

MINUTES
MAY 7, 2014

Niles City Council held its regular meeting on May 7, 2014 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, Lori Kuszmaul, called the roll:

Lastic-P, Papalas-P, Giancola-P, McCormick-P, Stredney-P, Merlo-P, Pezzano, P, Marino-P

It was moved by Stredney, seconded by Lastic to accept the Minutes of the regular meeting of April 16, 2014 and place them on file.

Motion carried.

President Marino: Gentlemen, Airport Director Dickten was here at 5:30 when I came in. He obviously didn't get the message that I called his office regarding council's previous discussion regarding the airport and the lack of ability to fund the airport. I extended our apologies on the communication error, but I felt it important that you know that he did show up and wanted to present. I offered for him to stay at 6:00 and he said that was okay. I also followed up with an e-mail to him stating the offer was there for him to present at the May 21st meeting if he so chooses. But I felt it important that you know that he was here at 5:30 because he didn't get the message.

REPORTS AND COMMUNICATIONS

FROM The Ohio Division of Liquor Control

Notice to place Liquor License into safekeeping of FEMIA, Inc., dba Giorgios Ristorante & Patiom, 1231 Youngstown Warren Road, Niles, Ohio 44446

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

Motion carried.

FROM The Income Tax Department

Monthly Receipt Totals – Income Tax thru April 2014.

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

Motion carried.

FROM The Auditor's Office

Estimated versus Actual Revenues thru April 2014

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

Motion carried.

FROM The Niles Police Department Chief Hinton

Various accommodation letters and a letter to Captain Marshall regarding the safety of police cruisers.

It was moved by Stredney, seconded by Lastic to accept the reports and place them on file.
Motion carried.

FROM The Office of the Auditor

Bank to Book Reconciliation Correspondence

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

Mr. Nader: This letter is in light of the circumstances that have been occurring in the city. We have written this to show you that we have put into place to at least start the bank reconciliation in some orderly manner. We are not saying that these steps were not being taken, but now they are written and all department heads will have them. The treasurer has seen it, all council has seen it and what has happened is an unfortunate situation and we are now trying to take steps one at a time to, hopefully, eliminate and never let this happen again. First of all, I would like to apologize to all the people of Niles for letting this slip through and not catching this in a faster and sooner method. Hopefully, this will be one of the first steps we need to make and there will be more. Thank you.

President Marino: Since we have folks here, I am going to read the letter. The letter was read verbatim by President Marino.

President Marino: Ladies and Gentlemen, I forwarded this e-mail to the State Auditors and asked for their report and recommendation to ensure that the steps being taken were acceptable to the auditor. The auditor that we are working with, responded that those measures were appropriate and acceptable. For full disclosure I felt compelled to read that.

MEMBERS OF THE AUDIENCE TO ADDRESS COUNCIL

John Williams, 1928 Salt Springs Road. Late last year we began to see trucks driving around with containers on them that haul radioactive fracking and they are in our area and we were alarmed trying to figure out where they were going. Well, we really don't have the funds to chase trucks anymore, so we decided to go about it in the right way and contact ODNR. I really didn't get any response at all back from them so we have a lady in our network, her name is Teresa Mills and she is in Columbus, Ohio. I called Teresa and I asked her if there were any radioactive waste processing plants permitted in our area. She did a quick search and came back and said no. The closest one was down by Steubenville. She said she would do a records request of ODNR just to make sure. Well, she did. A month went by she got no answer, so she called them back and they said they'd send it in a week. A week went by, no answer. Two weeks went by, nothing. Three weeks went by, nothing. Well, we got the report. We got the report five days after the people have the right to talk or to complain about the permit. The public comment period had already expired by five days even though we requested the information two months prior. Okay. Well, on March 6, 2014, ODNR permitted a radioactive fracking waste processing facility on Center Court Drive in Youngstown, Ohio a quarter mile upwind of the school buses, a

half a mile upwind of the rescue mission and three quarters of a mile upwind of St. Elizabeth Hospital. I just thought you guys would like to know it wasn't on the county engineer's report so the county engineer did nothing about it. ODNR did not notify Youngstown City Council. ODNR did not notify the Mayor of Niles and do you know why? Because they don't matter and neither do any of you. You don't matter. What does matter and what did matter was a community bill of rights that had Youngstown passed six months ago, this would not be there. I better shut up because I'm getting mad. I would like to give you a copy of the permit and everybody in Niles ought to really wonder why after four years they are rebuilding the bridge. Is this for the convenience of the people or is it for the oil and gas industry and for easy access to that part of our county and what they can put there. This is the kind of thing they can put there without any of you knowing about it and without any of you having any say about. Thank you.

