

MINUTES

Niles City Council held its regular meeting of November 6, 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 Wilkerson to accept the Minutes of the regular meeting of October 16, 2013 and place them on file.

Motion carried.

REPORTS AND COMMUNICATIONS

FROM The Auditors Office

The Estimated Versus Actual Revenue thru October 2013

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

Motion carried.

FROM The Auditors Office

The 3rd Q 2013 Status Reports

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

Motion carried.

Councilman Papalas: How are we doing with the revenue, Chuck?

Auditor Charles Nader: The revenues are coming in decent, general fund is about \$150,000 ahead of last year which is a good sign. Water and Light are up and Sewer Fund is about steady. We are going to have to start looking at the water and sewer rates.

Councilman Papalas: Ok.

FROM The City Income Tax Office

The Monthly Receipt Totals thru October 2013

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

Motion carried.

FROM The Ohio Division of Liquor Control

Two new liquor permits from Noor Petroleum Corp. and Ohio CVS Stores LLC

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

FROM The Clerk of Council

A letter of resignation effective January 1, 2014

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

Motion carried.

President Marino will approach the clerk pro-tem to see if she is interested in the position and will keep council informed of the progress of securing someone for the clerk's position.

MEMBERS OF THE AUDIENCE TO ADDRESS COUNCIL

None

COMMITTEE REPORTS

None

ORDINANCES AND RESOLUTIONS

ORDINANCE NO.____ (Draft No. 67-13)

AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO ADVERTISE FOR REQUESTS FOR PROPOSALS AND ENTER INTO CONTRACT FOR THE OPERATION OF THE CONCESSION STAND AND FOR THE RENTAL OF THE GAME ROOM AT THE WELLNESS CENTER; 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 Wilkerson, seconded by Papalas to adopt this Draft No. 67-13.

YEAS: 7 NAYS: 0

This Draft No. 67-13 has been adopted on the 6th day of November, 2013.

ORDINANCE NO.____ (Draft No. 73-13)

AN ORDINANCE AMENDING CODIFIED ORDINANCE NO. 141.11, "ALARM RESPONSE FEE" TO CREATE NEW FEE ASSESSMENTS BEGINNING IN THE CALENDAR YEAR 2014

It was moved by Stredney, seconded by Merlo to give this Draft a first reading.

YEAS: 7 NAYS: 0

This Draft No. 73-13 has received a first reading.

ORDINANCE NO.____ (Draft No. 74-13)

AN ORDINANCE ESTABLISHING A FEE ON BEHALF OF THE CITY OF NILES FOR THOSE SITUATIONS WHERE A MOTOR VEHICLE IS IMPOUNDED OR TOWED AT THE BEHEST OF A NILES CITY POLICE OFFICER; AND, DECLARING AN EMERGENCY

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

Councilman Stredney: Chief Hinton can you clarify something here for city council? When we talked about this we said that we were going to have the fee for vehicles that are impounded for any arrests that were made. But if it is just a fender bender accident and we have to tow the car because someone has to go to the hospital then we aren't going to charge for that, correct?

Chief Hinton: If there is an inventory form filled out by the officers (inaudible) there will be one. If we are not taking inventory of the vehicle then there won't be a fee.

Councilman Papalas: If someone slams into me and I end up going to the hospital and my car is towed I have to pay fifty dollars?

Chief Hinton: Yes for the administrative costs, we are standing by the vehicle.

Councilman Papalas: But I have to pay fifty dollars and none of this was my fault?

Chief Hinton: Correct. You can take that part out of it and it would be for arrests only.

Councilman Papalas: It should be for arrests only.

Chief Hinton: We were trying to make it consistent that any time an inventory vehicle form is done (inaudible) and an administrative fee is assessed so there was no question asked.

Councilman Papalas: I just have a hard time assessing someone who gets caught into a position that wasn't their fault. Why should they be assessed fifty dollars for something that is not their fault?

Chief Hinton: Again the insurance companies (inaudible) the other departments no questions asked.

Councilman Papalas: I know some one that got caught in Warren that way and they had to pay seventy five or a hundred dollars. I thought it was just a travesty, I don't think that it is fair. I don't think its fair for any community to assess a person that is completely innocent. I know that it is just the law of the land in Warren and Weathersfield, but it doesn't have to be here.

Mayor Infante: That was the concern that I had when we had these meetings and I think that part should be taken out.

Councilman Stredney: We discussed this at the safety meeting and we are going for a first reading tonight. We can sit and talk and make the changes for the next council meeting.

