balance, it is definitely our goal but how we are going to do that I don't know. We have to do it. How do we define noise? What about the frequency of which we allow these events to take place. What do we do with noise from our high school stadium? What do we do with the baseball stadium? These are things also that we have to consider. I wouldn't want certain types of music in my window but on the other hand who (inaudible)? That is the balance that we need to find here. I don't have any strong suggestions right now. Mr. Law Director I think we are going to look to you for a little more guidance on this. I know there was a Safety Committee Meeting today and I don't know if you had any progress.

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

FROM The Mayor's Office

The Wellness Center Budget for 2008

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

Motion carried.

MEMBERS OF THE AUDIENCE TO ADDRESS COUNCIL

Mr. David Neel, 55 Public Square, Cleveland, Ohio: I am here on behalf of my client, Bob Ludt again in connection with the noise ordinance. I think in answer to the question what do we do, do people complain about high school football noise? If you can show me one time in fifty years that has happened then maybe there is something to this. It does happen with other things. Noise from extra innings from little league? Has that happened over the last fifty years? Who is complaining about little league? Nobody. What we are talking about is a rock concert in a parking lot from a private business. All that needs to be done is to enforce the ordinance as written. It doesn't matter if there is forty percent of the community that thinks we should let rock concerts take place in parking lots because you have to take into account the other people. If this was in your neighborhood and you have to go through what Mr. Ludt has to go through, you would agree with him. You would be here; you would hire a lawyer to represent your interest, if you had to put up with this noise. It doesn't matter if Mr. Ludt is the only (inaudible) he has a right to have that ordinance enforced and written as it stands today it says that if someone is annoyed and somebody is deprived of peace and quiet that they are entitled to, it is a misdemeanor. The police enforce it. People complain about block parties and the police go and tell them to shut it down, turn it down and shut it off. With McMenemy's they go and say we told the owner. What is going on, it is selective enforcement. The letter also talks about infrequent occasions when this is occurring, it is not infrequent it is all summer long at least three, possibly four days a week, that is not infrequent. Citizens who are affected by this private, profit making business should not lose value in their homes. If Mr. Ludt wants to sell his house what is he supposed to do, make sure they don't come by at night. Does the realtor have to mention that a few blocks away Led Zeppelin is playing at a hundred and eight decibels? I don't get it.

Mr. John Schuster 418 W. Park Ave. Niles: We used to have the city police running the radar car on West Park Avenue and I haven't seen them in a long while. Speeders are coming down West Park Avenue and I don't understand where the radar cars are?

Safety Director Guarino: The chief isn't here this evening but tomorrow I will talk to him and send radar out there. Why it hasn't been there I don't know I will find out tomorrow.

Mr. Schuster: There is no kind of restriction to Main Street and the stop sign to Chestnut Street and the red light. People just fly down West Park Avenue especially coming in from the Waddell Park area. If they had wings they could lift off.

COMMITTEE REPORTS

Councilman Stredney: I had a safety meeting and I thought it was a pretty productive meeting. We had started off by addressing what some of our problems in our current noise ordinance are and following the Police Chief, Law Director and the Safety Director's recommendations. We are trying to put something on paper so we can have another committee meeting next week and we can get something that people can take a red pen to it and make some changes and get something off the ground. We did talk about taking into consideration the community events around Relay for Life, football games, baseball games and events all around the city and the Mt. Carmel Festival. We are being cautious and we understand that something needs to be done.

Councilman Scarnecchia: Councilman Stredney you conducted a very fruitful meeting on this noise ordinance.

ORDINANCES AND RESOLUTIONS

RESOLUTION NO. ___ (Draft No. 73-08)

A RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE GENERAL FUND TO THE WELLNESS CENTER ACCOUNTS; AND, DECLARING AN EMERGENCY

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

President Marino: The mayor under his leadership is going to be holding bi-weekly Wellness Board of Director Meetings which is a good thing in regard to the operations. Mr. MacMillan is now showing up at council meetings and spending his valuable time with us, thank you Scott I appreciate that. Every other Wednesday the Wellness Board of Directors will be meeting.

YEAS: 7 NAYS: 0

Rules are suspended.

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

YEAS: 7 NAYS: 0

This Draft has been adopted on the 17th day of September, 2008.

ORDINANCE NO. __ (Draft No. 74-08)

AN ORDINANCE AMENDING SECTION 3, PARAGRAPH B OF ORDINANCE NO. 12-06, TO ENLARGE THE TIME PERIOD WITHIN WHICH CONSTRUCTION MUST COMMENCE FOR THE AFFORDABLE ELDERLY HOUSING PROJECT AT THE FORMER EDISON SCHOOL PROPERTY; AND, DECLARING AN EMERGENCY

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

YEAS: 7 NAYS: 0

Rules are suspended.

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

Councilman Scarnecchia: Mr. Yuhasz, last year you submitted the picture is everything the same?

Mr. James Yuhasz: We did receive funding, the time frame is we will start our design and development in the winter months. We should have them submitted to Tony early spring. The design will be a replica of the (inaudible) Ohio. All the photos that we sent to you and proposed to council are identical to that. We hope to break ground some time early summer and it will probably be a twelve month construction period. About five to six months prior to completion of construction we will advertise for applications for the apartments. We like to thank council and Mayor Infante for all their help you given to us for this project.

Mr. Yuhasz talked about the general contractor but it was inaudible.

