

MINUTES

Niles City Council held its regular meeting of September 18, 2013 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 Lastic to accept the Minutes of the regular meeting of September 4, 2013 and place them on file. Motion carried.

REPORTS AND COMMUNICATIONS

NONE

MEMBERS OF THE AUDIENCE TO ADDRESS COUNCIL

Mr. Barry Steffey, 511 West Third Street, Niles: Mr. Steffey announced that the 3rd Ward block watch was kicked off on September 17, 2013. He thanked all the city leaders who attended the meeting, Safety Director Guarino, Councilman Merlo and Councilman Stredney. He appreciates the support given to the block watch.

President Marino thanked Mr. Steffey for organizing the watch. Niles Police and council appreciate his efforts also.

Mr. John Williams, 475 Cleveland Avenue, Niles: I accept full responsibility for the "onion" awarded to this council by the Tribune Chronicle by voting the Community Bill of Rights into law under emergency conditions. When I found that Everflow Eastern was flipping their Clinton Well leases to Chesapeake Energy and there were so many forty acre wells already leased that could be flipped, this is an emergency. In the standard six week waiting process (inaudible) could have easily offered a few residents large signing bonuses to unitize their current wells already leased and a permit could be issued before the city has time to vote on it. To me that requires emergency action.

On Monday September 9, 2013 someone organized a truth finding session in conference room 1 at city hall. The truth tellers that this council relied upon were Rhonda Reda, education specialist with the Ohio Oil and Gas Energy Education Program (OOGEEP) a non profit organization funded by the oil and gas industry. It was easy for me to see that she was serving the agenda that was not in the best interests of the people of Niles, but rather the oil and gas industry. The Youngstown Vindicator reported that Councilman Papalas said that he was swayed by what he heard at that meeting when he learned that there would be not enough acreage for a well platform in our neighborhood under the Ohio Department of Natural Resources. (ODNR)

I guess people hear what they want to hear. I heard Rhonda Reda say that a small footprint is needed for Clinton Wells and a larger footprint for Utica vertical wells and five acres for Utica horizontal wells. The question is, what is a neighborhood? Is Stevens Park combined with the land behind Altobelli development in anyone's neighborhood? Is the combined land of (inaudible) Park and Kennedy Park in anyone's neighborhood? Is the combined land of Sisco's Farm and Union Cemetery in anyone's neighborhood? Is the land in Brynhyfryd Park behind the new middle school in anyone's neighborhood?

Councilman Stredney said to the Youngstown Vindicator he will vote for the resolution to rescind the ordinance, but he opposes the drilling in residential areas. You can't have both! You can't say that I am going to rescind this but I don't want you drilling in the neighborhood. It doesn't make sense.

Last Sunday afternoon I hand delivered information packets to the councilmen who I believed were still open minded about this situation. When I handed the packet to Councilman Lastic he informed me that the council already knows what they are going to do. He proceeded to defend the gas well that he is living next to. I tried to explain to him that Utica Wells are far different and much more toxic to the neighborhood than the old Clinton Wells, but that didn't seem to matter. I told him that we could roast marshmallows from his front porch if they light the flare from behind Altobelli's development. He said that the land can not be used because of some kind of contract. The only contract that matters to the oil and gas industry is the lease. This is the lease for that land. (he showed council)

The second guest star at that truth session was Shawn Bennett a spokes person for Energy in Depth oil and gas industry funded, propaganda machine. Shawn Bennett's mission was to tear apart the Community Bill of Rights ordinance currently on the books in the City of Niles. It is my understanding that this council would take the word of oil and gas spokes person over the work of our law director. Knowing all this and expecting city council to cave to the pressure of the oil and gas industry I called Kelly Pallante of the Board of Elections to see how many signatures I would need to get this on the spring ballot. The answer is 620 signatures. If council tonight rescinds this great ordinance I will get those signatures and place this on the next spring ballot, word for word exactly the work that our law director worked on to make happen! Word for word! Great job Terry Dull. This will give us plenty of time to hold community informational sessions and educational meetings where Niles voters will learn and come to the conclusion that our council did not do their due diligence to protect the health and safety of Niles citizens.

Tish O'Dell of Broadview Heights thanked city council for passing the Community Bill of Rights in Niles, Ohio. Tish is the co-founder of Mother's Against Drilling in Our Neighborhoods (MADION) and last November Broadview Heights got a Bill of Rights passed. She read a letter against drilling to council.