President Marino: Thank you Mr. Williams. Anyone else which to address Niles City Council?

Carmen Mazza, 527 Ford Avenue. How does this radioactivity effect us here?

John Williams: They can put a plant in Niles without regard to any of us.

Carmen Mazza: What is your definition of radioactivity?

President Marino: Carmen, if you have a question for council, you can ask us. If you fellows want to conduct a conversation, by all means you can. If you have a question for us, we would be happy to answer it.

Carmen Mazza: My only question is, how do we define radioactivity because I think over on Pine Street there is some radioactivity waste that they dispose every year.

President Marino: I don't know, Carmen. Thank you.

Chuck Johnstone, 145 Sheridan, Niles, Ohio. I was kind of curious if there was any update on the house on Vine Court. If they had come into compliance on the ordinance violations? Is there anything they came up with? Did they meet all the criteria?

Mr. Vigorito: I don't know. I haven't anything on it and I haven't seen Steve. He's been pretty busy. He's trying to get things wrapped up. I think you all know he is retiring in June or July and so he's hustling trying to get everything done. I haven't heard any more on it. I know once he files on them, he goes through his procedure. I did get a call from Safeco or one of those companies that go in the cleanup and I sent it over to his office. They wanted a list of violations so that they could take care of it. So that was the last that I heard.

Chuck Johnston: One more question. The house at 206 Sheridan, there has been some recognition of people moving things out. The pickup truck has been towed away. It does seem like they are moving some stuff out. We don't know if they are going to move or what they are going to do, but every day now the dogs at this place are barking and barking and barking. I don't know how many dogs are in that house, but there is never anybody there. So there is no one taking care of these dogs. No one is doing anything with these dogs. Yesterday, they were

taking things out of the fenced in area. That was it, but these dogs are barking constantly. I don't know if there is anybody at the house to do anything for the dogs.

President Marino: Chuck, I am going to let Councilman Pezzano address that. He has some knowledge on that.

Mr. Pezzano: Chuck, myself and the other officer has been there numerous times. I have only seen one dog there. The neighbor to the right put a call in about two weeks ago stating that there were 15 dogs in there. I went there the next day and didn't hear anything, didn't see anything. Again, I called her and said if you see 15 dogs, take a picture of each individual one and that will help the case out, but if you know for a fact these animals are not being --- I have been there, but have never been let in. As we know, Mr. Skyler was the only one able to get in that house. Other than that, to prove that nobody is feeding those animals, someone is going to have to watch that house 24 hours a day. Somebody might go in at two o'clock in the morning, which who knows, to feed the dogs. We don't know that unless someone is actually watching the house 24 hours a day. If we present that to court, that's what they will throw at us. How do you know somebody is not going there at two o'clock in the morning to feed the animals. Unless they are really emaciated, but if I'm not able to see them, it's hard to prove. But if you have proof that nobody is going to the house to feed these animals, then you can file a complaint through us or I'll take the complaint off of you after we leave here.

Chuck Johnstone: How do you go about filing a complaint just for the noise itself?

Mr. Pezzano: Well, being that Niles doesn't have an animal control officer, the barking issues, there's got to be an ordinance in the City of Niles for barking. I'm guessing that would go through Chief Hinton for the barking issue. We don't go to calls for barking. The local government enforces that.

Chuck Johnstone: Has there been anything else – Mr. Dull, has there been anything else as far as them moving out or whatever?

Mr. Dull: Mr. Burke might be able to expand on that. It appears as though the house is starting to be abandoned, but Mike I don't know if you have anything else you can offer.

Mr. Burke: They could be moving to Youngstown. I went back and did a recheck and I was told he was going to tear the house down. That truck that was there for years has been towed away. Not by our police, but by themselves.

