



**NORTON CITY COUNCIL
REGULAR COUNCIL MEETING
MONDAY, AUGUST 24, 2009**

Roll Call: Ken Braman
Brenda Hlas
Tom Jones
Dennis McGlone
Bill Mowery
Scott Pelot
Mike Zita

Also Present:
Mayor David Koontz
Rick Ryland
John Moss
Pete Kostoff
Karla Richards
Ann Campbell-Excused

The Regular Council Meeting convened on Monday, August 24, 2009 at 7:00 PM, in 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:

There were no comments. Mayor Koontz requested the floor to ask that Council consider repealing Ord. #48-2009. Mayor Koontz stated that he has full intention to place this on the ballot before the voters in such a way to keep the community together on this issue rather than pulling us apart. Mayor Koontz stated that while he was running for Mayor, he ran on this platform of progress for the city. Two of the main planks were sewer and water extensions and the residents were overwhelming in favor of that. Mayor Koontz stated that we could do this in such a way that the voters see this in a positive way instead of as something negative. Mayor Koontz asked Council to consider this legislation tonight during Committee of the Whole. Mrs. Hlas asked Mayor Koontz when would he be coming back to Council with the other piece of legislation to send it to the voters? Mayor Koontz replied very shortly, possibly this fall, we need to look at the time frames; it could even be at the next primary election. Mrs. Hlas reminded Mayor Koontz that in the May primary, it would not go into effect until January 2010. Mayor Koontz agreed, adding that it might be impossible to get it on this November's ballot anyway. Mr. Moss added that it can go into effect as long as it is within the same tax year; whether you chose to do it then is the question. Mayor Koontz also asked Council for a verbal affirmation if they are in favor of giving this to the voters. Mrs. Hlas asked for each Council member if they would be in support of legislation sending the half percent credit rollback to the voters. Mr. Jones replied that is a little bit difficult. If it went to the voters for their approval, whether it was a yea or a nay for the voters or for the community, he would support it. Under the circumstances the way Ord. #48-2009 came down, he could not support that. If you're going to put it out there for the people to support it, then yes he would support that.

Mrs. Hlas stated the question was would you support a piece of legislation sending a ½ percent credit rollback to the voters, it's a yes or a no. Mr. Jones replied as long as it went to the voters. Mr. McGlone agreed, this is what he had asked for all along and he would support that. Mr. Braman stated he would support it, adding that this is just like the situation we had with the police issue; it will end up with the voters regardless of what we do here. It would be best for the city if we go ahead and put it on. Mr. Mowery stated that with all of the back tracking initially, this is what should have been done, ending with the people's vote in the first place. It would have avoided all of this turmoil. Mr. Mowery stated he would support this. Mr. Pelot stated he would definitely support this. Hopefully the economy will start to turn around before the vote comes. Mr. Zita stated he would support this, and in the best interest of the community a yes vote is appropriate. Mrs. Hlas moved to introduce Ord. #81-2009, which would repeal Ord. #48-2009, seconded by Mr. McGlone.

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

Motion passed 7-0.

COMMUNICATIONS FROM THE PUBLIC:

Mrs. Elaine Tompkins, a Norton resident, spoke relating to the Mayor's proposal to repeal Ord. #48-2009. Mrs. Tompkins stated Mayor Koontz had one key word in his proposal, and that was to repeal it, which would be acceptable to the Administration, Council and the voters. Mrs. Tompkins read her comments on various city affairs, (see attached).

Mr. Paul Tousley, a Norton resident, thanked Mrs. Tompkins for her comments and Mayor Koontz for his motion. He was not here last week; however it was a tragedy what took place last week. Mr. Tousley stated that for good people that are not paid to come here or be active in the city, they took their time to go out and get legitimate signatures, and through loopholes you just discarded them? Mr. Tousley stated that he was glad that you did this today for that reason. Mr. Tousley stated that there are several on Council that have disdain toward the public, or at least that is the picture you are painting here. There have been several votes that tell the community that we are not allowed to talk at the meetings. I say shame on you. I saw all of you do a Pledge of Allegiance to my flag and that is not what my flag stands for. I would urge to just respect the voters a little bit, and thanked the ones on Council that have respected us. The decisions that you make, you may think you are just building a city, but you are affecting the citizen's lives and you have some responsibility in the futures of every resident. Mr. Tousley asked all of Council to take it a little more seriously than it appears that you are.

