

MINUTES

Niles City Council held its regular meeting of January 5, 2011 at 6:00p.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; Giancola-P; McCormick-P; Stredney-P; Papas-P; Wilkerson-P; Marino-P

It was moved by Stredney, seconded by Lastic to accept the Minutes of the December 15, 2010 meeting and place them on file. Motion carried.

REPORTS AND COMMUNICATIONS

FROM The Auditors Office

The Estimated Versus Actual Revenues thru December 2010.

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

Motion carried.

FROM The City Income Tax Office

The Monthly Receipt Totals thru December, 2010

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

Motion carried.

FROM The Ohio Division of Liquor Control

Permits for Walgreens and Robbins Beverage

It was moved by Stredney, seconded by Wilkerson to refer to the police chief and safety director for their report and recommendation. Motion carried.

MEMBERS OF THE AUDIENCE TO ADDRESS COUNCIL

Mr. James Kane, 425 Mistletoe in Niles: I wanted to make a comment regarding the upcoming discussion for the ordinance. In Ohio I went through the landlords responsibilities and what a landlord cannot do is shut off utilities or other services. Landlords cannot control the utilities and they would be sued if they did. To me it sounds like it is not the landlord that is the problem here. It is the city to come up with a way to handle how to deal with renters and overdue bills. One suggestion would be that if you are a renter you have to pay one month in advance for all utilities. If you don't get payment out by the tenth of the month you would be subject to having your utilities shut off and the city has a months worth of utilities money. Secondly, my opinion is this would be unconstitutional to have somebody be accountable for what somebody else enjoyed. The landlord is not enjoying or getting any benefit or use of the utilities, the renter is. They are solely responsible for that and I think it is the city's responsibility to determine how the renters are going to be accountable for making those payments, rather than trying to find somebody to whip as the landlord. I think the landlord has no responsibility since they have no control and can be sued by trying to control this. This direction is clearly not constitutional, if these people don't have responsibility than you make them responsible by paying a month in advance on all utilities. You know what those average uses are in any residence so if it is three hundred dollars then they have to pay up front. If they are delinquent ten days into the following month then you shut them off. That should be the city's responsibility not the landlords, they don't even live here sometimes, so how are they supposed to know what is going on. You are not even serving them notice, you are just going to give them a bill after three months and that is not even rational.

Mr. Rodney Freel, 1348 Robbins Avenue, Niles: Earlier this summer I started a Niles Landlord Association and I asked a few friends to show up tonight. This all started with Niles Community Enhancement Program who wanted to improve Niles. There are a lot of good landlords in Niles who don't run down their housing and are for a better community. They live here and want to improve the housing. The second purpose to be here tonight is to ask council to have a committee sit down and meet with us with ways to improve problems there may be. I don't necessarily know that there is a problem. I know two or three years ago the city had problems collecting the utilities and I am interested to know the loss now compared to two years ago when they raised the deposit from a hundred dollars to two hundred twenty five dollars. Also the difference that they are losing on tenants versus owners; these are all issues that I don't have answers for and have tried to get answers but have been unable to find out. There are other issues like housing maintenance codes that the committee would like to sit down and address an organization involving these issues. I don't believe charging the landlords because I am a landlord, but making them responsible for the utilities is not fixing the problem. I know other landlords in other communities that have done this like Youngstown for example, they deplete everything they can get out of the house and take the money and run and leave a vacant house. They realize that they only have so much a month coming in and they can't pay all the bills and make a profit. They get by with bare minimum codes, they don't side it, put windows in or make it look nice because you don't have to have a nice looking house to pass code. These are things that I personally want to avoid (inaudible).

