



**COMMITTEE WORK SESSION
JULY 5, 2016**

Committee Members Present: Rick Rodgers
Dennis McGlone
Joe Kernan
Dennis Pierson
Paul Tousley
Scott Pelot-Excused
Charlotte Whipkey

Also Present: Mayor Mike Zita
Valerie Wax Carr
Ron Messner
Justin Markey
Karla Richards

The Committee Work Session convened on Monday, July 5, 2016 at 7:23 PM, in the Council Chambers of the Safety Administration Building. The meeting was called to order by Charlotte Whipkey, President of Council. Following a salute to the flag and the Pledge of Allegiance, there was a moment of silent prayer. When we have our silent prayer time, please keep one of our officers and family in your prayers during a trying time for them.

General Topics of Discussion:

Mr. Rodgers noted that Mr. Tousley and Ms. Whipkey had visited the Silver Springs area last week and asked what their findings were. Ms. Whipkey stated that they had visited their area and she had asked when did the water issues off Wadsworth Road began and noted that Barberton had installed water lines in this same area and had asked if this impacted that runoff. Ms. Whipkey noted she is waiting to hear back from Mr. White on those details. Ms. Whipkey discussed the retention pond issues and she also wanted to take a look at Carillon Drive. Ms. Whipkey stated the residents indicated the water issues really started about 5-6 years ago, which is the same time the City of Barberton had installed a water line near this area. Ms. Whipkey questioned if they had changed the ditching in this area, which might have something to do with it because if she recalled these ditches used to be very deep. Ms. Whipkey stated if Mr. Rodgers was looking for answers as to what was going to be done, we don't have any yet. Mr. Tousley stated it was very insightful to go to there and encouraged any others on Council to go there and take a look.

Mr. Tousley noted there are arguments on both sides and taking the resident's word on it that water does fall onto their properties when the City's portion overflows and there is a lot of erosion. Their main concerns are the season will get away from them and when winter comes or a large rain their drives will collapse. Mr. Tousley stated that he felt they made a strong case that something needed done and fairly quickly. Mr. Tousley noted that two (2) driveways have 18 inch culverts and one of the proposal calls for 36 inch culverts, which would be more difficult to clog as the second drive's culvert was clogged. Mr. Pierson, noting his experience from walking the area many times, asked Ms. Whipkey about the Barberton water line which does not even come up to this area as it stops at the crest of the hill, and Ms. Whipkey noted that the timing of 5-6 years was her question if it may have something to do with the drainage of the ditches. Mr. Tousley noted that between Carillon and Silver Springs seems to be a gully of some sort and if the drainage in the culverts is not corrected this area will just continue to flow down onto Silver Springs Drive. Mr. Tousley stated although Wilbanks is above the area, it all seems to flow that way. Mr. Kernan noted we need to get moving on this. Mr. Rodgers stated he has spoken to these residents and they are content with just fixing the driveway, not adding a second lane, and getting the water off of it. We need to decide if we are going to absorb the cost of the larger culvert under the private drive and repaving of it. Council needs to make this decision soon so we can move forward. Mr. Kernan agreed we need to get moving on this as soon as possible.

Games of Skill Arcade Devices

Mr. Kernan noted that Chief Dalessandro was present to address his concerns and that some of the current business owners were also present. Mrs. Carr stated she was not present for the last discussion and Mr. Messner had prepared his overall operations or procedures for Council to review Chief Dalessandro stated we have seven (7) licensed and four (4) are after hours on Fridays and Saturday which are open past midnight, which has special safety requirements. They hire our off duty officers for this time frame after receiving a permit from the Chief. With vacations and scheduling we have had difficulty opening up these side jobs and was one of the factors why there weren't more licenses approved before. We have offered this to Copley, New Franklin, and Barberton to full in. We have an outside coordinator that schedules these shifts. His concern is if we cannot fill these locations with other agencies we will have a liability issue here. Mr. Kernan asked if these businesses end up with no coverage by police officers are they ordered to close? Chief Dalessandro replied he can order them to close although that has not been a problem as yet. Mr. Pierson asked if the State has other restrictions or guidelines above Norton's regulations and Mr. Markey replied not that he is aware of. Mr. Kernan asked about number of incidents at these businesses. Chief Dalessandro replied there have been none since 2014. Mayor Zita stated in going outside for other officers to fill in is orchestrated from the Chief's office and Chief Dalessandro concurred adding that we have an outside coordinator and if by Wednesday we know we don't have enough officers we ask for outside assistance. Mr. Kernan asked if we were to increase the number of businesses and they wanted to have the after hours, how would this affect his department? Chief Dalessandro stated that he is concerned because we will not have enough officers to fill this and we are already going outside for those. The Chief stated this is why he is would be reluctant in issuing any more permits.

