

MINUTES

Niles City Council held its regular meeting of November 21, 2012 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 Merlo, seconded by Wilkerson to amend the Public Hearing Minutes to reflect the statement by Councilman Lastic that he was present and accept the Public Hearing Minutes and the Minutes of the regular meeting of November 7, 2012. Motion carried.

REPORTS AND COMMUNICATIONS

FROM The Building & Zoning Inspector

A letter from The Planning Commission approving Draft No. 57-12 with amendments

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

Motion carried.

FROM The MVSD

The 85th Annual Report for the period of July 1, 2011 to June 30, 2012

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

Motion carried.

FROM First Energy

A letter notifying the City of Niles about Niles-Salt Springs 138 kV Second Transmission Line

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

Motion carried.

President Marino talked to council about HB 601 and the importance of the bill and the impact that it will have on the city. The Ohio Municipal League sent two sample Resolutions and President Marino told council to read them and communicate with the Law Director on how to proceed. The Ohio Municipal League is asking council to take action and strong opposition to HB 601.

MEMBERS OF THE AUDIENCE TO ADDRESS COUNCIL

Mr. Mike Anderson, 138 West Second Street, Niles: I am still wondering about my property. I still have not received a deed.

Law Director Dull: Mr. Anderson in the latest step I have received some funding that I have to take to the County Auditor's Office in order to get them to sign off on releasing the taxes. So I have to deliver that next week and from that point I expect they will take care of the back taxes.

Mr. Anderson: I hope something can be done it has been two years! I see no reason why it would take that long to get something like this done! I had my house done within a week.

Mr. Dull: I will make sure it gets followed up with.

Mr. Anderson: I appreciate your time.

Mr. John Williams, 475 N. Cleveland Avenue, Niles: Today I had a meeting with Mayor Infante and I talked to him about the Meander Reservoir. Two months ago I learned that there was a horizontal frack pad in the source water protection area of the Meander Reservoir. When I first saw it I couldn't believe that it was in there and I called the Ohio EPA in Pitsburg and spoke with a representative. It's her job to over see the protection area (inaudible) from the Meander Reservoir. I asked her how she could permit that well to be in there and she had no idea that the well had been permeated and she had no idea that the rig was in drilling away! So she told me that she would call me right back and in about forty five minutes she did. In forty five minutes her voice went from a big concern to almost happy. She was pretty happy with the fact that Tom Tomastik at the Ohio Department of Natural Resources (ODNR) had been working on that well for over a year and a half and that if it was ODNR's responsibility to drill that well and she felt pretty confident that everything was going to be just right. Tom Tomastik is the same official at ODNR that denied that the injection well in Youngstown had any connection to the earthquakes. It took ten earthquakes of denial for Tom Tomastik. I have yet to hear Tom Tomastik admit that the injection well has anything to do with the earthquakes. The well is out on Blott Road in the protection area it is right on the bank of a little stream that goes directly to Meander. The company that is doing the drilling is called Nabors Drilling. If you go to YouTube and type in Nabors Drilling blow out and you will find out that Nabors Drilling has at least four blow outs and they are recorded on YouTube. This is the same company that is drilling in our watershed. I was pretty upset about it and we have been involved in working on it for a while now and basically getting nowhere. Since Niles basically owns half of Meander, I would really like to see Niles help to take some action to protect the water source for two hundred twenty thousand people. Apparently Tom Tomastik, I don't know what he is thinking but he is not thinking to protect the people. That seems to be very clear.

President Marino: Relative to the Mahoning Valley Sanitary District (MVSD) Meander Water, they have their own governing board that is responsible for the operations of our water source. Our two members are Matt Blair and Jim Sylvester and then Youngstown has two. Those four individuals with Mr. Holloway and Mr. Tatalovich are the principals involved with the operation of the MVSD. Just so you know how the structural set up is in separation of authority.

Mr. John Williams: I understand that really there is nothing that the City of Niles can do.

President Marino: That is where I was going.