Mrs. Cindy Weddell, 884 Nancy Street of Niles: I am a member of the Niles Enhancement Committee and what we are trying to do is better the city. I know all of you know what we are about. We did have a meeting because we were talking about sprucing things up and getting things changed in the city but we are not the reason for this ordinance tonight and I just wanted to clarify that. That doesn't have anything to do with us. But we are willing to sit down with the landlords and we actually asked Jason to sit on our committee. We are trying to find solutions to some of the problems the city is facing. We welcome anybody from the city to sit on our committee and help us come up with ideas, suggestions to resolve in a positive way, not in a negative way. We are working with some of the landlords now and it isn't a specific landlord problem. As we have been talking and having our meetings with the city members we are finding out that it's not just a landlord problem, its residential, its business, it's the whole gamut. So we are willing to invite anybody that would like to (inaudible). We have a website with all of our meetings. We have a community meeting coming up on January 13, 2011 at 6:30 at Ciminero's Banquet Center.

Mr. Jason Altobelli, 1295 Vienna Road of Niles: I made a couple calls to different council members and I appreciate you taking the calls and some I didn't, I tried. I talked to the mayor and there is a lot at stake here. The city is losing money and needing to get money. The landlords are up against the wall and there is only so many people moving around the city. There are a lot more issues than collecting utilities bills and we all agree to that. What I am asking you to do is not be in a rush to pass this legislation this evening, I mean no disrespect. Let's take our time and try to put something together that makes sense for everybody, so that the city can collect their money we don't have any issues with them and attract good landlords that want to take care of their properties and of course have good tenants. The better the clientele, the better the community, the better the payees for the city. It's a team effort. I am in the real estate business every day and I see everything from what they are talking about to the rental to the business end of it which you are doing. I respect that and I would appreciate the same respect as a citizen, a community, a landlord and a business owner. Let's work something out together and at least hear some ideas that would make sense for everyone. No one is looking at me, everyone is looking down and I am just asking you to at least give that a thought.

Mr. Bruce Bennett, 1669 Sunny Estates Drive of Niles: (inaudible) of how this legislation came about. The reason for that is on November 15, 2010 my wife called Mr. Tom Telego and asked him if his computer system has the ability to tell us concerning utilities that are not being paid on time whether it is owner occupied property or non owner occupied property. He told my wife no our system is incapable of doing that. So how do you propose legislation to force a landlord to be a guarantor for the payment of utilities by a tenant when you are not making an owner occupied person come up with a guarantor to guarantee they will pay theirs? You are taking two individuals in life situations and treating them totally different. When he mentioned that stature is probably unconstitutional, he is probably right. If you don't have the ability of your own information (inaudible) to even identify that this is being a problem then how can you introduce that legislation?

Mr. Edwin Titus, 1833 Crain Drive of Niles: I have concerns because usually when tenants aren't paying their utilities they aren't paying their rent either. I am losing that and now you want to make me the guarantor of their other unpaid bills. Like he said I don't have the ability to shut them off and they can continue to use them until I go through all the procedures to get them out of my property which could take up to twelve weeks. So, I could lose three months rent and pay even longer utilities as I don't know what your cut off is. One thing you can do is put a provision in there that once they have eaten up their deposit you could start the procedure to turn the utilities off before it escalates into a four or five hundred dollar bill. Is there any provisions in this ordinance for that?

Councilman Papalas: When the tenant is one month behind the landlord will be notified by the city. Its winter time and we are not going to be shutting them off in the middle of winter. At anytime the landlord can come in and arrange to make payments. Someone is not going to go up in the middle of the night and shut them off without notice.

Mr. Titus: What I am asking is that would I be responsible if you are not going to shut them off when they are in the arrears and pile the bill on me?

Councilman Papalas: You are the landlord and you own the property.

Mr. Titus: I am not using the utilities.

Councilman Papalas: We didn't put the tenant there either. Why should everybody else in Niles who pays their bill be responsible for tenants who are not paying their bill? By the way, the vast majority of our tenants are good people who are paying their bills. It is a small minority of people who have caused our problem and we are losing some money. Mayor, what is it a hundred and fifty thousand?