Mr. Kernan stated we could expand the number of licenses without expanding the number of after hour permits and the Chief agreed as they were totally separate. Ms. Whipkey asked if we only have enough officers for three (3) of the four (4) after hours locations, would the fourth one be required to close after midnight? Chief Dalessandro stated he would probably make that determination, because the ordinance requires an officer to be present. Mr. Kernan states the ordinance requires an officer to be present past 12 midnight and Chief Dalessandro concurred adding that was on Friday and Saturday nights only. Mr. Rodgers asked if we can use the Summit County Sheriff to cover this and Chief Dalessandro stated in the past we use neighboring jurisdiction first, but this could be looked into. Mr. Pierson asked how late are these open and Chief Dalessandro replied Fri-Sat until 2:30 AM. Mr. Pierson asked if it's possible to require these businesses to share some of the over time with a waiting list of Summit County contact numbers for that they must have in place to stay open? Chief Dalessandro stated the coverage would be offered to Norton, Barberton, Copley and New Franklin before it would go to anyone else and is only done through Norton's Police Department. In the past we have opened up some side jobs to Wadsworth as well. Mr. Pierson stated that finding security is really not an issue as over time is generally wanted and Chief Dalessandro stated he would hope so, but we are scrambling now to fill the four we have and would make every attempt to fill them. Mr. Rodgers noted this overtime is not paid by the City it's a burden on the business owner. Chief Dalessandro agreed however he did clarify that it's not overtime pay, it's considered as a side job pay. Mr. Kernan stated he assumes, as the Chief, he would want complete say as to who is filling these positions and not leave it to the owners of the establishments to which the Chief concurred. Mr. Markey stated an issue would be if that we don't have enough officers now to be there at the four (4) locations so which establishment is the one that has to close? There may not be an answer to this currently and would need addressed though the ordinance. Mr. Kernan asked if we have a priority list from the Police Department as to when the after hour permits were issued and Chief replied yes. Chief Dalessandro indicated that there is a process where the owners must fill out a safety plan and file it with him. He meets with them for the approval and final permitting after which they receive a letter from him. Mr. Tousley stated regardless of the number of establishments permitted it's the Chief that determines the after hour permits. Mr. Messner asked about the officers on duty and they are inside or outside of the building, or in a cruiser or their own vehicles? Chief Dalessandro stated that is up to the owner's preference we have some inside and some outside and they use their own personal vehicles. Mr. Pierson asked on the number of after hour permits and the Chief responded we currently have five and the fifth is supposed to be using theirs soon. Ms. Vicki Smith-Owner of Club 3 on 3051 Barber Road stated that she has been here seven (7) years come September and just recently purchased the property. We were here two (2) years ago for the same reasons and it was voted down then. We could have bought the Red Pepper Steak House for a whole lot less than what we had paid for our current building. Mr. Arters had told them they could not move their business to the Red Pepper location and would lose their license if they did move and because there was liquor being sold in the proximity it could not be used. Ms. Smith stated that she had suggested to the city helping back then to re-write your legislation relating to moving your business. Ms. Smith commented on employing your officers, we have been here and donated to this City.

We came for the conditional uses permits, and the machine testing that was approved, we have changed our hours. Business has not been the greatest, but we have been loyal and supported Norton. There were issues where the zoning was not proper, we came here and asked to have the legislation changed so we could just move 1 mile down the road and you would not change it. Ms. Smith stated she is sympathetic to Ms. Lutz's issues and supports her efforts. Ms. Smith stated she knows what this is all about and the experiences she has had. Ms. Smith stated we know when the fees are due and when to bring the forms into the City. Ms. Smith stated she had given Ms. Lutz the information on what she needed to do and tried to help her. Ms. Smith stated you were not willing to change any rules for her when she asked so why change them now? Mr. Kernan asked about the issue of moving to the Red Pepper and was it's a bigger location? Ms. Smith stated yes; it would have been cheaper to buy and it would have more machines. Mr. Kernan clarified it would have had more machines and more income for the City and Ms. Smith concurred. Ms. Whipkey and Mr. McGlone both agreed that the changing of the ordinance to allow a business to move never came to Council. Ms. Smith agreed and stated that Mr. Arters and Mr. Markey both had told her no, she could not move here business there due to the Duchess selling alcohol. Ms. Marissa Lutz, 314 Mt. Pleasant Road, Clinton, Ohio 44216, stated that the reason we went to Ms. Smith about the testing was because we could not get Russ Arters to answer our questions or return our calls. Ms. Lutz noted your receptionist should be able to tell you that we have called repeatedly. The matter at hand is we are asking for additional licenses and not for any ordinance changes because you have already lost enough revenue. Ms. Lutz indicated that we did turn in our applications; we could not get him to return our calls or get back to us. We tried and we were ignored while a building was being built for two years. We had a license we paid for in June of 2013 and in 2014 the law and regulations changed and we turned in the new application with the minimal amount of what we knew of after the building was fixed and then finally Mr. Arters calls and says it's too late and now we are on the waiting list. We tried to keep the City of Norton in the loop when we were closing and changing the machines and repairing the building, but we couldn't get any information back. Mr. Rodgers asked if she ever got a receipt when she filed applications and she replied no the only time you got a receipt was when money was paid; there was no procedure for documentation for being put on a waiting list. Mr. Pierson asked if everything was verbal and Ms. Lutz responded there was only a receipt for paying and nothing for the applications or waiting list. Mr. Messner stated that he can only go by what Mr. Arters had told him and he had indicated he had tried several times to reach out to Ms. Lutz. At best this is a case of he said/she said. He now has all of the records and Council has all of the policies he has instituted since January as well as Mr. Arters' handwritten waiting list in the packet he supplied. Mr. Messner noted the items in yellow would be suggestions if the legislation were to be changed from what he heard last week (see attached). Mr. Messner repeated it is he said/she said as he has no receipt of paperwork or the thousand dollar license fee and that is basically what is being told; it is his understanding that Mr. Arters got no response from Mrs. Dawson and even asked Ms. Smith how he could reach Mrs. Dawson. Mr. Messner clarified a previous statement regarding the Blankenship property and that it was not two (2) years that took to open; it was about one (1) year. Mr. Rodgers asked when they were granted the license and Mr. Messner responded it was November of 2015.

