

MINUTES

Niles City Council held its regular meeting of April 17, 2013 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; Giancola-P; McCormick-P; Stredney-P; Merlo-P; Wilkerson-P; Marino-P

It was moved by Stredney, seconded by Merlo to accept the Minutes of the regular meeting of April 3, 2013 and place them on file. Motion carried.

REPORTS AND COMMUNICATIONS

FROM The Auditors Office

The 1st Quarter 2013 Status Report

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

Motion carried.

MEMBERS OF THE AUDIENCE TO ADDRESS COUNCIL

Mrs. Audrey John 545 Orchard Ct. Niles spoke to council about the Annual Spring Dinner for the Niles Historical Society to be held on Wednesday, April 24, 2013 at 6:00p.m. at Ciminero's Banquet Center. The program is "Are You Smarter than a Third Grader?" A program that will challenge your knowledge of facts you never knew about your town. A donation of \$20.00 per ticket and Mrs. John will sell tickets after the meeting. She also encouraged anyone interested to become a member of the Historical Society.

Mr. Charles Johnstone, 145 Sheridan Avenue, Niles: I basically came to see if there was any update on what's going on in the neighborhood across the street. What I have seen so far is that nothing has changed. I know that it is in court and postponed for his attorney's ill health. I don't understand why they can't come and make him take the trash out of the pickup trucks and why the tent hasn't disappeared?

Mr. Anthony Vigorito: I know that Mike had him in court for the junk and debris in the back yard. Again we couldn't get into the building and we tried to find out where the smell is coming from and that hasn't gone anywhere. I understand that he is in jail.

Mr. Johnstone: No, I just saw him an hour ago.

Mr. Johnstone: From what I read Mike doesn't have the legal right to go in there and I believe you do as the building inspector. Why hasn't that been done?

Mr. Vigorito: We have sent him letters and he was sentenced to jail. He takes the jail rather than the fines or doing anything. That is where it was at the last time I heard.

Councilman Papalas: Anthony he is asking you another question.

Mr. Johnstone: If you have the right to go in and find out where this smell is coming from then why hasn't it been done? This has been going on for years.

Mr. Vigorito: I don't have the right that's the problem. We tried to get a warrant to go in and the warrant was refused.

Mr. Johnstone: I know the warrant was refused on Mike's end because he couldn't get the (inaudible) and the man lived and owned the building.

Mr. Vigorito: The Health Department has more authority to get into the home than I do.

Mr. Johnstone: That is not what I read.

Mr. Vigorito: If it was a rental than my Housing Inspector would have that issue but it is an owner occupied structure.

Law Director Dull: Mr. Johnstone I will talk to Mr. Terry Swauger and try to find out the exact problem with this. After the meeting I could get your phone number and after I talk to Terry I will give you a call.

Mr. Johnstone said that they could reach him anytime. They tagged the truck and the tag is gone but the garbage is still there. He has about 15 garbage cans. Chief Hinton said that he is within the law concerning the trucks; they start up and are licensed.

Councilman McCormick: Terry it looks like Anthony has some options but you and Terry Swauger will have to review them. Mr. Swauger has said that when someone lives in the house it is almost impossible to get in and do anything. If it was a renter you would have a little more leeway. That doesn't mean that we shouldn't look again.

Mr. Johnstone: What about the temporary building that he put up, there is a tent where he stores this stuff.

Mr. Vigorito: I understand, I sent a letter to him about the tent but the option is I tried to make it better. The junk and debris is there. I told him that he was allowed to put up a tent temporarily. My predecessor would not let him build a garage. I told him that he was allowed to build a garage to get the junk in house. He put up a tent because we made him tear down his shed otherwise you would be looking at all his junk that he has in his backyard. I figured that was still better than looking at all the junk until I could get him to build a building. Sometimes I have to compromise and try to make it a little bit better for you. We checked the garbage cans when we were over there and they are full of recyclables. They didn't have garbage in them they had metals in them. There wasn't a smell coming from the garbage cans and Mike said there wasn't an ordinance stating that he can't have ten garbage cans. There are a lot of issues here that we don't have laws on.