Mr. Jeff Case, a Norton resident, asked if Council was aware that we already have a water system fund, it was established with Ord. #66-2003, Ord. #49-2004, and Brentwood Water Fund Ord. #50-2004, and Ord #45-2006. We also have a sewer fund, Ord #68-2003, Ord. #48-2004. Mr. Case stated that looking back on the web site which goes back to 2003; from August to December there was \$33,678.00 in the water fund. The sanitary sewer system already has \$651,462.00 the water system has a total of \$166,242.00.

Mr. Case noted monies being transferred out each year from the water system fund, mostly for the Brentwood area. Mr. Case noted \$60,050.00 transferred out with \$35,000.00 going into the Brentwood system; however he could not find where the remainder went. Mr. Case discussed a transfer in 2007 from the sanitary sewer system to the SA Debt Service and then SA Debt service money went into a land fund and questioned these transactions. Mr. Case just wanted everyone to be aware that we already have established these funds, and the money keeps building up year after year, after year, and asked where are the sewers? What are we using this money for?

Ms. Charlotte Whipkey, a Norton resident, elaborated on the previous speaker's comments stating that she is skeptical about what you are trying to do with this vote. She strongly urged Council to demand to have this in writing, since we have a real problem getting things in writing from our law firms. She hears a lot about attorney-client privileged information. Ms. Whipkey stated she was under the impression that Council was the client and that we the people are not. It's a nice idea, a nice gesture, but she wants some proof. Does she trust you? Not as far as she could throw the biggest one of you. She wants it in writing. Before you support this too far, you should demand to have it in writing. We are not going to get down to the nitty gritty after the elections, and protecting yourself from a recall, only for you to have some big revelation that, oh well, we can't do this but we tried.

Mr. Gilbert Chaney, a Norton, resident, stated he agreed with Ms. Whipkey's comments and thanked Mayor Koontz for seeing the light. Mr. Chaney stated that he does not trust you people either, but time will tell and the clock keeps ticking.

CONSIDERATION OF THE MINUTES:

Minutes of the Regular Council meeting of July 13, 2009; Mr. Jones noted a correction on page #10 to the roll call, the yeas should be Pelot, Braman, Hlas, and Zita, and the nay votes should be Jones and Mowery. Mr. Jones noted a correction to page #11 to the last sentence in the first paragraph; pass should be *passed*. The minutes were approved as corrected.

Minutes of the Committee Work Session of August 17, 2009; Mr. Jones stated that Mrs. Richards already made corrections most of the typos. However he noted one on page #7, about 12 lines up it should be *instead* not instated. On page #8, on line 3 it should read *it is*. The minutes were approved as corrected.

REPORTS FROM OFFICERS, BOARDS AND COMMISSIONS:

Mayor Koontz reflected on all of the recent comments relating to money spent fighting Issue #26, spending \$26,000.00 to fight the will of the people. Mayor Koontz stated this was not to fight the will of the people, this was spent to be sure that we do not do anything illegal. It was advised in August of 2008 when it was proposed that this would be in violation of the State of Ohio Constitution. Mayor Koontz stated that it was passed anyway and we asked our Council not to take that in effect in January, we ended up in the Common Pleas Court and we won, and then it went to the Court of Appeals and we won there as well. Mayor Koontz stated it is not the city's fault that we had to spend legal money to keep from breaking the law.