Mr. Dave Bishoff, 2681 Oak Forest Drive, Niles: I have been a Niles resident for 35 years and I attended the educational session last Monday and I came away impressed that there are regulations in place and steps being taken that will protect both the citizens and the environment. I agree with Councilman Stredney that a compromise can be reached where the neighborhood can be protected but we can benefit from the economic prosperity. A hundred years ago when the auto industry was gaining strength there were people that were concerned by the proposal of the gasoline industry to put gas stations on every other street corner, with thousands of gallons of gas buried ten feet below the ground. Yet our administrators at that time figured out how to regulate it. I have every reason to believe that the industry, councilmen, and our legislators will find a way to regulate this industry and allow us also to benefit economically I support the reconsideration of the Bill of Rights that you passed. As Mr. Bennett pointed out the wording of the legislation was so convoluted that it possibly had us violating our own statues by selling water to Lordstown and Lordstown using that water for their fracking wells. Council's intention was to protect the neighborhoods but I don't think they wanted to tell the entire oil and gas industry that Niles doesn't want you. As a citizen and a taxpayer we want the prosperity. We have kids who are looking for jobs and there is some middle ground.

Mr. Don Crane of Leetonia, Ohio spoke on behalf of six thousand building construction trade workers in Mahoning, Trumbull and Columbiana County. He is the president of The Western

Reserve Building and Construction Trades Council. He spoke in support of council rescinding the anti-fracking ordinance. Mr. Crane said that the oil and gas industry has put money in our pockets and we support economic development.

Alice Lynd, 1694 Timbers Court, Niles: I want to see council retain the Bill of Rights. It is a message for the city; we want our air and water protected. We don't want our homes and lands undermined. Man-made disasters do happen.

A former City of Youngstown councilman Mike Rapovy, spoke in favor of rescinding the anti-fracking ordinance. When he was a councilman for the City of Youngstown they had clean air and water but everyone was leaving the city. It was a ghost town. When the city voted the Bill of Rights down the city is starting to come back. Voters in Youngstown said no to a Bill of Rights and they will do it again.

Dr. Ray Beiersdorfer a professor of geology at Youngstown State University, also worked in the oil and gas industry. He commended council for the Bill of Rights and he doesn't think now is the time to rescind it. In the future there may be a way to drill and it won't be harmful to the environment but not now. He offered to come back to council and do an educational session that shows the published data where this has caused tremendous damage to public, health, ground water and to air contamination. Dr. Beiersdorfer spoke of the twelve earthquakes in Youngstown, Ohio. Those twelve earthquakes were felt over a large region. There were ninety seven earthquakes due to the injection well that were also instrumental.

Councilman Papalas: Concerning the earthquake and that fracking well, I think the person who was operating that well did so illegally without the regulations in place at that time and he went far deeper than he was supposed to. He put far more pressure in that well than he was supposed to and into a fault line. So, tell the whole story of what occurred. The person has now shut down and we now have regulations in place like seismographic equipment is now put in all around those injection wells so nothing like this can happen again. It is monitored.

Dr. Beiersdorfer: I agree that the company was irresponsible, but ODNR was also responsible for letting them increase the pressure.

Councilman Papalas: With the regulations in place today that is not going to happen again.

Dr. Beiersdorfer: Well, if you want to allow your children of your communities to be guineas pigs and have a sacrifice going you are going to have to do that.

Councilman Papalas: That is the way that it seems like the group opposed to this industry speak; bully's, terrorize and sacrifice the community. That talk is not really as constructive as you think it is.

Clay Graham of Youngstown, Ohio spoke for the Bill of Rights and doesn't think this is something you should have in a large area of people.

Pat McCrudden, Westwood Trailer Park, Weathersfield Township: Spoke in favor of the Bill of Rights and felt that no wells should be in any neighborhoods. Her home is five hundred feet of a Halcon Drilling rig.

Ellen Mavrigh from Lorain County spoke in favor of the Bill of Rights. She encouraged council to stay the course and don't rescind it. She brought correspondence from people all over the state of Ohio applauding council for passing the Bill of Rights.

Mr. Tim Callion, Warren, Ohio is a business agent for the Plumbing and Pipefitters Local 396. He spoke of the safety standards put in place and his members are all Ohio Occupational Safety and Health (OSHA) trained. The gas industry requires the safety. He spoke in favor of the Bill of Rights.

Mr. Butch Taylor, Boardman, Ohio is a member of the Plumbing and Pipefitters Local 396 and he spoke in favor of the Bill of Rights. He spoke of the safety regulations in his job working on projects for the oil and gas industry.