Mr. Messner stated he has this process down tight and the procedures are in place and you see his book with all the information. These owners have all paid on time and never have any one of them been late. We have taken in about \$208,000.00 in one year's time. The previous comment that we have lost over a quarter of a million dollars in revenue, that's just not accurate as we do not make that with seven locations in a year's time and does not understand how that speculation could be made. Mr. Rodgers asked if the licenses were issued in December of 2015 who held those licenses prior to them? Mr. Rodgers asked where were those licenses from 2014 until that date? Mr. Messner explained that they did apply for their zoning permits around October or November of 2014. They were told once they were given approval from the Planning Commission, and a building permit to build; at that point they were notified they were next in line to get the licenses and will receive three (3) licenses once the occupancy permit was issued. Mr. Rodgers stated that is the issue at hand that these licenses went unused for that period of time. Mr. Messner stated the legislation did not speak to this and suggested there be a stipulation to correct this in the legislation for anyone building a new building if there is an application open you pay your \$1,000.00 for the application fee. We would issue a license and you would have 90 days to build. If you are built and up and running within 90 days, great, if not on the 91st day he would suggest they pay some sort of a prorated rate until their construction is completed and they are up and running. Mr. Rodgers asked Mrs. Lutz how long was she in business before the flood, and her mother Mrs. Diana Dawson stated it was three (3) years and that she had entered the hospital in Oct of 2013 for about three (3) months. Mrs. Dawson stated that she paid \$5,600.00 the first of June of 2013 for their six month license and the machines that got flooded out. She had a lucrative business so why would she not turn in a new license and we turned the application in on Dec. 20 or 21 of 2013. Mrs. Dawson stated that Mr. Arters did nothing but shine us on for over two (2) years so we got a lawyer. We always did everything that was asked of us and we donated to this City for many years. Mr. Messner asked who were that ones that were ahead of her and she indicated that she was not sure. Mr. Arters had told her at one time there was a zoning meeting and she had asked if she should attend that meeting and he told her it was not necessary there were three ahead of her. Ms. Whipkey noted there was moratoriums for the transition in the state law, and at that time only four (4) were allowed and believed that is what Mrs. Dawson is referring to at the time. Mrs. Dawson stated she held some of those licenses back then and Ms. Whipkey stated not during the moratorium. Mr. Markey stated the fees she paid were for the old license and the others had paid the fees and had theirs in place before that Moratorium took place which was 180 days. Sometime in May 2014 new ordinances were put into place and new applications were required being processed. Mr. Pierson asked Mrs. Dawson if she was ever given a list from Mr. Arters and she replied yes she had seen it with four people on it. Ms. Lutz stated she had asked her Attorney to attend tonight to answer any questions so we could all be on the same page and they did not receive a list until their attorney requested it of the City. Mr. Markey stated Council had a copy emailed to them two weeks ago. Mr. Rodgers discussed the list and that Diana Dawson had filed January 2, 2014; and the current list has the scratch off of #2 to with Mrs. Dawson at #7. So how did she lose out on the opportunity to get a license? Mr. Markey stated she is still on the same spot on the list whether it was December of 2013 or January 2014 as reflected by Mr. Arters.

