



NORTON CITY COUNCIL  
REGULAR COUNCIL MEETING  
MONDAY, FEBRUARY 9, 2004

Roll Call:	John Conklin	Also Present:	Mayor Joseph Kernan
	Brenda Hlas		Claude Collins
	Bill Mowery		Jeanne Zerga (Excused)
	Dennis McGlone		Jeff Pritchard
	Scott Pelot		Mike Lyons
	James Price		Karla Richards
	Mike Zita		

The Regular Council Meeting convened for a meeting on Monday, February 9, 2004 at 7:05 PM in the Council Chambers of the Safety Administration Building. The meeting was called to order by John Conklin, President of Council. Following a salute to the flag and the pledge of allegiance, there was a moment of silent prayer.

**Committee of the Whole**

Minutes of the Committee of the Whole Meeting-February 2, 2004  
The Minutes are accepted as written.

**Consideration of Minutes:**

Minutes of the Regular Council Meeting of January 26, 2004  
The minutes are accepted as written

**Committee of the Whole:**

Mr. Mowery stated that the Skate Board Park issues are still in the works, he is waiting to hear from the Mayor on the appointment of a Board or a Committee and its members. Mr. Mowery also had discussed this with Mr. Pritchard and was informed that if we could not get funding for this, Mr. Mowery was willing to offer some land for this. Mr. Pritchard had informed Mr. Mowery that his land is industrial and could not be used for park purposes. Mr. Mowery spoke about the water issues that are going on in Brentwood Estates that's been ongoing.

Mr. Price stated he has placed a call to Mr. Wrobel today about the potential park land issue, and will continue to follow up on this issue. Mrs. Hlas added that Mr. Wrobel Sr. passed away this weekend and the funeral is on Wednesday, so Mr. Price may want to wait a few weeks before contacting the family again.

Mr. Conklin stated that Council should have a packet on the Equalization Assessment Board and asked that all members take a look at this. Mr. Conklin stated that we had a request from Mr. Marsek for a meeting with Council on that issue, so next Monday's Committee of the Whole would be devoted to those residents, and we will also review the report from the Equalization Board. Mrs. Hlas questioned if this would provide enough time, and Mr. Conklin decided to move the time to 6:30 PM. Mr. Mowery indicated that he told the residents they would have a chance to speak.

**Communications from the Public:**

Ms. Charlotte Whipkey, 4624 Albert Avenue, Norton spoke regarding the Duffield Property and septic issues on Rockcut Road. Ms. Whipkey thanked the City of Norton and the Barberton Health Department in their efforts. Ms. Whipkey understood that the City of is being sued by Mr. Duffield, and she and her neighbors do appreciate the fact that you are fighting this. We already have enough drainage problems with the septic systems there, and we do not want our well water in danger of being contaminated. We just want to say thank you and we support you.

Ms. Yvonne Obradovich, 593 Lincoln Ave., Barberton, representing the Sts. Peter & Paul Serbian Church at 3532 Clark Mill Road. Ms. Obradovich spoke about the water drainage from Voyager Park. They have paid \$7,000.00 two years ago to have the corner of the soccer field fixed because of the drainage problem. She was not sure who owns this land, but if they wanted to divert that water to go behind the woods, this would be fine. It still is running down to their soccer field, and is costly to continue to repair. Mr. Lemon who was in the audience stated that he was unaware of the Church's problem, however, he would work with them to get this corrected

Mr. Conklin called for a temporary recessed of the Regular Council Meeting for a short break at 7:13 PM in order to begin the Public Hearings promptly at 7:15 PM

**Public Hearings:**

**ORD #3-2004**

Mr. Conklin convened the Public Hearing for Ordinance #3-2004.

**An Ordinance to amend Norton Codified Ordinance to designate used auto sales as a conditionally permitted use in the B-3 District.**