COMMITTEE REPORTS

None

ORDINANCES AND RESOLUTIONS

ORDINANCE NO.__(Draft No. 59-13)

AN ORDINANCE AMENDING SUBPARAGRAPH (C) (I) (2) OF CODIFIED ORDINANCE NO. 1301.07 TO INCREASE THE FEES FOR CERTIFICATES OF OCCUPANCY ISSUED PERSUANT TO CODIFIED ORDINANCE NO. 1301.09; AND, DECLARING AN EMERGENCY

It was moved by Stredney, seconded by Wilkerson 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. 59-13 has been adopted on the 18th day of September, 2013.

ORDINANCE NO.__(Draft No. 60-13)

AN ORDINANCE AMENDING CODIFIED ORDINANCE NO. 505.19 TO ADD DUCKS, GEESE AND OTHER WATERFOWL TO THE ANIMALS PROHIBITED FROM BEING KEPT WITHIN THE CITY; AND, DECLARING AN EMERGENCY

It was moved by Stredney, seconded by Papalas to give this Ordinance a first reading.

YEAS: 7 NAYS: 0

This Draft No. 60-13 has received a first reading.

ORDINANCE NO.__(Draft No. 61-13)

AN ORDINANCE REPEALING ORDINANCE NO. 22-13 REGARDING THE PROHIBITION OF NEW SHALE GAS AND OIL EXTRACTION AND RELATED ACTIVITIES; AND, DECLARING AN EMERGENCY

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

Councilman Papalas: I am confident after doing my homework and discussing this with various people that we have regulations in place that will protect our community. I am confident that we will be heard with some of our state legislators with the following resolution that we are going to be sending to Columbus. With our children and we all know children that had to leave the area sometime leaving the state because they couldn't find jobs around here. We have an opportunity to provide more jobs now to keep some of those kids here, to employ some of your friends and my friends in an area where several years now we have seen the erosion of our commerce. We have been talking about our tax base for a couple of years now and we are down five or six policemen and firemen, we need far more than that. We are looking for a fire truck, we are looking for more cruisers and where is that money going to come from with businesses shut down like General Electric? We can't afford not dealing with this new industry coming in that might help our tax base in several ways. The jobs that would be created, I am starting to see that. We have a situation here where not only labor but the Chamber of Commerce who is represented here tonight, is coming together behind the same issue. How often do you see that? What does that tell us? My own friends are talking about the will of the community. Throughout some of the neighborhoods they have been talking to me since the last meeting we had and they are wondering why we are shutting out industry. Don't forget Mr. Bishoff's comments earlier this evening about the analogy of the gas stations a hundred years ago. They were controversial because they were popping up everywhere and there was a gasoline and storage tank under the ground. Look how many jobs it created and look how safe it was. Accidents can happen; I can have an accident going home. I can fall down the steps going out the door here. Does that mean I shouldn't use the door? We need to look at this more clearly, regulations are in place. I am confident that if we embrace the industry that we are all going to benefit from it. I do not see deep wells going into any of our neighborhoods in this community or any around here. Not in the city.

YEAS: 7 NAYS: 0

Rules are suspended.

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

Councilman McCormick: This is one of the tougher things we had to decide since I have been on council. I intended to support the repeal of this, but if further legislation might be needed in the future I am more than willing to spearhead that or look into it. But, for all the reasons Steve mentioned I intend to support the repeal.

YEAS: 7 NAYS: 0

This Draft No. 61-13 has been adopted on the 18th day of September, 2013.

RESOLUTION NO.____ (Draft No. 62-13)

A RESOLUTION STATING THE POSITION OF THE CITY OF NILES, OHIO CONCERNING SHALE GAS AND OIL EXTRACTION AND RELATED ACTIVITIES WITHIN THE CITY LIMITS

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

Councilman Papalás: The purpose of this resolution is to clearly state city council's position where we support commerce with the shale and oil industry, but we want to remind the state we don't want those wells in our residential neighborhoods. This also clarifies our position with our neighbors and citizens here in this community.

YEAS: 7 NAYS: 0

Rules are suspended.

It was moved by Papalás, seconded by Stredney.

YEAS: 7 NAYS: 0

This Draft No. 62-13 has been adopted on the 18th day of September, 2013.

