



NORTON CITY COUNCIL
SPECIAL COUNCIL MEETING
MONDAY, AUGUST 2, 2004

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

The Special Council Meeting convened for a meeting on Monday, August 2, 2004 at 7:00 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:

Ord. #98-2004-Ordinance to rescind Ord. #60-2004.

Mr. Conklin explained the reason for calling this meeting was that he had received a written request from Mayor Kernan to discuss this issue. Mayor Kernan stated that he would like Council to reconsider Ordinance #60-2004-tax credit roll back. Mayor Kernan stated that there are enough valid signatures on the referendum petition to place this item on the November ballot. Mayor Kernan stated that after consulting with Ms. Zerga, Mr. Lyons, Mr. Collins and a number of others, it was decided to revisit this ordinance. Mr. Kernan explained the vital need for both, but felt it may be best to separate these two items out by rescinding the original legislation with Ordinance #98-2004 and take the tax credit and roll it back to the full 100% credit. We would then take a look in the fall at the numbers and see where they are at that point. Mayor Kernan stated that we have a good estimate of what the income would be if the 2% passes by the voters. Mayor Kernan stated that we also would be looking at making further cuts in the budget, and other ways to finance infrastructure and the paving of streets. Mayor Kernan asked Council to consider adopting Ordinance #98-2004. Mr. Conklin stated that he has a request from Mr. Gainer to address Council, and if there were no objections from Council, he would allow Mr. Gainer 5 minutes to speak. There were no objections to this request. Mr. Gainer complained about not being personally informed about this meeting, and the intentions of Council. Mr. Gainer voiced his concerns about previous comments about meetings or discussions and was there any public meetings held, and if there were minutes and if so he would like copies of the minutes or notes. Mr. Gainer stated that earlier in discussions Mr. Lyons was asked by Council to provide his opinion or guidance on the decision of whether or not Council should take this tax credit issue to the voters. Mr. Gainer stated that Mr. Lyons did reply that it was lawful for Council to take a vote on this instead of sending this to the residents. Mr. Gainer recalled Mr. Lyons' comment that even if the people voted against this, that Council still had the authority to pass this. Mr. Gainer stated he completely disagrees with Mr. Lyons adding that everything he could locate in the Charter, Ohio Revised Code, etc. he feels it was completely unlawful for Council to take a vote on this. Mr. Gainer cited Ohio Revised Code Sections, where it states "any matter of taxation of the credit, would be 100%, and the City of Norton Charter, is says to follow the Ohio Revised Code.

Ord. #98-2004 Continued:

Mr. Gainer questioned if Mr. Lyons provided to Council a source for his opinion in writing, if so he would like to know where he got his source of information, and questioned if anyone has seen anything in writing.

Mr. Gainer also commented on the Administration holding the petitions for several days after the required 10 days for public access and inspection, was a direct violation of the Ohio Constitution and to the people who worked so hard to collect the signatures. Where were they all this time, and what was in need of review by the Law Directions? Mr. Gainer also inquired as to why would Council and the Administration go to all the trouble of holding the meetings, and all of the discussions, only to change your minds now? Mr. Gainer wondered if this was the plan all along, to rescind it if the referendum was successful, only to reintroduce this later on like in the dead of winter. Mr. McGlone agreed with Mr. Gainer's comments about the timeline of bringing back the tax credit issue. Mayor Kernan stated that he does not feel that this income is unnecessary, we still need a road program, and infrastructure, and we will need the money to do that. Mayor Kernan stated that he found it difficult trying to explain two separate issues to the electorate at the same time. There will be a number of tax issues this fall, and the passage of the 2% is necessary to continue to operate the city. Mayor Kernan stated that as of now, there is no nefarious plan to bring this issue back anytime soon, or when there is 14" of snow on the ground to make it difficult to collect signatures. We would need time to take a look at what happens with the 2% issue and see what revenue this would generate. Mayor Kernan stated that we need to move slowly, and that many times in the past the City has bitten off way more than it could chew, and this is one example of stepping into that same trap again. Mayor Kernan also stated that there were no meetings held that was subject to the Sunshine Laws of Ohio that was not published. Mr. Price stated that he felt if both of these issues appeared on the ballot, they would both fail. Mr. Price stated that he does support the 1.5% to 2.0 %, but is not in support of the tax credit issue without it going to the voters. Mr. Price stated that he would like a specific time frame such as 18 months or 2 years in the legislation. Mr. Price also commented on the names on the petitions indicating that his name was on there, and that he strongly feels that this needs to go to the voters. Mr. Pelot commented on the petitioners and felt that they really did a disservice to the city. Some of you complain that you are sick of paying taxes and do not see anything for the taxes that you do pay. This money was to be earmarked for infrastructure and to repair the roads. Without the infrastructure, we will not get any business in this city. Without additional business, their tax money, your property tax, will continue to go up year after year. Mr. Pelot stated that he does not want to pay any more in property tax, which is why we put in a specific time period of five years for the rollback. Mr. Pelot stated that when residents were approached by these petitioners, they were not totally truthful—saying things like “the city is raising taxes, do you want to vote on it”. They did not explain anything to the residents, gave them half-truths and no accurate facts. Mr. Pelot discussed the merits of dishonesty. Mr. Pelot stated that he thought his purpose on Council was to work for the residents of the City, but at the same time making hard choices that are in the best interests of the City. Mr. Pelot encouraged everyone to take a good look around at other cities, their infrastructure, their tax base; they are not like ours and because we lack these items, we are going to continue to pay. Mr. Gainer attempted to speak again and Mr. Conklin denied Mr. Gainer another opportunity to speak. Mr. Mowery stated that he felt this issue was a bad issue, which has only gotten worse. Mr. Mowery stated that this should be a vote of the public, and now they are just confused as to why we are considering taking this off. Mr. Mowery felt that his oath as a councilperson was to maintain the people not the city, and you should do what is best for the people.