Mr. Conklin asked the Clerk to certify the notice for the Public Hearing for Ordinance #3-2004. The Clerk certified that a notice for this Public Hearing was published in the Barberton Herald on January 22, 2004. Mr. Conklin turned this discussion over to Mr. Pritchard. Mr. Pritchard explained that our current code does not permit used car dealerships in a B-3 District. Mr. Pritchard stated that the City was approached by Mr. Ederer to put in a facility on Barber Road. Everything was running along fine until the zoning code failed at the polls, so essentially we took the language out of the revised code and had to insert this into the existing code in order for Mr. Ederer to proceed with his project. Mr. Conklin asked for anyone to speak for the application to come forward. Mr. Ederer came forward and stated that he was glad to see the zoning code on the ballot and started the arrangements for the building, such as applying for permits, agreements, etc., and was urged to hold off on any further developments until the election in November. Mr. Ederer stated he was disappointed that it failed. He is a very responsible tenant; good operator and this building will be the best building on Barber Road, other than Barberton Schools. Mr. Ederer stated that this project when completed would be about a 1-million dollar project. Mr. Ederer asked Council to please move this along quickly in order for him to make up for the time lost in getting this project up and running. Mr. George Tomko, 2525 Reimer Road Ext., Norton came forward and spoke in favor of this. Mr. Tomko stated that knows that Mr. Ederer does good work and has good tenants. Mr. Tomko urged Mr. Pritchard & Council to dig out some of the wordings from the Ohio Revised Code and do the same to get some of the Building & Zoning Codes brought up to date as they should be. Not one lump sum, but little bits at a time. One of the most important things that was in the Zoning Code was that there shall be a notice posted on the property whenever there will be changes to the property.

**Public Hearings Continued:**

Mr. Alex Stavarz, 3077 Clark Mill Road, Norton, came forward stated that it's about time that Council allowed for used car dealerships within the City. Mr. Stavarz stated that it's like they were outlawed as some type of criminal business and never understood why this had not been done in the past. Mr. Stavarz stated he felt this business would be a compliment to the City and to Barber Road. Mr. Conklin called three times for anyone who wished to speak against the application and no one came forward. Mr. Conklin declared the Public Hearing for Ordinance #3-2004 closed.

**ORD #4-2004**

Mr. Conklin convened the Public Hearing for Ordinance #4-2004.

**An ordinance is to consider tentatively approving the Preliminary Plat of the Major Subdivision proposed by Messrs. Little, known as Stonewyck Phases I, and II Parcel #4607368 and located generally west of Clark Mill Road and North of Norton Avenue.**

Mr. Conklin asked the Clerk to certify the notice for the Public Hearing for Ordinance #4-2004. The Clerk certified that a notice for this Public Hearing was published in the Barberton Herald on January 29, 2004. Mr. Conklin called for anyone who wishes to speak for the application to come forward, and that the applicant has the right to speak first. Mr. Little came forward and stated that he was here to answer any questions, and asked for Council's support on this. Mr. Conklin called two more times, and no one came forward. Mr. Conklin called for anyone against said application to come forward, and no one came forward. Mr. Conklin declared the Public Hearing for Ordinance #4-2004 closed.

**ORD #5-2004**

Mr. Conklin convened the Public Hearing for Ordinance #5-2004.

**An ordinance is to consider tentatively approving the Preliminary Plat of the Major Subdivision proposed by Messrs. Little, known as Stonewyck Phases III, and Parcel #4605731 and located generally west of Clark Mill Road and North of Norton Avenue.**

Mr. Conklin asked the Clerk to certify the notice for the Public Hearing for Ordinance #5-2004. The Clerk certified that a notice for this Public Hearing was published in the Barberton Herald on January 29, 2004. Mr. Conklin called for anyone who wishes to speak for the application to come forward, and that the applicant has the right to speak first. Again, Mr. Little stated that he was here to answer any questions, and asked for Council's support on this. Mr. Conklin called two more times, and no one came forward. Mr. Conklin called for anyone against said application to come forward, and Ms. Obradovich came forward. Ms. Obradovich questioned if this is where all of the water is laying. Ms. Obradovich stated that you dug a hole there and wasn't down three feet and it was full of water. Mr. Little stated that they dug some test holes for soil conditions several weeks ago and was unaware of any problems. Ms. Obradovich stated that they were inspecting the land at the church, and at the woods behind their soccer field, and someone threw tables chairs back there. She felt that it is not their responsibility to clean that area up. Mr. Little indicated that they would look into this and get this corrected. Mr. Conklin called two more times for anyone against the application, and no one came forward. Mr. Conklin declared the Public Hearing for Ordinance #5-2004 closed.