RESOLUTION NO.____ (Draft No. 63-13)

A RESOLUTION APPROVING THE LABOR AGREEMENTS BETWEEN THE CITY AND THE FIREFIGHTERS BARGAINING UNIT AND THE DISPATCHERS BARGAINING UNIT; AND, DECLARING AN EMERGENCY

It was moved by Papalás, seconded by Lastic to adjourn into executive session to discuss the labor agreements with the firefighters and the dispatchers.

Lastic-Yea; Papalás-Yea; Giancola-Yea; McCormick-Yea; Stredney-Yea; Merlo-Yea; Wilkerson-Yea

YEAS-7 NAYS-0

Council adjourned into executive session at 6:49 p.m. to discuss the labor agreements between the city and the firefighters and dispatchers bargaining units.

At 6:59 p.m. Niles City Council reconvened from executive session.

The Clerk called the roll:

Lastic-P; Papalás-P; Giancola-P; McCormick-P; Stredney-P; Merlo-P; Wilkerson-P

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

YEAS: 7 NAYS: 0

Rules are suspended.

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

YEAS: 7 NAYS: 0

This Draft No. 63-13 has been adopted on the 18th day of September, 2013.

RESOLUTION NO.____(Draft NO. 64-13)

A RESOLUTION AUTHORIZING THE LINE ITEM TRANSFER OF FUNDS FROM THE BUILDING & ZONING EDUCATION ACCOUNT TO THE BUILDING & ZONING OFFICE SUPPLY ACCOUNT 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 Giancola to adopt this Draft No. 64-13.

YEAS: 7 NAYS: 0

This Draft No. 64-13 has been adopted on the 18th day of September, 2013.

MISCELLANEOUS REMARKS

Treasurer Swauger: For the record because you gentlemen have been asking, the auditor has the check for \$12, 715 from the Niles Youth League. I want you to know that over \$25,000 of work has been done on those fields. A lot of it was donated by the residents and the businesses of Niles. The Bricklayers Union and the laborer's unions donated their Saturdays (inaudible) to get those done. We rebuilt two new dugouts and I appreciate the city giving us the money to get this done, but we are trying to make that park better for the youth of Niles. Part of that money went towards that so any misgivings from you or anyone else that we took that money and used it for other stuff was false. So you have your money back, the work is done and the park is now improved because of the Niles Youth League.

Councilman Papalás: I have a couple of remarks and sometimes some things are best left unsaid, but I have to respond to Bob in saying that to my knowledge nobody here passed any (inaudible). The issue was if you recall that you had an agreement with city council through a resolution that we passed. The agreement was that the money would be loaned out and returned to the treasury in a certain period of time and it wasn't. So that is why we had to remind people to have that money paid back. Especially when at a time when, again, we have a shortage of policemen, we are making cuts, we don't have capitol expenditures and so forth. That is why we wanted the money back. We strongly commend you for the improvements you have made to that park. We do appreciate that. That has not gone unnoticed.

The other remark that I want to make is that I feel mostly responsible about that Bill of Rights ordinance that we have been hearing about the last couple of weeks. As I left on vacation and I had an email and I asked the mayor could we please do something about it immediately. I called him again from where I was and he went to work on it and he did the best he could under the circumstances. He contacted somebody who I thought would be knowledgeable and I asked some of you as we had our meeting and it was handed to us. I thought it was as you may recall the most important piece of legislation that night and we all know what happened. I owe all of you an apology for putting you through this, as well as the mayor. I'm glad that we corrected it. I can assure you that I won't bring any more ordinances out the night of the meeting at the very last moment. I have already heard that from some of you with some constructive criticism, I appreciate it and I understand it. It won't happen again.

Councilman Stredney: At our Safety Committee Meeting we had last week we dealt with the issue of pot bellied pigs. The Health Board had met right before and they had said that they are not in favor of changing the ordinance at this time. The Safety Committee was going along with their recommendation. We will not see any legislation from the Safety Committee changing that ordinance.

The safety director has asked the Safety Committee and city council to hold a Roundtable to discuss the safety issue of parking on the streets. As the law currently states that it is legal to park on side streets unless there is a snow ban. Some weeks or months ago the chief and safety director asked city council if they would look at changing the law back to the way it was years ago where parking on the streets at night between certain hours . I had never scheduled a Safety Committee a meeting on this and the safety director would like to see if you councilmen would be in favor of holding a Roundtable on this. I as the safety chairman am not going to call a meeting on this, but if you would like to call the meeting I am passing along his request.

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

Linda A. Yuhasz, Clerk of Council

Robert Marino Jr., President of Council