Chuck Johnstone: From what we heard, there is black mold in the house and if these people do move out, what steps do we have as the neighborhood to take care of this problem? If the man is back \$20,000.00 in house payments, he surely doesn't have \$10,000.00 to tear down the house. So, how do we go about tearing – I'll tear the blessed thing down. I'll do it myself. I'll guarantee that.

Mayor Infante: Chuck, we can get it in the land bank once its vacated and we can push it up for demolition to tear it down.

Chuck Johnstone: I appreciate that.

Mayor Infante: We'll move it right up front.

Chuck Johnstone: Thank you.

Cricket Padovani, 419 Maple, Niles. My house is the house that is backed up to the back of that house. The house in front and house in back that they were talking about on Vine Court. What do we do about all of the raccoons and the wild animals that appear to live on Vine Court? How do we get rid of all of that?

Mr. Burke: All I can do is recommend contacting the wildlife – game warden

Cricket Padovani: But why do I have to pay to have these raccoon removed because this house is abandoned? They are not mine.

Chuck Johnstone: They are living on someone else's property.

President Marino: Frank, can you address this?

Mr. Pezzano: We just handle domestic, but for raccoons, you can call the game warden. I couldn't hear what Mike was stating, but you can call the game warden and they can probably come out and set traps and get them, but Animal Welfare League only goes to domestic calls. Not wild game.

Cricket Padovani: What about the cats? The cats and raccoons - I mean, I don't have a cat or dog. I don't have any pets. Why do I have to maintain my yard because of everybody else's pet?

Mr. Pezzano: There is a major problem with cats in Trumbull and Mahoning County. If it were up to me, you would license the cats and they have to be on their own property. But we go to a cat call every day and I believe the City of Niles has a limit of four animals, that's dogs and cats included. Just like Warren. So it's up to the city to enforce that. The cats should be on their own property. That's just my own opinion. I wish they would enforce it because we went to a seminar for Trumbull County because there is three issues of rabies in Trumbull County thru cats and all three separate areas. So that threw up a flag. People put food out to feed their cats and they draw every cat from the neighbor there.

Cricket Padovani: And raccoons.

Mr. Pezzano: Yes, so do not feed animals outside.

Chuck Johnstone: Is there something the city can do? Can the city make an ordinance for cats? That you have to license your cats.

Mr. Pezzano: You might go through the county. That's just my opinion, Chuck. I mean I know how cats are to cat lovers and I believe years ago they had a big parade that was "Cats are People Too". My opinion is that cats should be licensed just like a dog and stay on their own property. That's just my opinion.

Chuck Johnstone: I understand what you are trying to say because it ruins your property. Your house gets sprayed with urine. Your flowers and plants, everything dies because of this. There is an abundance of cats that go to that house and an abundance of cats in the neighborhood too.

Mr. Pezzano: As far as the raccoons, you would have to call the Game Warden to come in the trap the raccoons.

Chuck Johnstone: They will do that?

Mr. Pezzano: Yes. If you call, they will come in as far as I know.

Cricket Padovani: Who will pay for that?

Mr. Pezzano: I can't answer that, ma'am.

Mr. Marino: Mike, can you reach out to the game warden?

Mr. Burke: I can call the game warden. Is there a charge for that Frank?

Mr. Pezzano: Mike, all I know is when people call in about raccoons, I just give them the phone number to call.

Cricket Padovani: But that house is vacant on Vine Court.

Mr. Papalas: Mr. Chairman, we've had raccoons and opossums in our neighborhood. We went and bought traps, we trapped them, took them somewhere and let them go in woods. We took care of it ourselves. We don't have the money -- sometimes government can't take care of everything. We did it ourselves in our neighborhood.

Mr. Marino: Does anyone else wish to address Niles City Council?

Barry Steffey, 511 W. 3rd Street, Niles. Chief Hinton is not here, but I really just wanted to tip our caps to the Niles Police Department with the local arrests over the last 48 hours within a 1000 feet of the jail, these kids are dealing drugs. They take their lives in their hands every time they go out there and we really appreciate police.

Mr. Marino: Thank you. Committee Reports?

