



**NORTON CITY COUNCIL
REGULAR COUNCIL MEETING
MONDAY, MARCH 9, 2009**

Roll Call:	Ken Braman	Also Present:
	Brenda Hlas-Excused	Mayor David Koontz
	Tom Jones	Rick Ryland
	Dennis McGlone	John Moss
	Bill Mowery	Pete Kostoff
	Scott Pelot	Karla Richards-Excused
	Mike Zita	Ann Campbell

The Regular Council Meeting convened on Monday, March 9, 2009 at 7:01 PM, in the Council Chambers of the Safety Administration Building. The meeting was called to order by Mike Zita, President of Council, followed by the Pledge of Allegiance and a moment of silent prayer.

COMMITTEE OF THE WHOLE:

Mr. Zita stated at 7:15 PM we have several public hearings and we will need to temporarily stop where we are at that time to conduct the public hearings, then we will go back and pick up where we left off. Mr. Zita also announced the Annual Workshop set for Saturday March 21, 2009 is cancelled. If something comes up later on in the year we may still have a workshop.

COMMUNICATIONS FROM THE PUBLIC:

Mrs. Elaine Tompkins, a Norton resident, discussed her concerns with finance issues, (see attached).

Mr. Robert Copen, a Norton resident, spoke about the Barberton Health Department contract. Mr. Copen stated he thought he had read in the newspapers that Barberton was looking at contracting with either Akron or Summit County to handle their health district. Mr. Copen stated that someone needs to look into that and suggested the city just go with Summit County.

Ms. Charlotte Whipkey, a Norton resident, asked what the function and the duties of the Standing Committees are? Ms. Whipkey stated that twice a month she watches the Standing Committees call for legislation to be put on the agenda, the latest ones are the CIC and land bank. Don't you Council members do any kind of research yourselves; do you have any working knowledge of the legislation you are passing? We are told that with the CIC the stipulations would be for homes being sold to families and not rental properties. How are we going to have any control if we don't lay down the rules now of what the CIC can and cannot do? A perfect example is the Business Advisory Task Force, which was first designed to be a committee. Suddenly someone had the brainstorm that committees are open to the public and we can go in and have our input, but if it is a task force, the public is not invited. We don't know if the people who come up with these ideas are actual citizens or if they just own businesses. They have been given the power to do these things without the public being involved until it's brought up to Council to say either yea or nay. Ms. Whipkey stated that last week no one brought up any questions or brought forth any information on

either of these issues. This is not the citizen's jobs, but when we take it upon ourselves, we are disgruntled or we don't like the way things are being done.

CONSIDERATION OF THE MINUTES:

Minutes of the Regular Council meeting of February 23, 2009; Mr. Jones stated this was not a correction however he noted in the minutes of February 17, 2009 where text was added relating to the CIC; he requested this because it was omitted in the original minutes. The minutes were approved as submitted.

Minutes of the Committee Work Session of March 2, 2009; Mr. Jones noted a correction on page #3 under Health District Contract, it should be Norton instead of North. Mr. Jones noted a correction on page #6, 4th line from the top, where it *states "how are you supposed to pull of"*. It should be off. The minutes were approved as corrected.

PUBLIC HEARINGS:

Mr. Zita convened the Public Hearing for the application for Agricultural District renewal at 7:15 PM. Mr. Zita asked the Clerk to certify the legal notice for the Public Hearings. Ms. Campbell certified that a legal notice for these public hearings was published in the Barberton Herald on February 26, 2009.

Renewal for Agricultural District, 4117 Greenwich Rd. Owner: Charles Seiberling/Dorothy Durham

Mr. Zita called three times for anyone for or against the application to come forward, there was no response.

Renewal for Agricultural District, 4492 Cleve-Mass. Rd. Owner: Susan M. Dayton:

Mr. Zita called three times for anyone for the application to come forward, Ms. Whipkey came forward stating that she was in favor of anything to do with agriculture. Keeping it, maintaining it, or opening it up is a good thing for the city and she is in favor of all of them. Mr. Jim Lino, a Norton resident, stated he was if favor of it. Agricultural is needed and we need to keep from letting it get gobbled up. Mr. Zita called three times for anyone against the application to come forward; there was no response.

New Application for Agricultural District, 4492 Cleve-Mass. Rd. Owner: Susan M. Dayton:

Mr. Zita called three times for anyone for or against the application to come forward, there was no response.

Renewal for Agricultural District, 2392 Wadsworth Rd. Owner: David T. Maxon Sr.

Mr. Zita called for anyone in favor of the application to come forward, Mr. David T. Maxon Sr., came forward and noted this has been in the family for a long time and he made a typographical error on the application, the correct acreage is 107.310 not 170.310. Mr. Zita asked Mr. Maxon to see the Clerk after the meeting to make the correction on the application. Mr. Lino, a Norton resident, stated he supports this application. Mr. Zita called twice more for anyone else in favor of the application; there was no response. Mr. Zita called three times for anyone against the application to come forward; there was no response.