Ms. Whipkey stated we have heard all of the background stories as to how we got to the place we are at now and questioned if we need to continue talking about that. Ms. Whipkey suggested we keep on course with considering more licenses. Mr. Kernan agreed and asked if we want to increase licenses or after hours permits and perhaps change the legislation? Mr. Pierson stated without reflecting on Mr. Messner, as he wasn't here, he has never seen such a sloppy mess in the process and would like to see Ms. Lutz taken care of in some way and give the licenses out but remove them to the original number as the businesses close. Mr. Kernan asked if Ms. Lutz was next in line and Mr. Messner replied no she is #2 and Mr. Gamble is next in line on the list. James Gamble, 2181 Wadsworth Road, Norton, Ohio discussed the issue with Ms. Lutz and informed everyone that she was told by Mr. Arters that she could not have a license to operate because she needed machines and that she was not ignored; he had offered her machines, but she did not want to do that. If you allow her to open then he will just open up another one, although he really does not want to. The fees are due Jan. to June, and if he does not file by 6-30 he does not have a license whether anyone contacts you on it or not. You cannot play ignorance because Ms. Lutz knew, I knew and Vicky also knew. She lost her machines because they were no longer compliant machines. The rest of us had to get new ones and we all had to get them tested and certified; we followed the rules and got our licenses. Mr. Rodgers asked if we were to give two (2) more licenses would he take a license and Mr. Gamble said yes because if he does not he would be losing money because someone would take it and open somewhere. Mr. Rodgers stated it does not make sense to him, why would you have a building, put money into the building, and not get licensed? Mr. Gamble stated it's simple; if you don't pay your fees then why would you stay on the list? She did not pay her fees; they all paid their fees even when they did not know what was going on. They took the chance hoping the City would get legislation done to allow us to continue and she did not want to take that chance. Mr. Rodgers raised the issue of having no building yet but licenses were issued. Mr. Gamble stated he did not know and stated he could not even move; he was stuck where he was at. Ms. Whipkey asked why there is a restriction in moving the business to another building; it doesn't make any sense if the zoning was correct. Mr. Markey stated it's all tied into the transfer of ownership, and is something that could be clarified in the legislation that could say if it's not a transfer of business you would be permitted to move your business. Mr. Kernan asked are we going to issue more licenses now or not tonight and we can address the other issues at another time. Mr. Tousley stated a point of order there may be some others that want to speak that were signed up. Mr. Tim Surgeon, 4089 Cleveland-Massillon Road and owner of the Silver Pyramid stated that he was also here two (2) years ago when this was discussed and you did not make any changes then on more than seven licenses. Business has declined because of the new licenses, and we don't make the money we used to. The fees are twice as high in Norton than they are anywhere else. It makes no sense to him to have to change our operations just because you make changes to the legislation or why. Coventry Township has four (4) and they don't charge any fees. If you make changes to increase the number of licenses, he guaranteed some of us will close as Norton's population cannot sustain us. Mr. Surgeon stated he did not even know this was being talked about tonight and it's first he has heard about the list and he wants to get on that list now. Mr. Rodgers stated when it went from four (4) to seven (7) three people benefited in that and is what happens when legislation is passed.

Mr. Kernan stated he is not inclined to increase it. Mr. Kernan moved to leave it alone at the seven (7) and remove this issue from the matters referred list, seconded by Mr. McGlone.

Roll Call: Yes: Kernan, McGlone
No: None

Motion passed 2-2. Ms. Whipkey clarified this issue has died and there will be no further discussion on the matter for next week's agenda.

Proposed Charter Changes Continued

Mr. Kernan continued the review with Administrative Officer Article 4.04 through Article 9.05 which are mostly clarification and are scrivener type of changes like changing municipality to City. Mr. Markey noted there are some changes for clarifying the pay rate that are not scrivener items. Mr. Kernan discussed the key changes throughout these sections that will require Council action before sending to the voters as follows: Article 4.5-Replacement has a change in the sentence that would require voter approval. Mr. Kernan stated at one point we need to vote yes or no on what to send to the voters and asked how it was done in the past. Mrs. Richards noted in the past each Article was a separate ordinance and a separate ballot issue for the voters to vote on and Mr. Markey concurred. Mr. Kernan stated we can go over all and then come back with a yes or no for the ones required to go to the voters. Article 5.02 Competitive Bidding: Mr. Markey explained if you look at Board of Control which has requirements and this would fix both sections by clarifying this and making it one procedure to follow. There would be three (3) requirements. If there is a contract over \$10,000.00 requires Board of Control approval. If it's above \$25,000.00 it requires Council approval. Competitive bidding would only be required if it's a requirement under the Ohio Revised Code. Right now it reads anything over \$25,000.00 has to be competitively bid and makes it burdensome. The Ohio Revised Code currently states that if it's competitive bid and is over a \$50,000.00 it's the Service Directors and he would provide Council with that exact language. Mr. Markey stated it is definitely broader and you have more than what NCO requires. This strips it down stating it's the majority of Council for anything over \$25,000.00 as opposed to two thirds of Council. Ms. Whipkey stated as she understands we are keeping it at \$25,000.00 The problem is if you go by the State if they raise it up to \$100,000.00 then you have to go right along with it regardless. That could be a good thing or a bad thing and she felt the higher amount was a bad thing. Mr. Markey clarified we were not limiting it to \$25,000.00, it was going to follow the State Code with the language reflected here. Mr. Rodgers stated that \$10,000.00 can be spent just with Board of Control approval and does not have to come to Council. Mr. Markey stated it has to be appropriated within the budget first and does not have to come to Council. Mr. Rodgers clarified that for \$25,000.00 that has to come to Council for a simple majority vote rather than 2/3 vote and Mr. Markey concurred adding that the competitive bidding would just follow the ORC. After that it is only scrivener type changes up to Article 9. Article 9.04-Removal Section F: This would give the Mayor the ability to petition the Council for them to remove a Council person and require a vote.