Councilman Papalas: Why don't you go by the rule would you want this next to your house?

Mr. Vigorito: I wouldn't want it next to my house.

Councilman Papalas: What would you do about it then?

Mr. Vigorito: I could only follow what the rules are.

Councilman Papalás: Yes I know. You can't tell me having garbage cans lined up along the driveway is presentable. I know it is not. We have done more with people who have done less than that in the neighborhood and you know that Anthony.

Mr. Vigorito: I would rather discuss this after.

President Marino asked Mr. Dull to speak to the prosecutor to find out where we are at with the judicial end of this. I would like Terry to work with Tony and Mike to find out who is legally responsible relative to the zoning department and the health department. If you wouldn't mind providing them with direction, Terry to make sure we have a clearly discernable chain of command on who is responsible. President Marino told Mr. Johnstone that when this was done Mr. Dull would get back with him on the progress. He also asked Terry to email him and the mayor as well.

Mr. Johnstone questioned why he was allowed to operate a recycling business at his home.

Mayor Infante recalled last year when an agency from Trumbull County tried to enter the Sheridan home and was refused.

Councilman Lastic questioned the jail time. Each offense should be more severe.

Mr. Barry Steffey, 511 West Third Street, Niles: I wanted to make council aware that the Garfield auction was held Saturday and four people showed up. Councilman McCormick and I were included. No bids were placed or accepted.

COMMITTEE REPORTS

Councilman McCormick: Last week the Utilities Committee met and we discussed the billing office, meters and things that we are hoping might improve in them with Tom Telego. We discussed with Jim Newbrough and Marty Kelly about the transformer that needs to be either rebuilt or replaced. It was our decisions to move forward and have Terry write up an ordinance giving the service director the authority to put this up for bid. We will rebuild instead of replace because it is a lot less money.

Councilman Stredney scheduled a Utility Committee Meeting for 3:30 p.m. on April 24, 2013 in the 1st floor conference room at City hall. The purpose of this meeting is to discuss semi trucks parked in residential neighborhoods.

Councilman Merlo scheduled an Improvements Committee Meeting at 4:00 p.m. on April 24, 2013 in the 1st floor conference room at City Hall. The purpose of this meeting will be to discuss storm water management control, erosion and sediment.

Mr. Mark Hess explained to council about the results of the audit the EPA performed on our storm water management program last September. They found a couple of violations on the city's existing ordinances as they relate to storm water management, erosion and sediment. The EPA has become very concerned with construction sites and construction site activities. The EPA wants the city to closely monitor the sites for mud getting into the city's storm sewer. Their concerns with our ordinances are that they were based on the Trumbull County Drainage Manual. The city adopted their manual and now the city doesn't have the enforcement needed because it isn't the city's ordinance. When the EPA went out to one of the new schools

constructions sites they found some things wrong and felt it required a stop work order. Our ordinances don't have anything in there that requires a stop work order. We have spent a lot of time preparing these ordinances and we want to present them to the committee.

Councilman McCormick: Mr. Tom Holloway called me and about a rate hearing for the water rates and he asked to address the Utility Committee. But, in discussion with the other councilmen it might be better if he addresses the entire council. I would like to schedule a Roundtable prior to the next council meeting on May 1, 2013 at 5:30 p.m. in Council Chambers.

Mayor Infante: When I met with them I told them that I am not in favor of a rate increase the first year until our assessment comes off the district which is this year. I gave my opinion to them with John Nemet and Neil was with me when we met out there. If you want to do improvements you have to hold off a year or two and give us a breather before we go into the next project where you keep on going and raise rates.