Mr. John Williams: I understand it is not your responsibility; nobody can point the finger at anybody here and say you have done wrong. But I know that the City of Niles has stepped up in the past to ban injection wells and other things and I think that it is time to get angry. Know this as well, no one can blame the MVSD they are doing their job. They are trusting the state regulators who oversee drilling in Ohio. It's the regulators that we should not trust; we can not trust ODNR to do what's best for us. We have to trust ourselves and raise hell and we are to that point. If not we are in trouble, if that well in the swamp area is not bad enough about a week and a half ago I was on the ODNR website and I found another well, it is called Williams 1 D which is no relation to me. It is within one thousand feet of the waters edge of Lipkey Road. It is just off of MVSD's property. If they have a blow out there what are we going to do? I spoke with people at the ODNR in the past and they told me that they had a problem up in Bainbridge with homes blowing up but they were all proud of themselves that they fixed Bainbridge. Well good I am glad you fixed Bainbridge! How are you going to fix Meander? I am super frustrated and I am asking for help.

Councilman Papalas: Have you appeared before the MVSD Board?

Mr. John Williams: I have asked for an appointment and didn't get one. I talked with him on the phone and agreed with Tom Holloway that they are not responsible for what is going on out there and he has no control over it. I really think that we should do something. To sit down and say there is nothing we can do, that is exactly what they want to hear.

Councilman McCormick: When you spoke to the EPA was there any sense of alarm from them? It sounded like she wasn't even aware that this problem was going on.

Mr. John Williams: Not only did she not know that there was a permit, she had no idea the rig was in and drilling away.

Councilman McCormick: They have to file a report for the watershed area, the source water protection and it's not included in that?

Mr. John Williams showed council a map of the source water protection plan by the Ohio EPA and a picture of Tom Tomastik.

Mr. Williams: Tom Tomastik did this behind the backs of the EPA in Pitsburg, behind the back of Tom Holloway, behind the backs of the City of Youngstown, the City of Niles and behind the backs of two hundred twenty thousand people. That is Tom Tomastik! It doesn't go under the lake; it is in the ground source protection area. If they have a spill on top of the ground out there, it is going directly to the reservoir.

Councilman Merlo: Do you know who owns that property?

Mr. Williams: Cadle. Mr. Williams continued to show the council the map of the source water provided by the EPA. Mr. Williams told council that they are building Pad 2 on Palmyra Road just around the corner. They are building the pad now and no permit has been issued. The reason they can invest over a million dollars on building that pad without a permit being issued is because they know that permit will be issued because ODNR and Tom Tomastik has never turned down a permit to the oil and gas industry in its history! So they can invest in that and not worry about it.

President Marino: Mr. Williams so I understand what you are saying regarding MVSD, they have no authority regarding their watershed.

Mr. Williams: That is how it looks to me and Ohio EPA has no authority either. This is all ODNR.

Judy Vershum, 3726 Joyce Ann Drive, Canfield: I just called Tom Holloway one day because I was very concerned if there should be a spill one day and if they have the equipment they needed to identify organic compounds that would be associated with the frack fluids and no they do not. My impression was that he wasn't concerned in the least that they did not have the equipment. They do the (inaudible) count and stuff like that and my impression was that he was not concerned that he did not have the equipment and he was not concerned that there would be a problem at the well. He is not here is he? So I said do you think we can set up a meeting or something and I told him that I was a concerned citizen and that I belonged to a group that was (inaudible) and he said no I don't think that will be necessary. He said he is pretty much (inaudible) and everyone here has educated ourselves and we pretty much know all this. Right after that he said something totally wrong but I can't remember what it was. He did know that there were drilling about eight thousand feet deep and there is no way that gas can escape that layer stuff like that and that is wrong. He said that we send a guy out there to do a visual check

and I said okay can you see organics in the water? What is that a stream of water, a stream of goo coming from the well, what's that going to do? Nothing! What else did he say? I should have taken notes but the whole conversation was very disappointing especially the fact that no he didn't think he needed to talk to anyone about it. For one thing, I don't know, he was supposed to have retired. Maybe they rehired him, I don't know. I talked to him when he was retiring the next week and he said he would be rehired.

President Marino: I can tell you my dealings with Tom Holloway have been nothing but professional, nothing but precise and direct relative to my experience. I can assure you that I will be taking these minutes and I will be reviewing them with him to find out just what is what relative to what you are saying. My experience with Tom has been nothing but extremely professional. I will find out what they are doing relative to this for my own satisfaction.

Judy Vershum: Okay because I think it is important if we have some fracking going on in the area they need to be able to test for whatever chemicals before they shoot that water out (inaudible).