YEAS: 7 NAYS: 0

This Draft No. 74-08 has been adopted on the 17th day of September, 2008.

It was moved by Councilman Wilkerson, seconded by Councilman Papalas to place Draft No. 75-08 on the Agenda. Motion carried.

ORDINANCE NO. __ (Draft No. 75-08)

AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO NEGOTIATE AND ENTER INTO AN ENDORSEMENT AGREEMENT WITH VECTREN SOURCE TO DEVELOP AN 'OPT-IN' NATURAL GAS AGGREGATION PROGRAM FOR RETAIL NATURAL GAS CUSTOMERS WITHIN THE CITY PURSUANT TO OHIO REVISED CODE SECTION 4929.27; AND, DECLARING AN EMERGENCY

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

Councilman Wilkerson: I apologize for bringing this in so quickly but we have to do it quick in order for this gas and the way it is purchased in order to get a good rate. Vectren was here and talked to Chuck, Neil and the Mayor and I think they can do us good. It is nothing that is forced on anybody they have the option of doing it or not doing it. It is hard to get a rate locked in until we get this, but they are throwing around a number of ten dollars and fifty cents per thousand units which is probably fair. They will take care of all the mailings and there is no cost to the city and it will be a pretty good deal when we get it going.

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. 75-08 has been adopted on the 17th day of September, 2008.

MISCELLANEOUS REMARKS

Mr. Randy Fabrizio gave council an update on the Interceptor Sewer repair. He also thanked the light department for the nice work they did during the storm and no interruptions of service in the pump station at the Waste Water Treatment Plant.

President Marino: Actually Randy that is a well noted comment with regard to our light department and the fine job they do. You look to the neighboring communities as to what has occurred and it is quite remarkable. Mr. Lastic and I spoke and when our power did go out it was out for fifteen minutes and it came back on and we had no other problems. After you heard the news and saw the damage and destruction that occurred across the state we are bearing the fruit of their labor and efforts.

Mr. Mark Hess: The Wellness Center is getting close to being completed and we would like to invite any councilman that would like to take a tour of the Wellness Center before it opens to do so. Just give my office a call any time after next week and we will schedule a tour for you. Our completion date is November 3, 2008. We are working on them getting construction finished on time and if it is not that time it will be close to that time. The paving program was supposed to have started on Monday and it hasn't started yet. They are going to do Salt Springs Road and the list is small so it will take them a week to do the whole thing.

Councilman Papalas: I have a couple comments, there is a constituent in our community who called the police because of some problems that are ongoing in the neighborhood that have been festering for some time. The tenants in that neighborhood are running amuck. Mr. Guarino knows about it because we have discussed it and we are going to be working on it and I hope that it is going to be solved real soon. One of the things that trouble me is that when this lady called the police department the dispatcher put her name on the air, her phone number and the address. It was on the scanners, why would they do something like that? What are we going to do about this because that can't go on?

Mr. Guarino: I questioned the dispatchers and I talked to the Chief and the dispatchers said that they always do that unless the person that calls in to complain says that they don't want their name mentioned. The police officer sometimes asks who the person is because they want to go directly to that person and talk to them.

Councilman Papalas: Maurice I know for a fact and so do you that they can make a phone call from their car, they don't need to put that on the air, it should never be on the air. We have told people I bet every one of us has done this with our constituents to call the police and you don't have to worry about your name being released, it will not happen. I told that lady that and her name was promptly released and that has got to stop.

Mr. Guarino: I talked to her also Steve and you are absolutely right, I agree. I am going to tell the Chief to direct the dispatchers not to give names any more over the air and have the police officer call in if he wants it. That is the only thing I could think of.

Councilman Lastic: Aren't there policies and procedures?

Councilman Papalas: There should be a policy on that and if there isn't we better have one drawn up.

Councilman Scarnecchia: Do you have standard operating procedures written in book form for the dispatchers or are they just hired in and (inaudible)?

Mr. Guarino: We just got a booklet recently and there are training programs. They have been doing this in the past I have been told. The only reason they don't give a name I was told is if the person calling in to complain says I don't want my name mentioned. But they have been doing it Steve is absolutely right. I told them that I don't think they should do it. We can order them not to do it any more.

Councilman Papalas: It has got to be ordered we can't have that. How many of us have said call the police they won't release your name? How many of you have done that? We all have and we mean that. What message are we sending them? That means that nobody dares call the police on issues that are very serious in the neighborhoods because some thing terrible might happen. They don't want to face that and now we have in this neighborhood, it is going to be like the old west if we don't do something about it.

Councilman Lastic: Actually when they call I would think they would say their name and the problem. So that there is a record and not some one just calling and saying and make up a story. It should be logged in their book and not exposed to the air waves.

Mr. Guarino: You have to give your name when you call in I agree with Steve. You can just call in and you don't have to give your name it comes up on the computer and they will know who

called in. I will have a good discussion with the Chief tomorrow morning Steve and I agree one hundred percent.

Councilman Papalas: On Friday we will get to together?

Mr. Guarino: I will talk to him tomorrow and see if he is available.

Councilman Papalas: Alright, it has got to be done we have to take care of some things.

Councilman McCormick: I want to commend the light department for the good job they did after the severe weather.

It was moved by McCormick, seconded by Scarnecchia to adjourn the meeting at 6:30 p.m.
Motion carried.

Linda A. Yuhasz, Clerk of Council

Robert Marino Jr., President of Council