Mr. Markey stated that it's a controversial issue but the thinking was Council can petition the removal of the Mayor for reason, likewise the Mayor can petition Council to remove one of their members. Mr. Kernan stated without this language Council can remove a Councilperson for cause as well as the Mayor for cause and Mr. Markey concurred. The only thing this adds is the Mayor can force a vote if he or she decides to require Council to have a hearing and a vote to remove a Councilperson and Mr. Markey also concurred but the hearing would be Council's choice. Mr. Rodgers stated the power in Council is sufficient in both cases. No matter who the Mayor is, this would open up the politics at its worse. Mr. Pierson stated he felt there is an issue with the separation power issue and is a bad idea.. Mr. Markey noted the thought was that if there is a majority of Council that sides with a person who maybe should be removed for cause, it would force the issue. Mr. Rodgers asked if Norton Council has ever removed one of its members? Mr. Markey replied not that he recalled and it's not done that often. Mr. Mullins-Chairman of the Charter Review Commission stated he thought their reason was to just have checks and balances here. Mr. Kernan asked Mr. Mullens if there was any discussion about the separation of powers issue and Mr. Mullens replied no. Mr. Tousley stated if it came to a point where the Mayor had to make a recommendation, he/she would already know if he has the votes and would be obvious. Mr. Kernan discussed the differences from national level where you have impeachment proceedings where Congress can remove a President, but there is no way for the President to recommend the removal of a Congress member. In the State House they can remove a Governor but the Governor cannot force a vote to remove a State House member. It seems that recall is the way to do this and that we already have this option. Mr. Rodgers stated that any Mayor or Council would be failing to do their duty if they didn't move to remove someone for cause. Mr. Kernan suggested we come back from recess and review these in detail and vote on them at that time. Mr. Markey stated reminded Council can come up with their own amendments. Mr. Rodgers asked if these require a majority vote or a 2/3 vote? Mr. Markey responded that in order to pass legislation on to the ballot that does require a 2/3 vote of Council. However it takes a majority vote to move these items on to a Council agenda.

Barberton Sewer Agreement

Mr. Tousley stated this was discussed last week and expected more lengthy discussion tonight. Mrs. Carr noted that she has responded to the questions from Mr. Rodgers (see attached). Mrs. Carr stated that although we are not on any sort of a time line, however she would like to see this at least make it to next week's agenda for consideration. Mr. Tousley asked about page #6 (5) B-2 where it states "*that Barberton 50% surcharge to Norton residents, Norton will repeal its surcharge ordinances*" His concern was the discussion we had was that Barberton was to use all of that as an earmark for Norton projects and he does not see it written here. This is a major red flag for him as there is no commitment in writing while we are giving up our 27% basically for nothing. Mrs. Carr stated she believes the language was changed when we discussed the lowering of the surcharge fee to one fee; however we can go back to them with this question. Mr. Markey replied yes that seems right and he did not feel there would be any language where anything was to be specifically earmarked or where we direct how that money is to be spent. Mr. Tousley stated that we have to be guaranteed that our money is going to come back to us somehow, otherwise what is the point?

Mr. Markey stated that the points are: no other communities have that type of language in their agreements for assurance either. Mr. Tousley stated that we have the 27 ½% assurance right now so why change this? Mr. Markey replied is true but you also have the obligation of operating and maintaining the sewer assets that you own. What Barberton is offering is to take those obligations and operate them and maintain them system wide and accept all of your sewer flows and they need the revenues in order to do that. You may not feel that is a good deal to give up that 27 ½%, but that is the deal right now. Mrs. Carr stated because they would own the system they have the obligation to put money back on the system, and if there are issues in Norton they cannot ignore them and that money would be coming back. Mr. Tousley asked since they took over the County system, what does Norton own right now? Mrs. Carr replied; Barber Road, Greenwich, Oak, and Pleasant. Mr. Pierson asked about the lines going in on Cleveland-Massillon and Mrs. Carr responded we would own them technically until they took over. Mrs. Carr noted the County has on their property tax a \$65 fee for maintenance and next year this will not be on your taxes. Mr. Tousley stated in making this agreement that fee is not our problem, it's in going forward with terms. Mrs. Carr did not agree and was happy to readdress this with Barberton, but since we are in their program they will be putting money back into our community. If we need something more specific, she is happy to readdress it. Mrs. Carr noted that in agreements in most other communities she has not seen any language earmarking anything and the 50% is normal. Mr. Tousley stated his issue is with the original agreement the earmarked issue was in there so why remove it now? Mr. Pierson stated he would like some say as to how the money will be spent. Mr. Markey stated that's the soft spot and he does not feel we will get an agreement to let us say how the money is spent. Mrs. Carr stated the newspaper articles have Mr. Weaver quoted as stating that they will be focusing on the economic development areas and not on residential areas. There may be exceptions if someone comes to us and wants sewer or we end up with another mandated area. Mr. Tousley disagreed, when the very next page talks about planned development where it states "*Barberton has no obligation to build. ...*" We cannot trust their words, we need language. Mrs. Carr stated we can look at that. Mr. Markey stated their issues was with them taking over so much that they have no more money to build neighborhood sewers as their money is all tied up and have no interest in that. Mr. Rodgers asked for an example where Barberton would come in and put in sewers, they are taking over the \$8,000,000.00 in capital assets so they are not coming in to build more sewers for us. Mr. Markey stated he totally agrees with that and all this is saying is that they have no intention or obligation to come in to build more. Mr. Pierson stated this is all hearsay because they could borrow against their capital. It's a recipe for Barberton to come in and say that this is where we are going next; this is our master plan that's been submitted. Mr. Kernan reminded everyone that they would need our cooperation for assessments to which Mr. Markey and Mrs. Carr concurred. Mrs. Carr noted we get more points for grants when we work together, so when someone comes to Norton asking for sewers and we get more points when we work together, why wouldn't we want to do that. All we are saying is we are willing to do joint applications which we have already done under the current situation. Mr. Pierson stated Barberton is hurting and losing more than 150 jobs at B & W and they could eventually close. This would mean that they are more than willing to develop areas that are more beneficial to them and where they don't benefit in our City they will ignore it.