COUNCIL COMMITTEE REPORTS

Mr. Papalas: There is one thing. I would like to announce next Friday morning, a week from this Friday, not this week, but the following week, we originally discussed 10:00, but Mayor we were thinking 9:30 if that is better, I would like to have a roundtable to discuss an update on where we are with our IT. I think that is important for all of us and I'm requesting also that the auditor and the treasurer be there as well. It will be in the conference room downstairs. What day is that?

President Marino: On May 16th. I'll ask our clerk to attend this meeting.

Mr. Merlo: I won't be there Steve. I can't be there.

Mr. Pezzano: I can't be there.

Mr. Papalas: For those who can make it. If you work, I know you can. I know that. If you are working, we'll give you an update. It's also for finance too. I don't know what other time we can do it. You know whatever time we pick, there will be at least two of us who can't make it. If you want a different time, we can do that.

Mr. McCormick: You guys should be able to work something out in between where – I think it's important that John be there since it is his committee.

Mr. Papalas: I'll tell you what, you guys schedule your meeting, but I think you should do it very soon. I'm going to tell you now, you should schedule this meeting of a roundtable as soon as possible so this doesn't get away from you and I'm telling you that for a reason. You guys schedule your own meeting.

President Marino: I guess then that you are not having a meeting?

Mr. Papalas: No, we are not having a meeting.

President Marino: Any other committee reports? There being none, would the clerk please present tonight's legislation.

ORDINANCES AND RESOLUTIONS

ORDINANCE NO. _____ (Draft No. 29-14)

**AN ORDINANCE ADOPTING A CAPITAL ASSET POLICY MANUAL;
AND DECLARING AN EMERGENCY**

Mr. Papalas: We are going to go for a 1st reading on this.

It was moved by Papalas, seconded by Giancola for a 1st reading.

Mr. Papalas: This recommendation from the auditors includes all the assets owned by the City of Niles including depreciation and so forth. We'll go for a 1st reading because you are looking at it for the first time. Again, this is from the state auditors.

YEAS: 7 NAYS: 0

Draft No. 29-14 has received its 1st reading

ORDINANCE NO. _____(Draft No. 30-14)

A RESOLUTION AUTHORIZING THE CITY OF NILES, OHIO TO ENTER INTO A PARTNERSHIP AGREEMENT WITH THE CITY OF GIRARD, OHIO, AS THE GRANTEE, TO ADMINISTER AND IMPLEMENT THE PY 2014 COMMUNITY HOUSING IMPACT AND PRESERVATION PROGRAM GRANT IF FUNDED BY THE OHIO DEVELOPMENT SERVICES AGENCY, OFFICE OF COMMUNITY DEVELOPMENT (OCD), AND DECLARING AN EMERGENCY.

It was moved by Stredney, seconded by Papalas for suspension.

Mark Hess: We are filing another CHIP grant and we have been advised that if we file a joint application with the City of Girard, each community will be able to apply for \$50,000.00 more than we would if we applied separately. So we talked to the City of Girard and we are going to partner with the City of Girard. I think we would normally get \$400,000.00 and now we can get \$450,000.00. They were at \$350,000.00 and now they can get \$400,000.00. The only caveat is that there is only one lead agency and the City of Girard is going to be that lead. So they have already had one public hearing and I think they will probably have another one, but there has to be an agreement between us and Girard.

YEAS: 7 NAYS: 0

Rules are suspended.

It was moved by Stredney, seconded by Lastic to adopt Draft No. 30-14

YEAS: 7 NAYS: 0

Draft No. 30-14 has been adopted on this 7th day of May 2014.

ORDINANCE NO. _____(Draft No. 31-14)

A RESOLUTION APPROVING THE HOWLAND TOWNSHIP-CITY OF NILES ANNEXATION AGREEMENT AND AUTHORIZING ITS EXECUTION; AND, DECLARING AN EMERGENCY

Mr. Stredney: Mr. President, I would like to make a Motion that we replace Draft 31-14 with the amended version Draft 31-14A.

Mr. President: A second to Mr. Stredney's motion.

Mr. Giancola: Second.

President Marino: All in favor of amending the Agenda and replacing the ordinance, signify by "I".

Motion carried.

President Marino: Would the clerk please present Draft No. 31-14A.