When you are before the courts you have to spend money for that defense. We have to make sure we stay within the boundary of the Constitution. As for the latest referendum for the removal of Ord. #48-2008, I would not say there were loopholes, there were technicalities that were not met. Again, it is a matter of the law and if you do not want you elected officials to follow the law they you should not elect them. However, you would be in a lot more trouble and have a lot more legal fees if that was the case. We have got to follow the laws and if we keep finding problems with things that are presented to us. Mayor Koontz stated he was confident we would prevail if we were sued on this issue as well. The net result would be a lot of mad people and probably another method to repeal it later. We do not want a negative campaign on this issue. Now we have people questioning this very proposal here tonight, he was not sure where all of this is coming from. Mayor Koontz stated that about half of the city's that participate with CCA do not give a full credit for their taxes, Wadsworth is one of them. It's common and it can be done right, and he has full confidence that this can be done correctly. Mayor Koontz discussed the funds currently in the sewer and water funds and that with every project underway or in future plans; the city has to pay a certain share of the construction out of these funds. We are discussing sanitary sewers for Oak Street and plans are for sometime this fall, and \$650,000.00 is not much money when you get into the construction and engineering costs. That will not address the entire needs of the city which is in excess of \$10,000,000.00. Mayor Koontz commented on Beldick property and that the issue of necessity has been resolved. The October court date is still set, the owner is no longer fighting the eminent domain issue. The court will be determining the actual market value for the property. Mayor Koontz discussed the Eastern Road resurfacing may be occurring in the future. This potential project will include the City of Barberton, New Franklin, Wayne County and AMATS to see if we can get a joint project together. Mayor Koontz advised that we currently have 3,000 tons of salt on hand and another 1,500 tons on order and will be in good shape for winter. Wadsworth Road is just about completed; there were some issues with the berms that the contractor is working on. We do have approximately \$400,000.00 in the escrow account and Mayor Koontz stated he was not sure how much the total project costs would come in at. Hopefully it would come in a little under and we could get some money back. Mayor Koontz stated the electrical work is wrapping up at Columbia Woods Park and next month the new lamp posts should be up.

PUBLIC HEARINGS:

INTRODUCTION OF NEW LEGISLATION:

Mr. Zita moved this legislation up on the agenda since Mayor Genet of Barberton was present.

ORD #80-2009

Mr. Braman offered Ord. #80-2009 for its first reading and asked the Clerk to read it:

AN ORDINANCE DETERMINING TO CHANGE THE BOUNDARY LINE SEPARATING THE CITY OF NORTON AND THE CITY OF BARBERTON BY MUTUAL AGREEMENT OF THE CITY OF NORTON AND THE CITY OF

BARBERTON PURSUANT TO SECTION 709.37 OF THE REVISED CODE, AND DECLARING AN EMERGENCY.

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

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

Motion passed 7-0.

Mr. Braman moved to adopt Ord. #80-2009, seconded by Mr. Pelot. Mr. Jones stated that some of the property owners such as Rummer, Zupic and Crow; are these in Norton or Barberton? Mayor Genet replied they are in Norton.

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

Motion passed 7-0.

Mayor Genet thanked Norton City Council for adopting this legislation and Mr. Ryland, Mayor Koontz and the Administration for working together on this. Mayor Genet reminded everyone that as Mr. Jones had mentioned last week, we should continue to work together. This is something that is really going to benefit the City of Barberton and Mr. Ryland has been a very tough negotiator, so let's keep the line of communication open. Mayor Koontz stated he had received a letter from Mr. John Hall, Supt. of Barberton Board of Education thanking the city for their efforts on this boundary adjustment.

ORD #75-2009

Mr. Pelot offered Ord. #75-2009 for its first reading and asked the Clerk to read it:

AN ORDINANCE TO AMEND SECTION 222.01 OF THE NORTON CODIFIED ORDINANCES TO MODIFY THE LOCATIONS FOR POSTING NOTICES AND DECLARING AN EMERGENCY.

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

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

Motion passed 7-0.

Mr. Pelot moved to adopt Ord. #75-2009, seconded by Mrs. Hlas. Mr. Pelot explained that Charlie's Restaurant has changed ownership and is now 3 Sons Restaurant. The other posting locations are the Duke & Duchess Station, the Norton Branch of the Akron Summit County Public Library and Milich's Village Inn.

Roll Call: Yeas: Pelot, Hlas, Jones, McGlone, Mowery, Braman, Zita
Nays: None
Motion passed 7-0.

ORD #76-2009

Mr. Mowery offered Ord #76-2009 for its first reading and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING THE CITY EMERGENCY AMBULANCE SERVICE TO RESPOND TO EMERGENCY CALLS; AND DECLARING AN EMERGENCY.

Mr. Mowery moved to waive the second and third readings, seconded by Mr. Braman. Mr. Mowery stated this ordinance adds the Akron General Health and Wellness Center West Emergency center to the list of hospitals we transport to.

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

Motion passed 7-0.

Mr. Mowery moved to adopt Ord. #76-2009, seconded by Mr. Braman.