Mrs. Carr stated she does not agree with this on a concept because if bringing in new sewers into a commercial area, and in particular into a JEDZ area; they are going to get part of the income tax. If it's not in a JEDZ area they will be gaining from a new customer. Mr. Kernan stated we need to look at this carefully but we need to approach this as view of not that they are trying to screw Norton and we need to protect ourselves, but we need to approach it as an opportunity. We need to cooperate here with regionalism and work together on this; we have said this for years. Mr. Pierson stated that agreements need to benefit both parties equitably and not to kid ourselves as this will expand. Mr. Rodgers agreed with regionalism like in the dispatch but those costs are shared three (3) ways. Mr. Rodgers stated we are going to assume some of the problems in Barberton and was experienced with the building department with Mr. Arters leaving this just leaves two (2) inspectors for both cities. Mr. Rodgers stated we are in a strong position, although Mrs. Carr did not agree in her answers. Mr. Rodgers stated the knife in his back he felt with the Summit County deal; this is the end result of that. They need us after buying the lines from Summit County. He felt the deal should be no surcharges, rates comparable to Barberton residents. Costs keep going up and revenues keep falling and this is going to happen to us. We need to put ourselves in a strong position not just for now but for 20-25 years down the road. Mr. Rodgers stated that is what we are not doing. We talked about the old MOU and of course he got the blame for it although others did object to some of the things in it. At that time the assessments were \$5,000.00 to \$8,000.00 and now it's at \$11,200.00 for Nash Heights. All Barberton did was drop the tap in fees or development charges and they are picking up the debt service for Barber Road, so where is all that money going to? Mr. Rodgers discussed the sewers potentially going west of St. Rt. 21 and asked who did Mrs. Carr talk to in Wadsworth? Mrs. Carr replied the Mayor, Service Director and their Engineer and they have as lot of hesitations and they were not all that had to be considered. Mr. Rodgers discussed their flow and that Wadsworth is still growing and they are coming east and they will have to build a pump station. They will be going east faster than we will be going west, so why not leave the door open at the cost of our residents pumping it back to Barberton? Mrs. Carr offered to have Mr. White follow up on the issues of NOACCA and NEFCO. There is a regional plan, and certain sections go would go to a different plant because they need to control the flow. The regional plans would have to be addressed and you would have to make a case to move out of the NEFCO territory and dump sewage into the NOACCA territory. There is also something called anti-degradation and can have engineers explain. They will ask why you cannot use the Barberton facility which is closer, is in the organization, and has the capacity. Mrs. Carr stated that Wadsworth is not willing to spend the money on engineering studies to prove the opposite and already have agreements with Barberton. Mr. Rodgers asked what does it cost the City of Norton to leave the door open, and Mrs. Carr replied this agreement. Mr. Markey stated the status quo is always the option, and Mrs. Carr felt that we need to have a tighter agreement with specifics is her only argument. Mrs. Carr stated she can ask Barberton about their sewer line near St. Rt. 21 but noted that there are commercial properties there that is interested in developing and there is a line there on Wooster Road. Mr. Rodgers stated the package plant customers should not be paying for this and the County rates have gone down. Mrs. Carr stated that is basically the rate plus \$5.00.

Mr. Markey noted in the original MOU there was a surcharge and there is one within this agreement, and he was not sure we will get a no surcharge. Mr. Rodgers stated this may be a new idea, and maybe not what everyone else is doing that, but government has got to change or we won't survive as a whole. Mr. Tousley asked about the emergency language as this will affect the City for thirty years, and was not comfortable with this. Mr. Markey noted this was an oversight and it would be removed. Mr. Rodgers asked how many votes are required? Mr. Markey noted it would be simple majority of four (4). Mr. Tousley stated with his questions he has now he is not comfortable with moving this forward. Mr. Kernan moved to place it on the agenda for a first reading only next week just to get a first reading before break and this gives us two (2) months to review the details, and there will be three (3) readings on it. Mrs. Carr stated she understood the concerns as follows and would address this with Barberton this week: we want to look at the earmarking for Norton projects; look at the planned improvements with no obligation; and the removal of surcharges and get better rates closer to the Barberton customer rates. There was no second to Mr. Kernan's motion so this discussion would continue to the Next Work Session.