It was moved by Stredney, seconded by Lastic for suspension. Questions or comments?

Mr. McCormick: There was a brief part in the agreement that we have here and are we approving this with so-called change in the agreement that we have tonight? Is that what we are doing on this?

Mayor Infante: What this is it's called a Type One Annexation. It's a quick type annexation so you don't have to go through a regular annexation process for all the contracts, leases and all the agreements. So what this is is an agreement that we made with Howland on the property with the property owners to annex to Niles the properties. What happens is we pass it through Niles City Council and then it goes to Howland at their next regular meeting and then the Commissioner vote on it at their next meeting.

Mr. McCormick: Are we under the gun to get this completed?

Mayor Infante: Yes. Through that process, but Terry's got a stipulation in the Ordinance and you'll see that, if a change needs to be made quickly, it gives you guys the authorization to allow us to do that. So what I have provided you is the first version of agreement that I got, exhibits with the mapping showing which parcels, how much acreage and whose all involved. That's in the whole packet that I gave you. Terry had some concerns about some sentences in each paragraph that pertains us, he wants to be able to protect us. So he wants you to give us the right to make those changes.

President Marino: Terry, you have had the opportunity to read this in full. There's nothing in here that would prevent us from ever exercising our right to annexation of other parcels in Howland Township?

Mr. Dull: There is nothing in this agreement, that's correct.

President Marino: So there is no exclusivity prohibiting us in the future? It just pertains to this parcel and this project only?

Mr. Dull: Yes. Correct.

President Marino: For suspension of 31-14A, call the roll please.

YEAS: 6 ABSTAIN by Merlo: 1

Rules are suspended.

It was moved by Stredney, seconded by Papalas to adopt Draft 31-14A

YEAS: 6 ABSTAIN by Merlo: 1

Draft No. 31-14A has been adopted on this 7th day of May 2014.

ORDINANCE NO. _____ (Draft No. 32-14)

**AN ORDINANCE REGULATING THE PLACEMENT OF DONATION BOXES
WITHIN THE CITY; AND, DECLARING AN EMERGENCY**

It was moved by Giancola, seconded by Papalas for suspension.

Mr. McCormick: We have been discussing this for quite some time and all this is is letting the people who own these boxes know where they can put them, how they have to be kept up, they can't be in residential areas and they have to notify the city so we know where they're at and we know who owns them.

President Marino: I'm very appreciative of this. Thank you very much for doing it.

Mr. Dull: Mr. President, it would be my recommendation that rather than passing this through as an emergency that we run this through as a – I think it is intended to be an amendment to our zoning. So we should set this for a public hearing and that has to be at least a 30-day notice in the paper and then follow that process.

It was moved by Merlo, seconded by Papalas to rescind Draft No. 32-14. All in favor signify by "I."

Motion carried.

Mr. Giancola: Do we set it up for a public hearing?

Mr. McCormick: We can give it a 1st reading tonight and then set it up.

President Marino: 30 days, Terry? At 5:45?

Mr. Dull: Yes. We have to get it in the paper –

President Marino: June 18th? We'll make that May 21st? We have a June 18th meeting.

Mr. Dull: Okay

It was moved by Giancola, seconded by Merlo for a 1st reading and to set the public hearing for June 18th at 5:45 p.m. in Niles City Council Chambers.

YEAS: 7 NAYS: 0

Draft No. 32-14 has received its 1st reading.

ORDINANCE NO. _____ (Draft No. 33-14)

AN ORDINANCE AUTHORIZING SUPPLEMENTAL PAYMENTS TO THE POLICE CHIEF FOR WORK PERFORMED IN CONJUNCTION WITH SPECIAL PROJECTS FUNDED BY REIMBURSABLE GRANTS, RETROACTIVE TO APRIL 1, 2014; AND, DECLARING AN EMERGENCY

It was moved by McCormick, seconded by Papalas for suspension.

Mr. Papalas: We recently had an active shooter exercise consisting of several police departments and other law enforcement agencies at the Eastwood Mall and we got this program through a grant, which pays our police chief for overtime for this event only. That is what this ordinance presents.

YEAS: 7 NAYS: 0

Rules are suspended.

It was moved by Papalas, seconded by McCormick to adopt Draft No. 33-14.