There was a discussion between Chief Hinton, Councilman Stredney, Mr. Dull and President Marino on whether the towing fee can be listed in the police department's policy so the ordinance doesn't have to be changed. President Marino said whatever the intent of council should be spelled out with specifics in the documents that you approve.

Councilman Stredney: I will make sure that I work with Mr. Papalas, Mr. Dull and the Chief before next meeting and any changes we will bring them back for the second reading.

YEAS: 7 NAYS: 0

This Draft No. 74-13 has received a first reading.

RESOLUTION NO.____ (Draft No. 75-13)

A RESOLUTION AUTHORIZING THE FINAL QUARTERLY CASH TRANSFERS; AND, DECLARING AN EMERGENCY

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

Councilman Papalas said that the only question council had was about the \$300,000 in Capitol Projects and Auditor Nader will get back with council as a whole.

YEAS: 7 NAYS: 0

Rules are suspended.

It was moved by Papalas, seconded by Giancola to adopt this Draft No. 75-13.

YEAS: 7 NAYS: 0

This Draft No. 75-13 has been adopted on the 6th day of November, 2013.

RESOLUTION NO.____(Draft No. 76-13)

A RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED LIGHT FUND TO THE POWER FUND; AND, DECLARING AN EMERGENCY

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

It was moved by Papalas, seconded by Lastic to amend the title of Draft No. 76-13 from "Power Fund to Power Account." Motion carried.

YEAS: 7 NAYS: 0

Rules are suspended.

It was moved by Stredney, seconded by Wilkerson to adopt this Draft No. 76-13.

YEAS: 7 NAYS: 0

This Draft No. 76-13 has been adopted on the 6th day of November, 2013.

RESOLUTION NO.____(Draft No. 77-13)

A RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED HOSPITAL SELF INSURANCE (HSIF) FUND TO THE HSIF SELF INSURANCE ACCOUNT 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 to adopt this Draft No. 77-13.

YEAS: 7 NAYS: 0

This Draft No. 77-13 has been adopted on the 6th day of November, 2013.

RESOLUTION NO.____(Draft No. 78-13)

A RESOLUTION APPROPRIATING FUNDS FROM THE UNAPPROPRIATED SEWER FUND TO THE SEWER FUND ACCOUNT'S WAGES AND HOSPITALIZATION ACCOUNT AND, DECLARING AN EMERGENCY

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

YEAS: 7 NAYS: 0

Rules are suspended.

It was moved by Papalas, seconded by Giancola to adopt this Draft No. 78-13.

YEAS: 7 NAYS: 0

This Draft No. 78-13 has been adopted on the 6th day of November 2013.

RESOLUTION NO.____(Draft No. 79-13)

A RESOLUTION AUTHORIZING THE TRANSFER OF FUNDS FROM THE HEALTH DEPARTMENT'S PEST & RODENT ACCOUNT TO THEIR VEHICLE MAINTENANCE ACCOUNT; AND DECLARING AN EMERGENCY

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

YEAS: 7 NAYS: 0

Rules are suspended.

It was moved by Papalas, seconded by Wilkerson to adopt this Draft No. 79-13.

YEAS: 7 NAYS: 0

This Draft No. 79-13 has been adopted on the 6th day of November, 2013.

RESOLUTION NO.____(Draft NO. 80-13)

A RESOLUTION AUTHORIZING THE LINE ITEM TRANSFER OF FUNDS FROM THE BUILDING & ZONING WAGES ACCOUNT TO THE BUILDING & ZONING CONTRACTED LABOR ACOUNT AND, DECLARING AN EMERGENCY

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

Councilman Merlo: Tony, explain to me again how this works because aren't we charging them on the permit? Are we getting this money back?

Mr. Tony Vigorito: Yes this money was all charged to the contractors and I didn't anticipate the mechanicals to get started out at the hotel when I asked for more money last meeting. The hotel is about 115 inspections in each category. They got started on the rough inspections and you can see at \$25 dollars an inspection and 115 of them I am getting bombarded all at one time. That is why the \$5000 dollars didn't last very long. This should carry me through the end of the year for all the rough inspections and then next year I will have all the finals. They are reimbursing us. I just sent out another bill and they do pay it right away and it gets reimbursed back to the general fund.

Councilman McCormick questioned Mr. Vigorito about where the money goes once the hotel reimburses the city for the inspections. Mr. Vigorito told him that it goes back to the general fund, not the building inspectors account.

YEAS: 7 NAYS: 0

Rules are suspended.

It was moved by Wilkerson, seconded by Merlo to adopt this Draft.