Councilman McCormick: I worked out there for thirty one years and I was there when Mr. Holloway got hired. In his defense on some of the things you mentioned there is an emergency action plan in effect for certain emergencies like a spill or any hazardous material. We never did have materials out there to take care of those things ourselves. We relied on local agencies that did that to take care of that sort of thing. We had drills and worked with them in case something like that would happen.

Judy Vershum: Are they set up for the volatile organics?

Councilman McCormick: I know the volatile organics are run on a schedule required by the EPA. There are at least five thousand tests a year run on that water that you drink. You mentioned the (inaudible) that's only bacteria, but you have voc's and toc's that may come out of there. Those things are checked and there are seventeen separate little streams that feed in and each one of those is checked every month as well. They have a sample collector that goes out once a month and does a collection from each one of those streams and checks the water.

Judy Vershum: I think they should really be able to check it themselves and not send it out (inaudible).

Councilman McCormick: Well the EPA is responsible for doing some of those things also, they have people that go out and test certain areas. If you called them and you complained about an area they will go out and check that as well.

Judy Vershum: They are mostly under staffed and over worked at the EPA and the ODNR. They only have something like thirty two inspectors for how many wells! (Inaudible)

Councilman McCormick: Back in the 60's and 70's General Motors bought all the rights and they were putting the wells in. In the 70's there was a stop put to that action so we stopped putting the wells in because there was a problem with the brine. The brine was leaking in and that was remedied, so I am sure that they will look into it. You may not have gotten the answer but they will look into it.

Susie Beiersdorfer 359 Bradley Lane, Youngstown: I came up here tonight to thank you for your work as elected officials in doing due diligence on looking into injection wells and some of the

toxic risks associated with that. This set up is different than Youngstown City Council where you sign up a week in advance and they give you three minutes and there is no interaction. I wondered if somebody can address what Youngstown and Niles what their 50/50 ownership is in the MVSD? I assume that Niles and Youngstown each own fifty percent of the MVSD.

Mayor Infante: It is actually based off the water usage. We buy out of there and Youngstown buys out of there and they are a bigger user. The only investors are Niles, Youngstown and McDonald.

Councilman McCormick: The MVSD itself is a political sub-division of the State of Ohio. It is actually it's own entity but it is controlled by Niles and Youngstown and they have equal representation. On the governing board it is fifty, fifty. Youngstown's vote doesn't count any more than Niles does.

Susie Beiersdorfer: I am a geologist and I teach at Youngstown State University (YSU). I also worked in the oil and gas field in California in the 1980's. I have been around oil and gas a long time and I think you know that this is a lot different than our grandfathers drilling rigs. These are heavy industrial high pressure, high volume wells. The new well that is going out on the Cadle property is going down seven thousand feet horizontally but there are also over four thousand wells in the water protected area either in production or in some state of abandonment. When those wells are going down four thousand and you have something coming underneath it at seven thousand there is a chance that there could be communication with the fracking (inaudible). We had a professor from Cornell that did a Skype lecture at YSU a couple of weeks ago and we asked him about that transmission because you will hear that it is so far down that it is in-permeable and they are just fracking the shale. Shale is actually already a fractured rock, so they are actually refracturing it. There is no saying that it is not going to fracture into the formations above (inaudible) so that is also something to look into. Also in Ohio there are over two hundred thousand orphaned wells, which mean they really don't know where they are. Those are our concerns also. I am learning tonight from here that we need to go to MVSD and find out where they are in this area. As John said the ODNR is the one that permits, regulates, enforces and gets the revenue from the drilling wells and injection wells. I don't know that we can trust them to take care of our water for us and I appreciate you doing your due diligence. I have a question on the hazmat team, who would be sent out?

Mr. Telego: (Inaudible) the first responder would take a look at the leak itself. If there is anything beyond their capability they will (inaudible) to Mahoning County. They are regionalized with Trumbull, Ashtabula and Stark County. There are a lot of resources depending on the size of the incident that we can pull in within three to six hours.

Susie Beiersdorfer: Do you know if these entities have had special training in response to spills?

Mr. Telego: I can't speak for Mahoning County, but I know with Trumbull County they have been working more on the wells side. That has been a high priority along with the local emergency planning committee. That is mandated by federal law. We have to actually make plans for those spills and we have been doing that for that last two years. Especially after the fracking problem with the earthquakes, that was a huge issue. That is something that we are planning for on a monthly basis. The state works with the county and local officials to come up with a plan and then three to five years down the road they merge all those plans together with the best ideas. We have always been well aware of the sanitary district and that is why the bridge was redesigned and rebuilt to hold liquid.