**Introduction of New Legislation:**

None

**INTRODUCTION OF PRIOR LEGISLATION:**

**ORD #2-2004**

**An ordinance to amend the subdivision regulations of the Planning and Zoning Code of the City of Norton.**

Mr. Pelot moved to table this ordinance, seconded by Mr. Price. Mrs. Hlas stated that she had some concerns earlier and asked if Mr. Lyons had a chance to address these issues, and Mr. Lyons indicated that the question was if Council modified this is another public hearing required. Mr. Lyons stated that Council may modify this document, and the question about a public hearing still needs to be addressed and researched. Mr. Conklin asked for Mr. Lyons to provide Council with his opinion in writing before the next Committee meeting on February 17, 2004. Mrs. Hlas stated that she had another question directed to Mr. Pritchard about the Planning Commission section of the Charter referring to the Subdivision Regulations and if it was in conflict or if we need to address the Charter in some way. Mr. Mowery stated that he asked Mr. Pelot to table this and appreciated his cooperation. This is a big item and we don't want to rush this, adding we need the voice of the residents on this. There was further discussion as to the time limits left on this issue for discussion.

Roll Call: Yeas: Pelot, Price, McGlone, Mowery, Zita, Hlas, Conklin  
Nays: None

Motion passed 7-0 to **table** Ordinance #2-2004.

**ORD #3-2004**

Mr. Pelot offered Ordinance #3-2004 for its third reading, and asked the Clerk to read it.

**An ordinance to amend Norton Codified Ordinances to designate used auto sales as a conditionally permitted use in the B-3 district.**

Mr. Pelot moved to adopt Ordinance #3-2004, seconded by Mr. Price. Mr. Pelot stated that he felt this would be really good for the City of Norton and we need to attract more businesses. Mr. Pelot stated that he believes we need to become more business friendly, in working with developers to make it easier for developers to come into the City, rather than what we put Mr. Ederer through. Mr. Pelot thanked Mr. Ederer for his patience and sticking in there with us. Mrs. Hlas stated this was an issue in her ward when she came on Council with Euro Cars. She is glad to see this and wished the whole zoning code would have passed.

Roll Call: Yeas: Pelot, Price, McGlone, Mowery, Zita, Hlas, Conklin  
Nays: None

Motion passed 7-0

**INTRODUCTION OF PRIOR LEGISLATION CONTINUED:**

**ORD #4-2004**

Mr. Pelot offered Ordinance #4-2004 for its third reading and asked the Clerk to read it.

**An ordinance tentatively approving the preliminary plat of the major subdivision proposed by Messrs. Little known as Stonewyck, Phases I and II, PPN# 46-07368, and located generally west of Clark Mill Road and north of Norton Avenue.**

**ORD #4-2004 Continued:**

Mr. Pelot moved to adopt Ordinance #4-2004, seconded by Mrs. Hlas. Mr. Pelot reminded everyone that this is tentatively approving the plat, not the final plat. After the developers move forward with the profiles, it still has to come back to the Planning Commission and Council. They cannot move forward without Council's approval on the final plat. It is giving Mr. Little the assurance that Council is happy with the concept and that Mr. Little can move forward with his additional investments for the profiles. Mr. Mowery asked if they have addressed the water and sewer issues with Barberton? Mr. Mowery stated that previous developers were allowed to build even though Council bent the rules, even though it was against our codes. Mr. Mowery asked why are we at hyper speed with this to get this running so quickly? Mr. Lemon (the developer for Mr. Little) stated that nothing has been done so far with Barberton, and that, they are waiting for this Councils approval for preliminary plat. Mr. Mowery stated that we never gave any other builders this type of assurance in the past. Mr. McGlone questioned about the pump station issue in Mt. Vernon and if Stonewyck will have their own, will we get this in writing. Mr. Lemon stated that it would be in writing. Mayor Kernan informed Mr. Mowery that Council does not break or bend rules, they may only waive certain requirements. The Planning Commission approved this application 5-0. All that Council is doing right here and now is deciding if they like the preliminary plans, and if so the developer would come back with more plans, profiles, etc, and present them to the Planning Commission and Council. Mrs. Hlas asked Mr. Lemon if this development would still have the sidewalks on both sides, trees, street lights, a park, and storm sewers under the streets, and Mr. Lemon replied yes to all the above. Mayor Kernan stated that he felt this would be a good development for the community and asked that Council support this. Mr. Mowery disagreed, he stated that the individuals that you have on the Planning Commission are directed or educated and acknowledged by Mr. Pritchard. He basically has guided them in the direction with tentative Subdivision Regulations, which went to the voters and failed. If they didn't want it the first time, then they don't want it now. If we want to give the power to the Planning Director to call the shots on this, that's fine. Mayor Kernan corrected Mr. Mowery with the fact that the Subdivision Regulations were not before the voters, it was the Zoning Code. Mr. Conklin stated that the issue of the Subdivision Regulations is Ordinance #2-2004, which was tabled earlier.