Unfinished Business:

Mr. Pierson had calls from residents and their concerns with the elderly rate of 10% off. Mrs. Carr stated that the brochure had an error on this stating the wrong figures, the correct rate of \$39.99 for limited services and the senior rate would be 10% lower than this. There was discussion on the issues at the trailer park issue and Mrs. Carr stated this has been resolved. It's to be a commercial property and they will be getting one (1) dumpster which will be picked up four (4) times a week. Mr. Pierson asked if Kimble did pick up individually in the past and Mrs. Carr stated they did and at times they did not at other times and she cannot justify why Kimble did this because it's definitely a commercial property just like the residents in Columbia Woods Drive. Mayor Zita commented on how it was done in the past and that it was an agreement between the property owners and the renters. Mr. Pierson asked if we are still enforcing fences around commercial dumpsters and Mrs. Carr replied yes. Mr. Tousley asked about the rules for trash picked up by Republic because a neighbor has moved out and there is still a lot of trash at the road. Mrs. Carr stated they just started today and are running behind and are still learning our routes. Their goal is to be out of our community by 3:30 PM. Kimble is still out there still picking up their cans so you have to leave them out for them to get them, they are still going around. Mr. Rodgers gave kudos to both companies for doing their best. Mr. Perkins, 3844 S. Neitz Drive, Norton stated in the winter he will have to dig two (2) deep holes for these containers with the snow which is a lot of work. Mr. Rodgers discussed an issue on Rosebay and Monterey where there is a problem with tractor trailers. Although there is a weight limits sign that was put up but there is still an issue which caused a truck to turn around in someone's yard. Mr. Pierson stated that the sign is half way up the road which makes no sense and he did talk with the Chief about this last week. The solution was to have the pool company open up their gates and allow the trucks to turn around. Mrs. Carr indicated we can move the sign closer to Wadsworth Road and she would look into that. Mr. Rodgers asked about the pictures he received from a Mr. Jones on about the road conditions on Givens Drive that some others had also received.

Mrs. Richards noted that Mr. Rodgers was the only one that received this information. Mr. Rodgers stated that there is the same problem where water is now pooling in the area. Mrs. Carr stated the final coat for the road is not complete and it will be addressed when this is done.

New Business:

Ms. Whipkey moved to add Ord. #52-2016 Budget Transfers to the next Council Meeting, seconded by Mr. Pierson.

Roll Call: Yes: Whipkey, Pierson
 No: None

Motion passed 2-0.

Topics for the next Work Session:

Review of Chapter 618.05 Animal Cruelty (McGlone-Safety) McGlone suggested we this push off until we get the Charter issues resolved. Mr. Tousley suggested we discuss Silver Springs at the next Work Session. Mr. McGlone stated we need to add the Barberton Sewer Agreement then also. Mr. Rodgers asked to have more discussion on the changes to the games of skills that need addressed. Mr. Kernan suggested we hold off on that until the second Committee Work Session after the recess, which would be September 5, 2016.

Mr. Rodgers stated he is still receiving some residents complaining on the sound quality in the recordings. The video is fine but sound is poor. Mrs. Richards noted that the problem really is with the members not leaning in and speaking into the microphones directly; when the public speaks they are loud and clear because they are speaking directly into the microphone at the podium. Mrs. Carr stated that we could look at this during your break.

Public Comments:

There were none.

Public Updates:

Mayor Zita made a few announcements, (see attached).

Adjourn

There being no other business to come before the Committee Work Session, the meeting was adjourned at 9:37 PM.

Charlotte Whipkey, President of Council

NOTE: THESE MINUTES ARE NOT VERBATIM

****ORIGINAL SIGNED AND APPROVED MINUTES ARE ON FILE WITH THE
CLERK OF COUNCIL.****

**All Committee Meetings will be held at the Norton Safety Administration Building,
unless otherwise noted.**

CITY OF NORTON

MEMO



To: City Council Members

From: Valerie Wax Carr, Administrative Officer *VWC*

Date: 7/5/16

Re: Follow-up to Barberton Sewer Agreement

Please find attached a response to the questions that Councilor Rodgers provided this morning. I thought it was best to provide answers to all of City Council. I appreciate Mr. White's and Mr. Markey's input in providing the best up to date information available.

Mr. Rodger's questions are in black and responses to those questions are in blue. Please let me know if you need any clarifications or if you have any further questions or concerns.

CC: Karla Richards
Mayor Zita
Justin Markey
Dave White
Ron Messner

Response to Barberton Sewer Agreement questions - 7/5/16

1. What if any changes to the JEDZ referring to the sections mentioned in the agreement. There are no changes to the JDEZ agreement. In fact, due to changes in State Law it is very difficult to make changes to existing agreements. The references to the JEDZ agreement is merely meant to highlight existing procedures.

2. The MOU we did not act on showed revenue and reserves for Norton. I understand the customer base has changed as well as the surcharges and tap in fees but I believe we still will reach the 1400 customers tie-ins over twenty years it is just not spelled out. This number was for modeling purposes only. We discussed this at length and I am not sure why this still being discussed. There will be tie-ins in the City from time to time but nothing is required or expected under the Sewer Agreement. It is also a bad assumption these tie-ins would all be residential. Most calls we receive inquiring about sewer are for commercial purposes. One commercial site could yield the equivalent of many tie-ins verses a residential property. Based on some calculations that Dave White has performed based on inquiries and the number of tie-ins and that number actual could exceed the "1400". In addition, we do get inquiries about wanting sewers in a variety of locations within Norton.

Why do I believe this? Because much of the wording gives Barberton a heavy hand in our planning.

Our focus will be in the economic development areas. Denny Weaver, Interim Utilities Director for Barberton has stated in numerous occasions and in news articles that the expansion of sewers will be economic development focused. This is what is best for both communities.

