



**COMMITTEE OF THE WHOLE MEETING  
FEBRUARY 7, 2005**

Committee Members Present: Brenda Hlas  
Dennis McGlone  
Bill Mowery (Excused at 9:35 PM)  
Scott Pelot  
James Price  
Mike Zita  
John Conklin

Administration Members Present Mayor Joseph Kernan  
Claude Collins  
Jeanne Zerga  
Jeff Pritchard  
Mike Lyons

The Committee of the Whole convened for a meeting on Monday, February 7, 2005 at 7:00 PM, in Council Chambers of the Safety Administration Building. The meeting was called to order by Brenda Hlas, President of Council.

**Committee of the Whole General Discussion:**

**Water and Sewer access fees:**

Mrs. Hlas explained the changes made in the latest version (4), adding that the changes were based on the Finkbinder Report and in addition to that we also reduced the fees even more. Mrs. Hlas also indicated that these fees would be reinvested back to the city to pay for replacements in the future. Mr. Terence Judge, a Norton resident stated that he feels the city is not listening to the people on Barber Road. We made a deal with the city to do this, now you have condemned most of the septic systems, and in addition to that, you want us to pay \$2500.00 on top of the \$10,838.00. Mr. Judge commented that this new fee structure may help a small few, it still does not help the larger majority. Mr. Judge warned about potential lawsuits from others on Barber Road, and that this would affect the city's attempts at access fees in the future. Mrs. Leslie Thomas-Oliver, owner of Tomaso's Restaurant, spoke about the fact that she wanted to hook up and came here to apply for the permit and the city never followed through, and felt it is the city's responsibility to do the follow up, not her. Mrs. Thomas-Oliver stated she was upset with the fact that different parcels are charged different fees, and at first the city wanted \$230.00 and now its up to \$2500.00 in addition to all of the other expenses. Mr. Harrison, Commissioner of the Barberton Health District was present and gave a background of the whole Barber Road issue. Mr. Harrison commended the City of Norton in reducing the fee structure, but pointed out that there is still a burden on the resident because they still have to go to both cities to file an application, pay the fees. Mr. Harrison indicated that at some point he thought there was discussion between both cities to convert the process so the residents would only go to one place to do everything.

**Water and Sewer Access Fees Continued:**

Mr. Collins indicated that several months ago he discussed this potential with Dick Waltz of Barberton Utilities Dept. and Mr. Waltz did not want to do it this way, he wanted to leave the process as it stands. Mr. Stavarz, a Norton resident asked where does all of the money in this fund go? Mr. Collins stated that the proceeds would be used to replace (not repair) broken lines in the future, throughout the entire city. Mr. Stavarz indicated that it appears that the people on Barber Road are paying for infrastructure for other areas, not just Barber Road. Mr. Collins stated that essentially, you and other Norton residents paid \$10,838.00 for the improvements, it also cost the city over \$12,000.00 per connection, which the city will also have to pay. Mr. Collins stated that the total cost of the project was well over \$23,000.00 per parcel, and of that amount the City of Norton chose to assess only \$10,838.00. That remaining \$12,000.00 which has to be paid by the City of Norton, is what part of the access charges will go toward not only on Barber Road, but other locations throughout the City. Mr. Stavarz discussed the questionable validity of mostly failed systems in that area, and that most systems are working better than was perceived. Mr. Ken Greenbank, a Norton resident gave a brief history of the businesses on Barber Road. Mr. Greenbank indicated that several years ago his father tried to get the Ramada Inn to this area, which is now the Adult Book Store. Mr. Greenbank indicated that most of the businesses along this area consist of storage buildings, pole barns, trucking companies, etc. Mr. Greenbank indicated that we still have nowhere for businesses to want to locate here. Mr. Greenbank stated that he knew of one business that is ready to pull out soon if things do not improve. Mr. Mowery stated that he was not in favor of this and could not support it. Mrs. Hlas stated that if we do not change it now, the current legislation was in effect at a higher rate for the residents. Mr. Pelot mentioned Mr. Judge's suggestion about being grandfathered in, and Mr. Conklin stated that we could not do this, raising the issue of what to do with those people that have already paid the fees. Mrs. Elaine Tompkins suggested that Council adopt the latest version and convene some type of equalization or mediation board to work with the residents on making it more equitable. Ms. Hlas indicated that we couldn't appoint an Equalization Board because the residents affected did not contest this assessment. There was further discussion on this issue for more than one hour, and Mrs. Hlas moved to add Ord #1-2005 Water Access Fees to Monday's agenda, waiving the second & third readings, as an emergency, seconded by Mr. Pelot.