Mayor Infante: It is an average of a hundred and fifty thousand a year over the past ten years that is a chunk of money. We have homeowners that pay their bill and if they are delinquent we shut their power off. Tenants run and skip on you as well as they run and skip on us on utility bills. We haven't raised residential rates in the City of Niles since 1989. I haven't raised them one time, I have lowered them twice. Now before I turn around and have to raise rates because our increase from AMP Ohio electricity went up. Now before I turn around and say I got to go to council and say we have to raise residential rates on our customers, how can I do that if I am losing a hundred and fifty thousand dollars a year on delinquencies from landlords tenants? How can I consciously raise rates on people, I am not going to do that. I am going to do what I can and try to make it the best we can so we don't have to raise rates on our residents.

Mr. Titus: I can understand that you want to improve your losses but how can I improve my loss?

Councilman Papalas: If you have a good tenant and I assume that you do, you don't have anything to worry about.

Mr. Titus: You are right I do have good tenants. I have had good tenants the whole history of my rentals but who is to say that tomorrow the tenant decides to stop paying the utilities because he knows that he is not responsible for them anymore, you are putting that out there for any one that is renting right now too. Especially when you sit there and tell me you can't go over there and shut it off no matter how far in the arrears they get.

Councilman Papalas: This isn't an ordinance that we just cobbled together. This is an ordinance that is in effect in Hudson.

Mr. Titus: Well I think there should be some provisions in there to cap my loss.

Mr. Telego: To answer one of the questions on your loss, the way that law is written doesn't mean that they can stay in that house and that power is on forever. They are still responsible under the collection policies. So they are getting turned off and once they are turned off under delinquency status they don't have any different rights. So that loss is capped as well. Its not that they are in there and you can never turn it off, they still fall under the delinquency status.

Mr. Titus: What would be my maximum loss?

Mr. Telego: Well it is hard to say with the usage of the property, it could be two months or it could be three months.

Mr. Titus: So three months utilities would be the max that I would have to pay?

Mr. Telego: Yes.

Laurena Rouan, 1902 Cardigan Street of Niles: I wanted to clear something up, so then you do have information that the delinquencies are made up of tenant use so that is why this is. In the very beginning of the conversation I thought I heard that, that information was not available but now I am hearing that decisions are being made because in fact it is a tenant issue. So, you do have that information that your delinquencies are.....

Mr. Telego: The current system doesn't break down an individual that comes out of report that says it's forty eight percent, fifty one or seventy one percent. Where we fall into a different status is because when a resident gets turned off they are off period. They can't have another tenant move in, they can't do anything else. They have to pay their bill in full or their power does not go back on and if we take it to court we can place a lien on the property, we have options. With a tenant we have no options except sending them to collections which we do. The problem we ran into back in 2007 is that we would have four people living in household as soon as they get their delinquency status we shut their bill off and they came in that same day with another person in the same house and were automatically initiated. So if you had four people in that house you had a years worth of utilities that you will never see again.

Mrs. Rouan: So you are sure then that is the root of your problem?

Mr. Telego: Yes.

Richard Logue, 1522 Spruce Court of Niles: I understand that in this economy that we had a couple bad years, everybody has. I am willing to bet that most everybody in here has mortgages which mean the bank owns their property. Now when they go in the arrears with the bank it takes such a long time, they can live in that house with no problems from months on end. Then they just walk out and away from the house and you are not addressing that issue about unpaid bills for their utilities there. Why not? Aren't you going to make the banks as responsible as the landlords?

Mr. Telego: With the banks it is the same thing as the residents; it would fall under the same process. We could actually place a lien on the property and get our money back through the court system when they sold their house. We have absolutely no recourse on rentals.

Mr. Dave Burns, 760 Oxford of Niles: I have a couple questions one to the statement this fellow made, he is sitting here saying that they could get it turned on in the fathers name, the mothers name, the neighbors name, every time the city requires a notarized statement from the landlords stating that is the person renting that building. So, they can't just go get the name changed. They might have prior to that.