YEAS: 7 NAYS: 0

Draft No. 33-14 has been adopted this 7th day of May 2014.

MISCELLANEOUS REMARKS

Mayor Infante: I just want to thank council for moving the annexation process along. This is a project that we have been working on for about a year now with Howland Township and the developer. It started about a year ago when we got this one developer who needed this additional property off of #46 in Howland Township. The other parcel that he wants to build on is in Niles. It's been a long process. We got the two property owners together and made an agreement that one sold some property to the other. I want to thank you for moving on that.

Mr. Giancola: I would like to set up a Safety Committee meeting for Monday, May 12, 2014 at 9:30 a.m. in the 1st floor conference room in the City Building. This is to discuss bringing an ordinance for our parking ban.

Mr. Pezzano: I won't be here. I'll be on vacation.

Mr. McCormick: Yes. As everybody is aware, funds are short and there are a lot of places we need them and I had an idea and I wanted to run it by you tonight so you can think about it and maybe we can act on it. Presently the income tax department doesn't charge any city income tax on gambling winnings less than \$25,000.00. Niles is the only city in our community that doesn't charge on lesser amounts. Most of them are around \$1,000.00 or \$1,500.00. I was hoping that maybe we could change that figure. There's a new casino going in and I'm assuming we'll have some local residents out there and I know rather than throw a tax on people everywhere, that people that win are just going to maybe share the wealth. It's an idea that I have talked to the Police Chief a little bit about because he was looking for a way and for the fire department, if this might in some way enable us to update our vehicles and things like that. We have been looking for a way to do this. I was hoping we might be able to designate that for that purpose. It's just an idea right now. I don't have particulars on it, but like I said, we are the only community around this area that doesn't take city income tax on a much smaller amount. Like I said, \$25,000.00 before you pay any income tax on gambling. I hope everybody uses the casino, makes a lot of money and the city can share in the wealth. Just an idea right now, but I would like to look into it further.

Mr. Stredney: One quick question and this might be for the treasurer and auditor. Following up on the letter the President read earlier from the auditor, have we put in any safeguards to make sure that things like this won't happen --

Mr. Swauger: Yes, we have and we are putting some more in. We wanted to update you on some of the things we have done so far and what we are still looking at.

Mr. Stredney: Okay.

President Marino: With that said, I want the community to know when Niles City Council was notified and the administration was notified from the state auditors that improprieties had occurred, there was no equivocation from members of council or the administration with respect as to what was expected on the part of the state auditors. The expectation was that you leave no stone unturned, you follow the roads to where ever they may lead and you get after this because this is very important to all of us and every one of us takes very seriously our oath with respect to protecting tax payer and rate payer dollars. I want to reiterate, there was no equivocation. They spoke with one voice. They spoke very loudly with the state auditors in terms of what our expectations are. So whatever they find, and the investigation is ongoing, they are to follow that road and leave no stone unturned. There should be no doubt in anyone's mind what the expectation is in the administration or the seven members of council were. They were very loud with respect to what has transpired. Is that not correct gentlemen?

Councilmen: Absolutely.

Mr. Merlo: Back on the January 8th meeting, we passed an ordinance for us to enter an RFP for our software for the finance department. Here we sit May 7th and we're still not done. I know

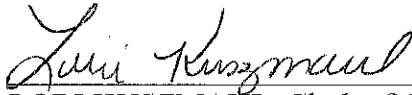
there is still one set of information that we still need to get. I guess that's from the treasurer's office, so I know we've been trying to figure out when this was going to happen and we were hoping to have that RFP out by May 1st. As of now, I don't know where we stand. Bob, do you know where we are?

Mr. Swauger: I met with Anthony today with regard to the last piece of paperwork that you need. He has indicated he would have that.

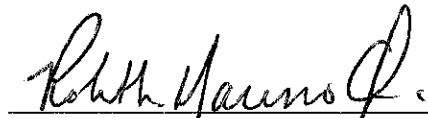
Mr. Merlo: So hopefully by the next council meeting, this RFP will be out and the issues that we have in our financial software will be resolved soon?

ADJOURN

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



LORI KUSZMAUL, Clerk of Council



ROBERT MARINO, JR., President of Council