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

Motion passed 5-2.

Mrs. Hlas moved to add Ord #2-2005 Sewer Access Fees to Mondays agenda, waiving the second and third readings, as an emergency, seconded by Mr. Pelot.

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

Motion passed 6-1.

**Trash Haulers Public Notice:**

Mrs. Hlas indicated that Council previously approved to borrow \$1500.00 from the Rainy Day Fund in order to do a mailing to all residents. Council also decided at that time to recover this expense by charging a non-refundable fee on all bid applications. After Mr. Lyons was consulted on this, it was his recommendation not to do this, that it was improper. Since there would be no way to repay the Rainy Day Fund, it was decided not to do a mailer. Mr. Pelot stated that he is still in favor of doing a mailer, and suggested that maybe each Council Member could pay \$25.00 out of each pay to cover the expense. Mr. Zita made a motion to table this. Mr. Zita stated that he did not feel this would benefit the residents, we have no money for a mailing, and even if we spend the \$1500.00, it doesn't guarantee it will work. Mr. Zita also had issues with mandatory compliance, and no chance for the residents to opt out. Mr. Carris Sr., a Norton resident, agreed with Mr. Zita and felt that initially you may have a good price, but felt that it would increase shortly thereafter. There was discussion on the cost savings, and the potential of placing this on the ballot like the electric and gas aggregation. Mr. Conklin suggested we hold off on tabling this for now and concentrate on holding the public hearings. The discussion continued with the details about the Public Hearing. It was decided to issue a Press Release to the Beacon Journal, Barberton Herald, West Side Leader and the Trading Post. In addition a notice will be posted on the city's website, Channel #15 and the sign at Williams Park. Mr. Conklin suggested we hold the 1<sup>st</sup> Public Hearing on March 1, 2005 at 7:00 PM. There was discussion to place the bid packet information on the website. It was also discussed that a second Public Hearing could possibly be March 29, 2005 and this would be clarified at the first Public Hearing. Mr. Zita removed his motion. Mr. Conklin moved to have a Public Hearing on March 1, 2005 and a second one two weeks after that depending on the input during the first hearing, seconded by Mr. McGlone.

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

Motion passed 7-0

**Solicitors Contract:**

Mr. Zita discussed that the MPO has Mr. Lyons listed and he also as a contracted employee. Mrs. Hlas stated that since he is listed in the MPO we have conflicting information, and asked for clarification if he is in fact a contracted employee. Mrs. Zerga stated that she considers Mr. Lyons as a payroll employee because he receives a payroll check every two weeks. Mr. Lyons indicated that he feels that he is in fact a contracted employee and should be treated this way as a contract matter. Mr. Lyons suggested Council just review the content of the agreement and look at it that way. There was discussion as to the compensation portion of the contract. Mrs. Hlas indicated that she met with Mr. Lyons, and Mayor Kernan earlier last week and discussed the modifications. Mr. Lyons new agreement would have the salary at \$32,000.00 annually, with \$1,000.00 per year annual increases, which is a between 3-3 ½%, maintains the \$80.00 per hour rate for out of contract services, and to retain the health benefits, which he will not take until at least 2008. Mr. Lyons circulated his latest version of the agreement for review. There was discussion as to the requirement to attend all Council Meetings and if this included Committee of the Whole Meetings. Mr. Lyons suggested that the Committee of the Whole meetings be considered the same as Board Meetings, which on a request basis only. Mr. Conklin asked Mr. Lyons if it is correct that he has not received an increase in his salary in the four years since he was hired. Mr. Lyons indicated that this is correct. Mr. Lyons indicated that last year he dropped the health care insurance in order to help to save the city nearly \$11,000.00.