Ord. #98-2004 Continued:

Mr. Mowery felt the Administration should have looked at this more closely before moving ahead with this. Are we afraid to face the truth as to what the people of Norton want? This should have always gone to the residents to vote, it should stay on the ballot. Mr. Zita commented on this issue, adding that it was important enough to put it on in the first place and we should leave it there and let the residents make the final decision. Mr. Price also agreed with leaving it there, however, he was concerned that they could both fail if we left it on. Mr. Price stated the only issue we should be concerned with now is the 2% issue. Mr. McGlone stated that he agreed, and felt he would rather get something (2%) rather than nothing. Mr. Pelot also concurred with the other members of Council, and that we are behind the times and really need the 2%. Mr. Conklin commented on the issue, adding that he would accept defeat on the tax credit issue, but would rather have sat up here and tried instead of sitting up here and doing nothing. We are going into a 2005 budget that we already know is \$300,000.00 in the whole. We are going to change some people's lively hoods, and some of those are Norton residents. I would be ashamed of myself if I did nothing to try and preserve those peoples lively hoods. Mr. Price moved to place Ordinance #98-2004 on Council's Special Agenda, seconded by Mr. McGlone. There was discussion as to the total number of votes required to pass this legislation. Mr. Lyons indicated that we would need four yeas to add this to the agenda, five yea votes to waive the 2nd & 3rd reading with emergency clause, and 4 yeas to adopt the legislation.

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

Motion passed 5-1 to add Ordinance #98-2004 to tonight's Special Council Meeting agenda.

RES #99-2004 S-Corporations tax:

Ms. Zerga explained that this legislation is required for the City of Norton to continue taxing distributive income on "S" Corporations as we have done in the past. This is not a new tax. This applies to those small businesses who choose to report their business profits and losses on their individual income tax returns. Ms. Zerga stated that an "S" Corporation is not taxed on its earnings as a corporation, instead its earnings as passed on to its shareholders as income, which is what the City is currently taxing. Due to recent changes in State law, cities are now required to obtain voter approval in order to continue taxing this income. By not obtaining voter approval, this could have a significant financial impact on the city's income tax collections. Ms. Zerga stated that at this time it is difficult to determine how many "S" Corporations filers within the city. Ms. Zerga stated that if we do not get the voter approval, what would stop businesses from changing their tax filings to "S" Corporations? There was more discussion on this issue and the reasoning for the State laws. Mr. Price moved to place this on the Special Council Meeting's agenda for tonight, seconded by Mr. McGlone.

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

Motion passed 6-0.

INTRODUCTION OF NEW LEGISLATION:

ORD #98-2004

Mr. Price offered Ordinance #98-2004 for its first reading and asked the Clerk to read it:

AN ORDINANCE TO AMEND SUBSECTION 880.16 OF THE CITY OF NORTON ADMINISTRATIVE CODE TO RESTORE THE CREDIT ALLOWED ON MUNICIPAL INCOME TAX PAID BY RESIDENTS TO ANOTHER MUNICIPALITY TO FULL CREDIT AND TO RESCIND ORDINANCE NO. 60-2004.

Mr. Price moved to suspend the 2nd & 3rd readings, seconded by Mr. McGlone. Mr. Price stated that he would still like to see hard numbers as to when this will be revisited. Mayor Kernan again stated that he does not see this coming back up for at least a year. It would have to be at the Board of Elections by next August in order to be on next November's ballot. Mayor Kernan added that even if he asked Council to review this anytime soon, it is certainly within Council's right not to address it until they felt comfortable with it. We cannot force this issue, it's a legislative issue. Mr. Price asked if the 2% passes, when would we begin to see the new revenue, and Ms. Zerga stated that would we would realize the new increase in revenue around the 1st quarter of 2005, or April 30, 2005.

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

Motion failed 4-2. (5 yea votes were required). This is a first reading only.

RES: #99-2004

Mr. Price offered Resolution #99-2004 for its first reading, and asked the Clerk to read it:

A RESOLUTION DIRECTING THE BOARD OF ELECTIONS TO PLACE UPON THE BALLOT AT THE GENERAL ELECTION TO BE HELD NOVEMBER 2, 2004, THE QUESTION OF WHETHER THE CITY OF NORTON SHALL CONTINUE TO TAX AN S CORPORATION AS ALLOWED BY THE CURRENT MUNICIPAL TAX ORDINANCE AND REGULATIONS, AND DECLARING AN EMERGENCY.

Mr. Price moved to adopt Resolution #99-2004, seconded by Mr. McGlone.

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

Motion passed 6-0.

There was more discussion regarding the specific time lines for Ordinance #98-2004 and the last date we could withdraw a ballot issue. Mr. Lyons stated that he was not aware of any statutory deadlines for removing an item, however we should check with the Board of Elections as to their print date. Mr. Conklin directed the Clerk to check the deadline for print with Board of Elections by phone and follow up in writing and to copy all parties involved including Mr. Gainer.

Special Council Meeting
August 2, 2004
Page #5 of 5

Mr. Conklin stated that there would be no further action on this legislation until a response has been received from the Board of Elections. Mr. Conklin stated that everyone would be aware of this response in a memo from him, once we have their reply.

Adjourn:

There being no further business to come before it, Council adjourned the meeting at 8:04 PM.

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, August 23, 2004.

Karla D. Richards, Clerk of Council

****THESE MINUTES ARE NOT VERBATIM. THE AUDIOTAPE WILL
BE ARCHIVED IN THE CLERK OF COUNCIL'S OFFICE****