Mr. Tom Telego: That was prior to 2007.

Mr. Dave Burns: Alright well keep it current then don't talk about what was going on in 1980. This is today, today the city has addressed this problem, the city requires a notarized statement from the property owner and the tenant that they reside and live in that house. They have to pay a two hundred twenty five dollar deposit to get water, electric and sewer turned on in that house. They cannot get it changed into anybody else's name without a notarized statement from the landlord saying that he rented it to a new person. Why doesn't the city just shut it off when the bill gets to two hundred twenty five dollars like everybody else quit providing service to these people? Like the lady said over there, a minute ago we heard they have no way of telling who is land owner occupied and who is a tenant skipping out on your bills. Then we hear facts and figures on its a hundred and fifty thousand dollars a year. Where are these facts, is that only tenants that hundred and fifty thousand?

Mayor Infante: Well I have to say seventy five to eighty percent is.

Mr. Burns: That is estimation.

Mayor Infante: A homeowner we shut off and it can't get turned back on until you pay a reconnected fee and pay their bill current.

Mr. Burns: I know there are homes where they live in them for two years and don't make the mortgage payment. They run the utilities up to as high as they can and get them shut off. They walk out and the city bulldozed the house down because they should. By the way that is a wonderful thing that is going on, getting rid of these houses. You are putting everything on that is all tenant problems and it is not. If the city addressed it as it the way they should then turn their utilities off, a two hundred and twenty five dollar deposit. My water, gas and electric are eighty, ninety dollars a month. Well there is two months; if they don't have them paid in two months then shut them off. That is basically it and then you talk about Hudson, Ohio how many cities are in Ohio? One city is doing it why aren't they all doing it?

Mayor Infante: That is not the only city in Ohio; I have a list here from AMP Ohio that has ordinances on it.

Mr. Burns: The bottom line is just shut them off. You have a two hundred twenty five dollar deposit turn it off.

Mr. Rodney Freel: I heard the conversation that making the tenant pays the bills makes you think that you have a better tenant. Find me a better tenant that pays their bills, that doesn't always happen. I have some tenants that I have thrown out because they are problems with the police, problem to the neighbors, they are a nuisance. If the city asked me to do it or the police asked me to do it I do it for myself and they always have cash in hand. Their bills are always paid and they pay me with cash. I don't know where they get this money but they will pay the bills but they aren't what you want in a tenant. My hard working tenants the ones I bend over backwards for and make payment arrangements for and they pay the rent weekly because they are out there working and they are the ones paying the city income tax also. They have trouble and struggle but the ones on government programs I could fill every house with someone on a government program or who walks around with cash in their pocket legally unemployed, they will pay the utility bills. It doesn't (inaudible) a better tenant in the city, one doesn't necessarily have to do with the other.

COMMITTEE REPORTS

None

ORDINANCES AND RESOLUTIONS

ORDINANCE NO. __ (Draft No. 01-11)

AN ORDINANCE TO INSTITUTE A GENERAL POLICY OF PROPERTY OWNER RESPONSIBILITY FOR TENANTS' DELINQUENT CITY UTILITY ACCOUNT BALANCES AND ESTABLISHING GUIDELINES AND PROCEDURES IN CONNECTION THEREWITH

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

Mr. McCormick: I would like to see this go for the first reading and look at it a little more. It still doesn't say that a yes or no vote will take place today; it could go either way maybe. If there are modifications needed we could look into it. That is my comment on a first reading as opposed to suspension.

YEAS: 6 NAYS: 1 (McCormick)

Rules are suspended.

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

YEAS: 7 NAYS: 0

This Draft No. 01-11 has been adopted on the 5th day of January, 2011.

MISCELLANEOUS REMARKS

A motion was made by Giancola, seconded by Lastic to adjourn the meeting. Motion carried.

Linda A. Yuhasz, Clerk of Council

Robert Marino Jr., President of Council