Mr. Zita reconvened the Regular Council Meeting back to session at 7:26 PM.

REPORTS FROM OFFICERS, BOARDS AND COMMISSIONS:

Mayor Koontz reported the city has applied for several applications for funding from the Economic Stimulus Package. Mayor Koontz stated last Wednesday was the deadline for paving applications, and this Friday is the EPA deadline for sewer and water. Mr. Ryland stated we have asked for 19,000 feet on Greenwich Road and 8,000 feet on Cleve-Mass. Road.

Mr. Ryland indicated we conducted the reverse auction for the Hazelwood-Connect Waterline Project. The original engineers estimate was \$137,000.00 and the winning bid came in at \$102,000.00 to Spano Brothers, which is a \$35,000.00 savings. Mr. Ryland stated there is a pre-construction meeting with Spano Brothers in the morning. Mr. Ryland stated there are some trees being cut down in the back of Columbia Woods Park, most of which are dead trees. Mr. Ryland indicated this would all be completed in time for the Summer Concerts Series in the Park, and will provide more room for seating. Mr. Ryland stated this clean up would also help with the mosquitoes in this area. Mr. Ryland commented on the flooding on Barber Road, which is the worst flooding he has seen to date. Newpark Drive has four (4) feet of water standing in the middle of the road, and it continues to get flooded with each rain. Mr. Ryland stated that all of the businesses were closed today at one point or another, only two (2) attempted to open. Mr. Ryland stated we spent most of our day with these business owners, who are not very pleased to have businesses in Norton right now. Mr. Ryland stated that Hudson Run had overflowed its banks and by this morning it had receded. The problem we have is with tomorrow's forecast of up to two (2) more inches of rain. Mr. Ryland stated the Newpark Drive project is shovel ready, and we have applied for the Stimulus Funding and this project has to be funded, these businesses cannot survive with business interruptions from flooding. Mr. Pelot asked about other emergency funding, and Mr. Ryland stated we have already applied for every amount of funding in addition to meeting with Rep. Betty Sutton. Mr. Ryland stated this business district is very vital to us as a tax-paying basis. Mr. Zita suggested taking pictures and sending them to the various agencies, and Mr. Ryland replied he has already done that. Mr. Pelot questioned if the city needs to look at doing something, as we obviously cannot bank on getting the stimulus money? Mr. Ryland stated that last year we did apply for Issue 1 money and scored very well, this is a \$2,700,000.00 project and unfortunately Goodyear ate up all of \$16,000,000.00 of the OPWC Grant money. We can apply for new money for 2010 but Mr. Ryland indicated that he did not feel these businesses would be that patient.

Mr. Moss recommended adding legislation for financing of the Hazelwood & Connect Waterline Project for the next Work Session. Mr. Jones asked Mr. Ryland about the savings on the engineering costs and if the residents would receive any of this money back? Mr. Ryland stated once the project is completed, it is likely the estimated assessments would be reduced. Mr. Ryland stated after the project is completed the costs would be recalculated, and he could not know for sure about any savings because the project is not completed.

Mr. Kostoff reported late this afternoon his office has filed their Brief with the Appellate Court in the case of City of Norton (Plaintiff) vs. Karla Richards, *et al* (Defendants) Charlotte Whipkey (Intervenor). Mr. Jones asked if this relates to Issue #26 and Mr. Kostoff replied that is correct.

INTRODUCTION OF NEW LEGISLATION:

RES #33-2009

Mr. Braman offered Res. #33-2009 for its first reading, and asked the Clerk to read it:

A RESOLUTION TO APPROVE THE RENEWAL FOR PLACEMENT OF FARMLAND LOCATED AT 4117 GREENWICH ROAD IN AN AGRICULTURAL DISTRICT.

First reading only.

RES #34-2009

Mr. Braman offered Res. #34-2009 for its first reading, and asked the Clerk to read it:

A RESOLUTION TO APPROVE THE RENEWAL FOR PLACEMENT OF FARMLAND LOCATED AT 4492 CLEVELAND MASSILLON ROAD IN AN AGRICULTURAL DISTRICT.

First reading only.

RES #35-2009

Mr. Braman offered Res. #35-2009 for its first reading, and asked the Clerk to read it:

A RESOLUTION TO APPROVE THE PLACEMENT OF FARMLAND LOCATED AT 4492 CLEVELAND MASSILLON ROAD IN AN AGRICULTURAL DISTRICT.

First reading only.

Mr. Zita called for a short recess at 7:35 PM to clarify the error on the application for Mr. Maxon's Agricultural District with Mr. Kostoff. At 7:39 PM Mr. Zita reconvened the Regular Council Meeting back to session.