YEAS: 7 NAYS: 0

This Draft No. 80-13 has been adopted on the 6th day of November, 2013.

RESOLUTION NO.____(Draft No. 81-13)

A RESOLUTION AUTHORIZING THE YEAR-END TRANSFERS FROM THE GENERAL, POLICE& FIRE ½%, WATER AND LIGHT FUNDS; AND, DECLARING AN EMERGENCY

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

It was moved by Stredney, seconded by Merlo to amend Draft No. 81-13 to read 17-10-5230 on line 4 of Section 1. Motion carried.

YEAS: 7 NAYS: 0

Rules are suspended.

It was moved by Papalas, seconded by Stredney to adopt this Draft.

YEAS: 7 NAYS: 0

This Draft No. 81-13 has been adopted on the 6th day of November, 2013.

ORDINANCE NO.____(Draft No. 82-13)

AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO ENTER INTO CONTRACT WITH THE PROPOSER DEEMED MOST FAVORABLE TO THE CITY FOR SOFTWARE FOR THE UTILITY BILLING OFFICE; AND, DECLARING AN EMERGENCY

It was moved by Papalás, seconded by Stredney to table Draft No. 82-13.

Councilman McCormick: Would we be leaving our options open a little better if we gave it a first reading tonight instead of just table it? If we look into this and it is more practical to go this way and we can put it together in the manner that we thought and we have one month to go.

Councilman Papalás: The way we left it is we are going to put a committee together and most importantly I want to talk to the auditors and see what they say also about this. We should do this in conjunction with them while they are here. I have an idea that they are going to be concerned about this software.

Mayor Infante: We would have to change the whole ordinance any way because it just says utility.

Motion carried to table Draft No. 82-13.

MISCELLANEOUS REMARKS

President Marino: I received communication from Mr. Pyers, he would like to meet with you following the November 20, 2013 meeting for about two hours. That was called for by the state auditor, therefore it is a state auditors meeting with you. As I understand it state auditors meetings are closed.

I will not be at the December 4th meeting. I will give you draft rules to consider for the next term. The two things for consideration in changing will be the time limits from ten minutes to five minutes and I am also considering changing the committee structure to merge Streets and Sidewalks with Buildings and Grounds and creating an IT Committee. With all these discussions and the importance of information technology I think that it is time that our council have a committee dedicated to that purpose. Information Technology will be a stand alone committee. Following the December 18th council meeting we will set the committees. There are some other suggestions in there as well, with the new clerk coming on we are going to have to be extremely diligent in how we handle our attendance. I have a few suggestions on your attire for council meetings, business attire for council meetings and business casual for summer meetings. I know other councils they all wear sports coats, suits and ties, there are suggestions in there and if you don't like it you can change it.

Councilman Papalás: I agree with that, everybody wears suits in Warren. I am not saying that we have to wear suits.

Mayor Infante stated that the bridge was open with a few minor details to fix. There was some fiber cut so the light isn't working properly. A storm drain needs installed with some clean up and grass seed. But it opened a month early.

Councilman Stredney: Mr. Vigorito, you have a Board of Appeals meeting next Wednesday for the Cedar Street property. Is that already a duplex or are they changing that into a duplex?

Mr. Vigorito: I wasn't aware that it was a duplex. It was a church many years ago, the church hasn't been there for twenty years. They always had a full apartment upstairs and the owner at

that time was going to convert the downstairs to an apartment and never did. It has been used as storage for years.

Councilman Stredney: The doors there have A and B and I was curious if they got permission to change it or is it already a duplex?

Councilman Papalas: I understand it is a duplex.

Mr. Vigorito: I don't remember two apartments being there, unless you have first hand knowledge. It sat empty in an R-A zone so it converted back to a single family and even if it was a duplex I had no knowledge of it being a duplex. In order to make it back into a duplex it would still have to go through the Zoning Board of Appeals.

Councilman Papalas: Don't you remember how hard we worked? We want to reduce rental property. So our ordinances stated that we don't want single family property turned into duplexes. That is why we did that and that is why we rezone the city and had it read like it does.

Mr. Vigorito: If some one files for a variance to the ordinance I still have to accept the variance and put it before the Board of Zoning Appeals.

President Marino: Did he already do the work?

Mr. Vigorito: No the first floor was a warehouse and the past owner passed away.

Councilman Papalas: Have you looked inside Anthony?

Mr. Vigorito: They did a nice job cleaning up the second floor, the place was sitting vacant for a while. They did a nice job remodeling the second floor and now they have come in for permission to make the first floor into another apartment.