Is the Cleve-Mass Rd. sewer extension still going under the railroad tracks or is Trotter and Weber in play again? The sewer for Cleveland-Massillon will go north of the railroad tracks, the sewer is planned to go to Gardner Blvd and replace an existing sewer in Gardner Blvd that has experienced maintenance problems. South of the railroad tracks, the sewers will connect to an existing sewer that flows east to Barberton parallel to the railroad tracks. This work is expected to begin in the summer of 2018. There is no trickery here. We heard the concerns of some on City Council and redirected the sewer to accommodate these concerns.

3. The area south of Rt.21. Why would it make sense not to try to negotiate something with Wadsworth? We have briefly reviewed with Wadsworth and they really are not interested in a joint agreement for a variety of reasons. They have a current agreement with Barberton regarding water and they certainly understood why Norton would work with Barberton as the sewer provider. Wadsworth stated that they would

not consider any kind of agreement unless a full engineering feasibility study was conducted. They are not interested in sharing in that cost. Section 208 of the 1972 Federal Clean Water Act set up requirements for Facilities Planning Areas (FPA) to manage sanitary waste treatment. Any sewage treatment facility must be consistent with the requirements of the FPA, whether on-site home systems or sanitary sewers. Norton is within the Barberton Wolf Creek FPA. Section 208 also established Metropolitan Planning Organizations to coordinate FPA requirements. Summit Co is within the NEFCO MPO and Wadsworth is with in the NOACA MPO. There would be many approvals needed from NEFCO and NOACA to allow sanitary sewer services to cross different MPOs. In order for Wadsworth to accept sewage from Norton a change in FPA boundaries would have to occur, requiring sign off by the MPOs. In addition, it would require Ohio EPA approval, which would require extensive feasibility study and even then may not meet anti-degradation requirements of the Wadsworth receiving stream because of diversion of Norton flow from another watershed. This would be a lengthy process that is unlikely to get approval without a significant amount of study, to alternate from an acceptable and already approved treatment facility in the proper FPA boundaries, that being Barberton.

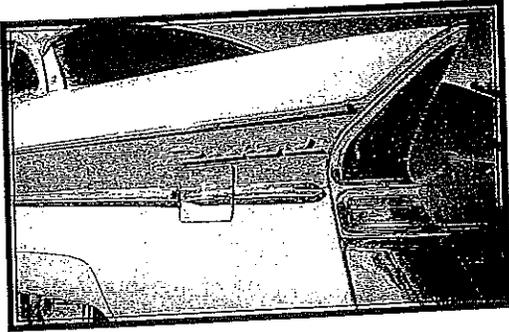
Why pump back to Barberton when you can gravity feed to pump stations at the western edge of our city. A line already exists in the 21 area so it is not as difficult as being stated to send the waste to Barberton. According to Wadsworth there are hills and valleys that would need to be addressed to pump the waste to Wadsworth even within a gravity system and two pump stations will be needed to move the sewage from Norton to the closet line in Wadsworth. There are also capacity issues in the existing Wadsworth system and questions as to whether they can accept Norton's flows. They are open to expanding capacity but it would be at Norton's cost.

4. I am not comfortable tying our future to Barberton's. We tried this with their building dept. and now they have two inspectors for both cities. Barberton has more troubles than Norton and we will assume responsibility for their sewer and water issues as we sign agreements with them. How many communities regret their agreements with the city of Akron. And finally what was negotiated? What was gained in the process? Norton is in a strong bargaining position but is not using it. Why? We have negotiated good terms now and previously. We agree that the deal struck under the MOU was better for the City of Norton. Unfortunately, that deal was rejected and is no longer on the table based on Councilor Rodgers objections. Barberton is the utility provider we gave up that opportunity so now we must seek their services. This agreement is comparable with utility agreements entered into between other communities. What was gained in this process is that Barberton will agree to operate and maintain our sewers and will agree to accept all future waste from Norton. We have always said that the status

quo is an option and we can continue to own and operate a portion of those sewers. If that is the direction the City Council wants to go, then we need to pursue a maintenance agreement so that we can find a party to maintain our existing and future infrastructure. In fact, agreements between other entities have much more restricted terms than we have been able to negotiate with Barberton. I hardly think we are in the driver's seat.

In the end Barberton has an existing plant with excess treatment capacity. Norton has existing land with excess development capacity. How can we have a better regional win-win situation?

City of Norton 6th Annual Classic Car Show



FEATURING

• *DASH PLAQUES for the first 100 cars*

• *Music by DJ Glenn Sonoda!*

• *Great Food from SASSY DOG!*

• *ICE CREAM and PIES
from Friends of the Library*

• *Car Smash to benefit the
Norton Grand Squares*

Sponsored
in part by:



Thursday

JULY 7th 6:00-8:00p

(raindate July 14th)

Check-in: 5:00p

Columbia Woods Park in Norton
4060 Columbia Woods Dr.

**Great Music!
No Entry Fee!
Beautiful Park Setting!**

At next week's Council Meeting I will be presenting a Proclamation declaring the month of August as Summit County's Kids Month. This will be the 7th year that Summit County has sponsored this program and I hope to promote participation in this program to our citizens here in Norton.