RES #36-2009

Mr. Braman offered Res. #36-2009 for its first reading, and asked the Clerk to read it:

A RESOLUTION TO APPROVE THE RENEWAL FOR PLACEMENT OF FARMLAND LOCATED AT 2392 WADSWORTH ROAD IN AN AGRICULTURAL DISTRICT.

First reading only.

ORD #37-2009

Mr. McGlone offered Ord. #37-2009 for its first reading, and asked the Clerk to read it:

AN ORDINANCE TO AUTHORIZE A TRANSFER FROM THE GENERAL FUND INTO THE ASSISTANCE TO FIREFIGHTERS FUND.

Mr. McGlone moved to waive the second and third readings, seconded by Mr. Pelot.

Roll Call: Yeas: McGlone, Pelot, Jones, Mowery, Braman, Zita
Nays: None

Motion passed 6-0.

Mr. McGlone moved to adopt Ord. #37-2009, seconded by Mr. Pelot.

Roll Call: Yeas: McGlone, Pelot, Jones, Mowery, Braman, Zita
Nays: None

Motion passed 6-0.

ORD #38-2009

Mr. McGlone offered Ord. #38-2009 for its first reading and asked the Clerk to read it:

AN ORDINANCE TO APPROPRIATE CERTAIN REAL PROPERTY KNOWN AS THE BELDICK MOTEL, 3392 GREENWICH ROAD, BARBERTON, OHIO 44203, AND DECLARING AN EMERGENCY.

Mr. McGlone moved to waive the second and third readings, seconded by Mr. Pelot.

Roll Call: Yeas: McGlone, Pelot, Jones, Mowery, Braman, Zita
Nays: None

Motion passed 6-0.

Mr. McGlone moved to adopt Ord. #38-2009, seconded by Mr. Pelot. Mr. Jones asked Mr. Kostoff about the address being Barberton, instead of Norton. Mr. Kostoff replied the legal address on file with the tax office is listed as Barberton, Ohio. Mr. Kostoff stated we did receive a response to our offer, which was rejected. There was no reasonable negotiation that was perceived to continue to move forward.

Roll Call: Yeas: McGlone, Pelot, Jones, Mowery, Braman, Zita
Nays: None

Motion passed 6-0.

ORD #39-2009

Mr. McGlone offered Ord. #39-2009 for its first reading, and asked the Clerk to read it:

AN ORDINANCE ADOPTING THE ALTERNATIVE TAX BUDGET FOR THE CITY OF NORTON FOR THE FISCAL YEAR 2010 AND DECLARING AN EMERGENCY.

First reading only.

ORD #40-2009

Mr. McGlone offered Ord. #40-2009 for its first reading, and asked the Clerk to read it:
AN ORDINANCE TO AUTHORIZE AND DIRECT THE MAYOR TO ENTER INTO A CONTRACT WITH ORIANA HOUSE, INC. AND DECLARING AN EMERGENCY

First reading only.

INTRODUCTION OF PRIOR LEGISLATION:

RES #21-2009

Mr. Braman offered Res. #21-2009 for its second reading and asked the Clerk to read it:

A RESOLUTION TO APPROVE THE RENEWAL FOR PLACEMENT OF FARMLAND LOCATED AT 3296 CLUBSIDE DRIVE IN AN AGRICULTURAL DISTRICT.

Mr. Braman moved to waive the third reading, seconded by Mr. Jones.

Roll Call: Yeas: Braman, Jones, McGlone, Mowery, Pelot, Zita
Nays: None

Motion passed 6-0.

Mr. Braman moved to adopt Res. #21-2009, seconded by Mr. Jones.

Roll Call: Yeas: Braman, Jones, McGlone, Mowery, Pelot, Zita
Nays: None

Motion passed 6-0.

RES #30-2009

Mr. Braman offered Res. #30-2009 for its second reading and asked the Clerk to read it:

A RESOLUTION DETERMINING TO ORGANIZE A COMMUNITY IMPROVEMENT CORPORATION.

Second reading only.

ORD #31-2009

Mr. Braman offered Ord #31-2009 for its second reading, and asked the Clerk to read it:

AN ORDINANCE ADOPTING AND IMPLEMENTING THE PROCEDURES UNDER CHAPTER 5722 OF THE OHIO REVISED CODE TO FACILITATE REUTILIZATION OF NON-PRODUCTIVE LAND WITHIN THE CITY.

Second reading only.