Councilman Stredney: I will echo Steve's comments that I am not in favor of this. I will be at that meeting to echo it there that I am not in favor of any more duplexes. We did work pretty hard to get rid of them, we said that we were going to do and we did it and I am not going back!

Councilman Papalas: I can't see where we can allow this to happen when we told other people they couldn't transform a home into a duplex.

Mr. Vigorito: They have a right to appeal my decision and the Board of Zoning Appeals is the next step.

Councilman Papalas: So there are no two apartments in this building yet?

Mr. Vigorito: No there is only one apartment in this building at the present time and it hasn't been given an okay to rent yet. They haven't asked for a final I did a walk through, but they haven't asked for a final. The house was also condemned by my housing officer so once I do a final on what was needed by code then Steve Yovich does a walk through according to the housing ordinances. The code should supersede anyway, we should have no problem allowing them to rent upstairs. The building codes are stricter than the housing codes.

Councilman Papalas: We don't care about the building codes we don't want duplexes.

Mr. Vigorito: If the board turns it down then so be it, but that is the appeals process.

Councilman Papalas: Mayor, we don't want duplexes!

Mayor Infante: Well then it shouldn't have been condemned. Now what do you do?

Councilman Papalas: You have a single family home that is what you have.

Mayor Infante: That is up to the board to decide.

Councilman Papalas: Well you are on the board.

Mayor Infante: Yes I am on the board.

Councilman Papalas: We are asking you to consider this.

Mayor Infante: Well after all that money he spent and it was already a church downstairs at one time and used for storage now and apartment upstairs, what do you do.

Councilman Papalas: You say that it is a single family home.

Mayor Infante: It wasn't a single family home in the past.

Councilman Papalas: It reverted to R-A a single family home now.

Mayor Infante: Well I will make my decision when it comes to the board.

Councilman Papalas: Well then any landlord in town can go ahead, that's going to be the signal if this goes through and they can spend the money and build their duplexes out of the single family home in anybody's neighborhood.

Mayor Infante: It wasn't a single family home, if the downstairs wasn't allowed and the upstairs is allowed, is that what you are saying? What do you do with the downstairs?

Councilman Papalas: It's a single family home, it reverted to R-A.

Councilman Stredney: Tony the last time we had a meeting you were going to send a letter to Sheridan Avenue through the county, did you go ahead and do that?

Mr. Vigorito: I sent them a notice on public nuisance and I got the certified letter back today unopened. I did send it out regular mail, Attorney Dull suggested that we still set a hearing date for an appeal to give them every opportunity to appeal. We are going to set a meeting and I will invite him this time and instead of sending it certified I will staple it right to the front door. I will take a picture of it so they can't say that they didn't get it.

Councilman Stredney: Mayor I heard that they finally towed the fire truck and is it true that it can't be fixed?

Fire Chief Brown: Where it is at, they think the brakes are fine. They think it is a switch on the brake pedal and they fixed it. They have been driving it around to make sure the brakes aren't locking up. It still needs work on the tank. I will know a little bit more tomorrow.

Mayor Infante: You have different firemen telling you it was the axle, another saying that it needed brakes and now we think it is the switch. We have been through this for five months when the money was transferred to get it fixed and on the road. Do you see where we stand right now? Nowhere!

President Marino: I think someone is responsible for that, no disrespect Gary but that is your department.

Mayor Infante: The problem is that we have firemen running to councilmen and going around everyone's back! Here's the fire chief!

President Marino: With all due respect mayor, it is not fixed!

Mayor Infante: I agree and that is what upsets me.

President Marino: It upsets all of us because we all hear the same story. Ultimately that is your department and it is your responsibility to make sure that stuff is taken care of. I am not in the business of beating people up either, but in the same token we are all held responsible for our duties. Five months and the trucks not fixed, that is ridiculous! I would hope that we get it all rectified.

Chief Brown: It wasn't all the same problem. If it was just this brake problem in the beginning (inaudible) just a couple of weeks. It was the tank in the beginning. We couldn't get it to get the tank fixed because of another ongoing problem.

Councilman Stredney: Hopefully it will be fixed soon.

President Marino: Terry what are we doing about Vesta and that fine at the Royal Mall?

Mr. Dull: I have a meeting with the Nuisance Board and the next step is that they are entitled to a hearing under that ordinance. Prior to that we need to get another member appointed and I also want to have a procedural discussion before we actually have that hearing.

President Marino: Do we have a time line?

Mr. Dull: No, we adjourned first (inaudible)there are additional fines being assessed.

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

Linda A. Yuhasz, Clerk of Council

Robert Marino Jr., President of Council