Susie Beiersdorfer read from an article on the EPA website of a well that was leaking crude oil into Meander Creek.

Mr. Barry Steffey, 511 West Third Street Niles: I wanted to give thanks to the police chief and his department for a quick response last week with the Avenue and Main Street Block Watch. We have been in existence for about fourteen months and meeting regularly and preaching to not get involved just be the ears and eyes of the police. I found myself in a situation where I had to follow my own preaching. The Niles Police showed up within three minutes of the 911 call and apprehended the guy after a short chase through yards. It was something to see and heart warming to know that we live in a city where we are safe. We look out for each other and all our interactions with city officials with the block watch have been very professional. We appreciate that.

President Marino: Thank you Barry for your citizenship and helping to make Niles a better place to live.

COMMITTEE REPORTS

None

ORDINANCES AND RESOLUTIONS

ORDINANCE NO.__(Draft No. 57-12)

AN ORDINANCE AMENDING THE ZONING ORDINANCES TO ADD A NEW SECTION REQUIRING THE REMOVAL OF GRAFFITI BY OWNERS AND/OR OCCUPANTS OF PROPERTY; AND, DECLARING AN EMERGENCY

It was moved by Papalas, seconded by McCormick to table the Draft.

YEAS: 7 NAYS: 0

Draft No. 57-12 was tabled.

RESOLUTION NO.__(Draft No. 63-12)

A RESOLUTION AUTHORIZING THE MAYOR TO FILE AN APPLICATION AND TO EXECUTE CONTRACTS IN CONNECTION WITH THE OHIO PUBLIC WORKS COMMISSION FOR A PROGRAM YEAR 2013 OHIO PUBLIC WORKS COMMISSION PROGRAM, FUNDING THE EAST FEDERAL STREET MILL & FILL PROJECT AND DECLARING AN EMERGENCY

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

Mayor Infante told council that it was a \$400,000 project and we received a grant for \$300,000 to redo Federal Street. Mark Hess told council they are going to replace some railing along with taking off two inches and putting two inches back. For the new high school some flashing speed lights will be placed. The high school should be completed in April and this project will start in August. The funding for this project will not be available until August.

YEAS: 7 NAYS: 0

Rules are suspended.

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

YEAS: 7 NAYS: 0

This Draft No. 63-12 has been adopted on the 21st day of November, 2012.

ORDINANCE NO.__(Draft No. 64-12)

AN ORDINANCE APPROVING THE UPDATED SOLID WASTE MANAGEMENT PLAN FOR THE GEAUGA-TRUMBULL SOLID WASTE MANAGEMENT DISTRICT; AND DECLARING AN EMERGENCY

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

YEAS: 7 NAYS: 0

Rules are suspended.

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

YEAS: 7 NAYS: 0

This Draft No. 64-12 has been adopted on the 21st day of November, 2012.

RESOLUTION NO.__(Draft No. 65-12)

A RESOLUTION RATIFYING THE TRANSFER OF FUNDS IN VARIOUS ACCOUNTS TO HOSPITALIZATION; P.E.R.S. AND WAGE ACCOUNTS; AND, DECLARING AN EMERGENCY

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

YEAS: 7 NAYS: 0

Rules are suspended.

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

YEAS: 7 NAYS: 0

This Draft No. 65-12 has been adopted on the 21st day of November, 2012.

RESOLUTION NO.__(Draft No. 66-12)

A RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED COMPUTER FUND TO THE HOSPITALIZATION ACCOUNT; AND, DECLARING AN EMERGENCY

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

Councilman Papalás: How much is left in the unappropriated computer fund?

Auditor Nader: I don't have that number with me, there is more than enough to cover this. I can get you that number when we go back to work.

Councilman Papalás: Okay.

YEAS: 7 NAYS: 0

Rules are suspended.

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

YEAS: 7 NAYS: 0

This Draft No. 66-12 has been adopted on the 21st day of November, 2012.

MISCELLANEOUS REMARKS

Councilman McCormick asked the members of the audience what their group is called and it is Frack free Mahoning Valley. He encouraged them to call their state officials and applauded them for their efforts.

Councilman Stredney and Councilman Papalás asked that Draft No. 57-12 be put back on the agenda for the next council meeting.

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

Linda A. Yuhasz, Clerk of Council;

Robert Marino Jr., President of Council