UNFINISHED BUSINESS:

Mr. Jones discussed his request for election expense reimbursements and Mr. Moss's indications that he spoke with Mr. Gary Hagen from the Board of Elections, and Secretary of State's Attorney Gretchen Quinn. Mr. Moss replied he had only communicated via email with Ms. Quinn. Mr. Jones stated Ms. Quinn indicated that our campaign finance law does not set limits on what a candidate may spend in a regular municipal election, correct? Mr. Moss stated she does indicate that, and she also points out there is confusion here within the law and she is unable to resolve it. Mr. Jones stated both Mr. Hagen of the Board of Elections and Ms. Quinn suggested we take this up with our Law Director-Mr. Kostoff. Mr. Moss stated they felt if he was not very clear on this issue he would need to seek legal advise from the Law Director. Mr. Jones stated in a conversation with Mr. Moss in January,

Mr. Moss indicated he did not want to go to Mr. Kostoff, correct? Mr. Moss replied he thought the costs associated with it was prohibited and that is what he thought our decision was based on. Mr. Jones stated he spent on in-kind expenses on that election was \$495.65 so if you take fifty (50) percent of that its \$247.82. Mr. Jones asked if we want to spend \$175.00 per hour for our Law Director to look into this or do we want to settle this, its been going on for three (3) months? Mr. Moss stated he did not want to spend the hourly rate to sort this out, unfortunately he is stuck because there is no advice here on how to properly address legal limits. Mr. Jones stated Mr. Moss had indicated the payment voucher was ready to be signed some time ago, Mr. Moss replied it is a purchase order. Mr. Moss replied that if he does not have clear legal authority to pay something he couldn't pay it. The option is to go to Council and ask them to pay you because they think it's the right thing to do, they pass an ordinance, and he would then have the legal authority to pay it. Mr. Jones stated that instead of asking Mr. Kostoff at the rate of \$175.00 he is asking this Council to authorize Mr. Moss to make payment with regards to the reimbursement for his recall back in July, Council has that right to do that. Mr. Zita replied unless we are required by law do to so, he was not obliged to do so, it's the price of doing business. Mr. Jones stated back on January 20, 2008 Mr. Zita had agreed to have Mr. Kostoff look into it. Mr. Zita stated that personally he was not looking at giving Mr. Jones any money. Mr. Zita stated if Council wants Mr. Kostoff to look into this and if Mr. Kostoff decides by law we are required to do so, then by all means you have it coming. Mr. Jones asked Mr. Zita if he wanted to charge Mr. Kostoff the \$175.00 per hour? Mr. Zita asked more importantly do you want to charge \$175.000 per hour just to get \$247.00? We are not talking principal here we are talking citizens money, I have said enough there are other Council members on board here. Mr. Jones stated he has asked Council now to go ahead, otherwise he will take legal action on his own and then send it back to the city. Mr. Zita asked the balance of Council how they felt. Mr. Mowery stated he would rather continue this discussion to next week at the Work Session, nothing is going to be decided in the heat of this type of environment. Mr. Zita instructed the Clerk to add this to the next Work Session agenda. Mr. Jones wanted to continue the discussion, referring to the January 20, 2009 Work Session minutes, page #6, and Mr. Pelot stated this would be saved for discussion at the next Work Session. Mr. Zita stated if he recalled, he asked for Mr. Jones to provide his emails to him and the rest of Council, since this was brought up on Council floor and no one knew what was going on. Mr. Zita stated he had asked Mr. Jones to do so, and to the best of his knowledge no one has received any such emails. Mr. Jones stated that Mr. Zita has been in contact with Mr. Moss about it, and Mr. Zita concurred, adding that he talks with Mr. Moss almost every day. Mr. Jones stated the full amount would be \$247.82, so it's not a big deal. Mr. Zita stated that obviously it must be, and Mr. Jones replied it's the principal. Mr. Zita asked Council if there were any other items under Unfinished Business, and Mr. Jones stated that Mrs. Hlas was not here tonight, so his concern would need to wait. Mr. Pelot asked Mr. Ryland if we need to place the Newpark Drive discussion on the Work Session agenda for Monday, and Mr. Ryland replied he would not be at this meeting, but you could have the discussion. Mr. Ryland stated Mr. Moss and Mayor Koontz would be ready for the discussion. Mr. Pelot indicated we need to look at what other options are out there if the city has to fund this, other funding, etc.

NEW BUSINESS:

None

PUBLIC SERVICE ANNOUNCEMENTS:

Mayor Koontz reminded residents about the CCA taxpayer assistance dates, (see attached). Mayor Koontz reminded everyone that Norton Clean Up Day is April 25, 2009 from 8:00 AM to 11:00 AM (see attached).

Mr. Pelot warned everyone to please be careful about all of the scams that are out there relating to the economic stimulus packages.

ADJOURN:

There being no other business to come before the Regular Council Meeting, the meeting was adjourned at 8:00 PM.

Mike Zita, President of Council

I, Karla Richards, CMC-Clerk of Council for the City of Norton, do hereby certify that the foregoing minutes were approved at a Regular Council Meeting held on March 23, 2009.

Karla Richards, CMC-Clerk of Council

****NOTE: THESE MINUTES ARE NOT VERBATIM****

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