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

Motion passed 7-0.

RES #77-2009

Mr. Mowery offered Res. #77-2009 for its first reading and asked the Clerk to read it

A RESOLUTION AUTHORIZING THE CHIEF OF POLICE TO APPLY FOR GRANTS FOR THE NORTON POLICE DEPARTMENT FOR THE PURPOSE OF PROVIDING FUNDS FOR THE SALARIES OF CERTIFIED DARE OFFICERS, TEACHING OR PLANNING TO TEACH THE APPROVED DARE CURRICULUM IN LOCAL SCHOOLS AND DECLARING AN EMERGENCY.

Mr. Mowery moved to waive the second and third readings, seconded by Mr. Pelot. Mr. Mowery stated this is a program that has been implemented in the Norton School system and is a very good tool which we need to get implemented and running.

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

Motion passed 7-0.

Mr. Mowery moved to adopt Res. #77-2009, seconded by Mr. Pelot.

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

Motion passed 7-0

ORD #78-2009

Mr. Braman offered Ord. #78-2009 for its first reading and asked the Clerk to read it:

AN ORDINANCE APPOINTING AN ASSESSMENT EQUALIZATION BOARD TO HEAR OBJECTIONS RELATING TO THE CONSTRUCTION OF WATER MAINS, HYDRANTS AND RELATED IMPROVEMENTS AND ALL OTHER NECESSARY APPURTENANCES THERETO, COMPRISING THE GARDNER BOULEVARD PHASE III WATERLINE PROJECT, AND DECLARING AN EMERGENCY.

Mr. Braman moved to waive the second and third readings, seconded by Mr. Pelot. Mr. Braman stated the public hearing has now been set for Thursday, September 24, 2009 at 5:30 PM.

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

Motion passed 7-0.

Mr. Braman moved to adopt Ord. #78-2009, seconded by Mr. Pelot. Mr. Pelot asked Mr. Ryland when this project might begin, and Mr. Ryland replied sometime this winter.

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

Motion passed 7-0.

ORD #79-2009

Mrs. Hlas offered Ord. #79-2009 for its first reading and asked the Clerk to read it:

AN ORDINANCE TO ESTABLISH A FUND TO PROPERLY ACCOUNT FOR REVENUE AND EXPENSES ASSOCIATED WITH COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING.

First reading only.

ORD #81-2009

Mrs. Hlas offered Ord. #81-2009 for its first reading and asked the Clerk to read it:

AN ORDINANCE REPEALING ORDINANCE NO. #48-2009, AND DECLARING AN EMERGENCY.

Mrs. Hlas called for just a first reading only at this time, and possibly waiving the readings at the next Council meeting.

INTRODUCTION OF PRIOR LEGISLATION

None

UNFINISHED BUSINESS:

Mr. Jones stated he brought this up last Monday, and with St. Rt. 261 just about completed, he questioned the C & D facility dragging mud and dirt onto the new roadway. Mr. Jones asked if we could charge a bond or something we could charge them to clean up the roadway. He was talking to the State people about his concerns and would like the Mayor or Mr. Ryland to get with Mr. Kostoff and see if there wasn't something we could do about that.

Mr. Mowery commented about the adoption of Ord. #80-2009 with the Barberton schools and we need to remind the Administration about the help to Brentwood residents on their fees that was promised with the tap ins on the 16 inch mains. Mayor Koontz assured Mr. Mowery this is not something we would forget since we are the ones that negotiated that provision.

NEW BUSINESS:

None

PUBLIC SERVICE ANNOUNCEMENTS:

Mayor Koontz reminded everyone of the concert at Columbia Woods Park this Thursday.

Mr. Pelot thanked Mr. Mike Brown of the Summit County Utilities Department for his help with an issue on Hartzel Drive that could have cost a Norton resident several thousand dollars in sewer line fees. Mr. Pelot stated that with the help of Mr. Brown we were able to help this resident is being reimbursed for everything she paid out in addition to the cost to replace the sewer line.

Mr. Zita reminded everyone that school starts up this week, and to be mindful of the speed limits, and Mr. Pelot added the no right turn on red during school hours.

ADJOURN:

There being no other business to come before the Regular Council Meeting, the meeting was adjourned at 7:49 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 September 14, 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.