Councilman Papalas: Ed brought up the subject of that truck and let me elaborate a bit because I brought it up to him to begin with. On the corner of Belmont and Robbins Avenue that semi truck has been parked there. The lady told Mike Burke and me that there was a public official who said that truck was allowed to park there because of the way it was zoned. That parcel of land happens to be zoned commercial so we are stuck. The neighbors have to hear the truck running and it looks terrible. We do not want trucks parked in residential neighborhoods. In that area all along this parcel is residential. It is also a safety problem for the nursery school right behind it. I explained to the lady whose son owns the truck but was not there that day that we are going to have to do something about this because he wasn't going to stop parking there. The landlord also told him to get that thing out of there, but he keeps coming back. This is the issue; we have to close that loophole. We either word this ordinance that you can't park a truck even in a commercial area if it's a couple hundred yards from a residential home; I don't know how you want to do it. You should also stipulate that it shouldn't be parked near a school zone, a health facility or a nursery school. You shouldn't have to breathe the fumes from these trucks when they are idling. Chief we do need you at the meeting and Anthony we definitely want you there.

Mr. Anthony Vigorito: To answer your question, I had the call come into my office and Ray had answered the phone. The guy had asked him what the zoning was and he told him that it was a commercial zone but I don't know if you can park a truck in a commercial area. He asked me and I said as far as I know, yes. Then he told me where it was at and I already had a call from a councilman three or four months ago on the truck parked there. They asked me what the zoning was and I said B-2 neighborhood commercial. I read the rules that said semi's over one ton are not allowed to be parked in any residential zoning, B-2 is not considered residential zoning. As far as I read the ordinance it was allowed to be parked there. I said that you would have to change the ordinance to include B-2 zoning which isn't neighborhood zoning. I would think it would be the easiest route and that would eliminate a lot of places up Robbins Avenue and up Vienna Avenue. The old zoning was B-3 and anything we extended when we did the rezoning we extended to B-2. We changed some on South Main and North Main to B-2 also.

Councilman Papalas: All the streets that you mentioned there is not a problem with semi trucks, this is the only spot and it looks terrible. Furthermore that truck parked there weekend after weekend breaks the blacktop up and someday when these people are gone and someone else lives there we will have a blighted neighborhood with broken up blacktop all over the place. We can't have this stuff!

Mr. Vigorito: I agree with you.

Councilman Papalas: Alright so that is what we need to address. It has got to be absolutely taken care of.

ORDINANCES AND RESOLUTIONS

ORDINANCE NO.__(Draft No. 21-13)

AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACT TO REWIND A POWER TRANSFORMER AND PURCHASE A SWITCH/RE-CLOSER UNIT FOR THE SAME TRANSFORMER; AND, DECLARING AN EMERGENCY

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

Mr. Newbrough explained to council about the transformer that failed last fall. Since then they have drained the oil out of it and had people come in and inspect it. They also talked to consultants involved in rewinding transformers before and there never was a problem. The city knows that theirs can be re wound with the cost of \$300,000 versus \$500,000 for a new one. I am asking permission to go out for bids.

YEAS: 7 NAYS: 0

Rules are suspended.

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

Councilman McCormick told council that this expense is already budgeted for.

YEAS: 7 NAYS: 0

This Draft No. 21-13 has been adopted on the 17th day of April, 2013.

RESOLUTION NO.__(Draft No. 22-13)

A RESOLUTION OF THE CITY OF NILES, OHIO, AMENDING AND RESTATING THE PENSION PICK- UP FOR THE PATROLMEN IN THE POLICE DEPARTMENT; AND, DECLARING AN EMERGENCY

It was moved by Papalas, seconded by Lastic to table this Draft. Motion carried.

MISCELLANEOUS REMARKS

President Marino: Jim during the Utility Meeting you mentioned that you had a three to five year plan, I want you to send that to me in my email. When we talked about a three to five year plan you said that you had one with the light department and improvements.

Councilman McCormick: I don't think he said that he had one, but he had some issues that he would include in someone's.

President Marino: No, I specifically asked if we had a three to five year plan and he said yes. Then I asked do we have anything dealing with smart grid technologies and he said no.

Councilman McCormick: I don't remember him saying yes that he had a plan, I really don't.

President Marino: If we don't have one we need to get one. I would like to see one as soon as possible.

Councilman McCormick: I agree.