Roll Call:       Yeas: Pelot, Hlas, Zita, Conklin  
                  Nays: McGlone, Mowery, Price

Motion passed 4-3.

**Reports from Officers, Boards & Commissions:**

Mayor Kernan stated that the website for the City has been upgraded and it really looks terrific and is quite an improvement from what we had before. Mayor Kernan mentioned that all of Council should be receiving monthly reports from the Finance Department regarding the level of our budget. We will also be sending you a copy of the check register every month so you know exactly what is being spent, what the checks are for, and where money is going. Mayor Kernan stated that he wants this communication between Council and the Finance Department. Mayor Kernan hoped everyone has some patience for our Street Department in this bad weather. We have difficulty in obtaining salt delivery; the salt is available, it's just that they have been so busy delivering it everywhere. Mayor Kernan stated the Street Department has done an excellent job and he has been in other communities where the roads were pretty bad.

**Reports from Officers, Boards & Commissions, continued:**

Mr. Binic of the Barberton Health District gave an update stated on the Pander Case. Mr. Pander has a Parole Violation trial set for this Friday at 9:00 AM in Judge Cosgrove's court. Sentencing most likely will take place and they have been subpoenaed for this trial. Mr. Binic gave an update on the Duffield case. Judge Murphy has requested both parties try and settle this case by April 12, 2004. On February 4, 2004 they conducted an informal settlement conference and could not come to an agreement. Consequently our Attorney is preparing a Motion for Summary Judgement which will be filed with the court before the April 12, 2004 date. Mr. Binic gave a brief update on the Barber Road site. The Company in charge of the clean-up (McCabe Corporation) seemed to have jumped the gun in regards to the cleanup and removal activities. As a result of that the EPA demanded an extensive report including cleanup methodologies, supporting documentation. This report has been received by the EPA as requested, and they will be reviewing. In the recent past, the EPA has discussed the need for the following for this site: #1 an expanded overall site inspection, #2 ground water contamination study, #3 soil contamination study. The EPA will keep us informed if any and all future developments. Mr. Binic stated that his office has received a letter from Russ Arters, and Colene Conley regarding Mike Meusel a Sanitarian on staff at the Barberton Health Department. Mr. Binic quoted " We commend Mr. Meusel on his professional manner, his diligence to move forward with difficult situations, and his ability to see a project to its completion". Mr. Binic added that Mr. Meusel is the one behind most of the work on cases that involve pending litigation. The letter went on to also thank Ed Wood and Pam Huber of their staff. Mr. Binic stated he couldn't tell you how much this thank you means to him and the staff because they don't receive thank you's very often. It is very much appreciated. Mr. Binic also acknowledged a written thank you that they received from Mr. Ederer.

**Old Business:**

Mr. Hlas stated that we had asked Mr. Lyons for an answer a while ago about the Loyal Oak benefits, and asked if this is still in the process. Mr. Lyons stated that he and Mr. Collins are still working on this and he is still researching some issues. Mrs. Hlas indicated when this is complete, she would like to have this in writing.

**Public Service Announcements:**

Mr. Conklin stated that several members of Council, and Finance were touring CCA and RITA in Cleveland today, and that we have technically been in session since 12:00 noon today. It's been a long day for some of us and thanked those who went on the tour. For those that missed it, he was sorry if they missed it, the tours were very informative.

**Adjourn:**

There being no further business to come before it, Council adjourned the meeting at 8:03 PM.

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John Conklin, President of Council

I, Karla D. Richards, Clerk of Council of the City of Norton, do hereby certify that the foregoing minutes were approved at a Regular Meeting of Council, held on Monday, February 23, 2004.

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Karla D. Richards, Clerk of Council

***\*\*THESE MINUTES ARE NOT VERBATIM. THE AUDIOTAPE WILL BE  
ARCHIVED***

***IN THE CLERK OF COUNCIL'S OFFICE\*\****