Chief Hinton: We had some concerns over some issues on Summit Street and we have been addressing them throughout the week. Our officers have been over there with the radar and we have issued some citations and met with a couple citizens in my office this last week. We have been proactive and all the officers are working. We sent out three abatement letters to one of our apartment complexes in the city.

Councilman Stredney: Thank you Chief.

Mr. Vigorito: I know that you were going to have a meeting over the Sheridan Street issue at the last council meeting I was at and I told you that I couldn't make it. I told you to let me know when you were going to have another meeting and I never did get a call. I assumed everything was being handled.

Mr. Hess gave council an update on the ODOT project on Robbins Avenue replacing the bridge. It was going to start on Monday, April 15 but they are delaying the project another thirty days. They are having some problems with the utilities.

Councilman Papalas: I have a request, Anthony on the Planning Commission when you are going to have a meeting could you send us the agenda in advance so that we know what the issues are? We were getting those and for some reason we got away from it.

Mr. Vigorito: Sure no problem. I thought you were always included on my list.

Councilman Papalas: I had somebody ask me very recently this past weekend about an issue coming before the Planning Commission and I didn't know what he was talking about. I think that ward councilman should know.

Mr. Vigorito: Do you happen to remember what issue?

Councilman Papalas: Gunsmithing. It's kind of tough when someone asks you about that and I don't know anything what they are talking about.

Mr. Vigorito: I will make sure that all councilmen get notices. May 8 is the next Planning Commission but that meeting (gunsmithing) is next Tuesday.

Mr. Hess explained to council that ODOT is re -routing the truck traffic during the Robbins Avenue bridge repair. The traffic officer and Mark have a local truck route detour prepared as a back up. Any local detour means that ODOT won't kick in any money with regards to damaging

the streets because we didn't use their detour route. Mr. Hess explained to Councilman Giancola that the trucks would go to McKee's Lane to Belmont.

Councilman Stredney: To the police chief I say thank you. We had a couple complaints on Summit Street and within days a lot of the problems have stopped. The residents up there are pretty happy with this weeks turn around. We know that Garfield School didn't sell last week so I have been talking to people in the county and do you care Mayor if I talk to the people in the land bank program and what their options would be? The school owes forty thousand in back taxes and I don't know what their resources are to find an end game to see if they would have a company out there interested.

Councilman McCormick: Wouldn't they have to clear the tax liability first before they sell it Terry?

Mr. Terry Dull: That is part of the procedure. They will try to sell it through a tax sale to see if they can get money back. Sometimes there are no bidders and that is why we are able to get property in our land bank.

Councilman McCormick: They couldn't even get a five thousand dollar bid last Saturday.

Mr. Dull: I am not sure if the county land bank has any different procedures than our land bank does. They may have more (inaudible).

Councilman Stredney: I gave them a synopsis of what's going on and they said that they deal with this all the time. I said that is news to me.

Mr. Dull: Even if it's commercial property?

Councilman Stredney: He didn't seem to think it was a problem. I didn't want to full start a conversation with him without somebody saying go ahead and talk to them. What is the end game with that property, it didn't sell and the company went bankrupt. We are going to spend another year with police calls, another year of tax payer's money cutting the grass and boarding it up until next winter but there is no end game. We don't have the \$500,000 to tear it down, so if nobody has a problem I am going to talk to the county to see if they can figure out a plan because we don't have the money and the company isn't going to tear it down.

Councilman McCormick: I don't have a problem.

Councilman Stredney: Mayor is that alright?

Mayor Infante: They are not going to take it on I can guarantee you that.

Councilman Merlo: On Sunday I used the bike trail and there is a lot of graffiti on the bike trail, is that our responsibility to remove the graffiti?

Mayor Infante: We have been removing it since last winter. They stopped on top of the bridge now they are going underneath it. We put a light up today. The graffiti will be ongoing all summer unless we catch them again. The police caught them last year.

It was moved by Merlo, seconded by Giancola to adjourn the meeting.

Linda A. Yuhasz, Clerk of Council

Robert Marino Jr., President of Council