**Solicitor's Contract Continued:**

At that time he also asked for an increase in his salary to compensate for the savings. Mr. Mowery questioned the fact that since he is listed in the MPO, Mr. Lyons did in fact receive a 3½% increase when Mayor Kernan lifted the freeze. Mr. Lyons indicated that he did in fact receive the 3½% increase recently. Mr. Mowery requested that this premature increase in salary be reversed until this legislation is adopted. Mayor Kernan stated that there is nothing nefarious or underhanded that we tried to do with Mr. Lyons's raise. Mayor Kernan stated that the terms of what we believed the MPO to say, we believed that would had authority to grant Mr. Lyons a 3½% under the MPO. It appears that there is some disagreement. Mayor Kernan indicated that the 3½% increase would be removed. Mr. Mowery stated that with the financial status of this city he did not feel that anyone should have a raise. Mr. Collins stated that Mr. Lyons turns in very little expenses for the hourly compensation. Mr. Collins stated that he does a lot of work that he could legitimately turn in for compensation over and above his normal salary. Mr. Collins stated that Mr. Lyons is here a lot more than just one day a week. Mr. Collins indicated that he could be turning in a lot more hours for compensation than what he has submitted in the past. Mr. Mowery questioned the additional expenses for \$2,348.07 this being his salary, and \$2,218.00 for professional services, and asked for clarification on this. Mrs. Zerga stated these figures were in the January expense account reports. Mr. Lyons stated that those expenses related to his preparation and filing with the courts on two separate lawsuits. One lawsuit related to an issue with Dominion East Ohio involving the damage to a gas line during a road repair project. The other was in relationship to the situation on Wooster Road West with Schwartzmiller Construction and the damage to the city's sewer line. Mr. Mowery stated that Mr. Lyons is hard to reach on occasions even on cell phones, and could not support a raise at this time. There was more discussion as to the modifications and corrections to the agreement, and Mr. Zita moved to add this to Councils next agenda with the amendments as discussed, going all three readings with no emergency, seconded by Mr. Conklin.

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

Motion passed 7-0

**Norton Baseball Association:**

Mr. Brian Brown with Norton Baseball Association spoke in regards to the use of Frashure Field. The Norton Baseball Association (NBA) has donated an extensive amount of time and money to get this field cleaned up and running. The reason they are here is to inquire about a process to reserve this particular field for the children. They need some assurance that they will be able to provide the 300-400 children a dedicated place to practice and play. The NBA has over thirteen teams and would like to reserve the field every Monday, Wednesday, and Thursday from approximately 4:00 PM to dusk and Sundays from 11:00 AM to dusk. Mr. Collins and Mr. Brown gave a brief background on the association and the fact that there was a split of a few members some time ago who developed a traveling team. Mr. Brown stated that the travel team consists of 24 children with two teams and to divide the fields fifty-fifty is hardly fair. There was more discussion on why or if Council needs to be involved. Mr. Collins contended that this is a public field and open to all residents of Norton. Mr. Collins indicated that some time ago he issued letters to both teams explaining this fact and for them to work out their schedules between themselves. Mayor Kernan stated that without statutory authority allowing us to keep someone off the fields, we do not have the authority to do this, it is still a public field.

**Norton Baseball Association Continued:**

Mayor Kernan stated that unless Council give us the authority by passing an ordinance, we cannot do it. Mr. Pelot suggested this should be referred to the Parks Board and let them work out the details of a schedule. Mr. Tom Stewart-President of Norton Baseball Association indicated that in other communities they pay permit fees to use the fields, which solved this type of conflict. Mrs. Hlas mentioned that the NBA has donated more than \$23,000.00 to build this field and we should be able to make some type of arrangement with them. Mr. Lyons indicated that the Administration does have some authority here, and Mr. Conklin recommended that the Administration take control of the field and schedule the times requested. There was discussion if legislation was required to do this, and Mayor Kernan indicated that would not be necessary. Mayor Kernan stated he would ask Mr. Collins to issue a letter outlining the dates and times for the field. Mr. Conklin mentioned that by doing this we have started in a direction that we cannot reverse. Mrs. Hlas suggested that if we are doing this for baseball, maybe we should look to the future and consider doing the same with football, soccer, etc. Mayor Kernan suggested that this should be a discussion to have about all of the sports programs as a whole. Mr. Conklin stated that by setting specific times at certain fields this would change how various sports organizations use these fields in the future.

**\$110,000.00 Note sale for Johnson Road Waterline:**

Mrs. Zerga explained that in the past city borrowed money to put in the Johnson Road waterline, and to purchase two trucks for the Service Department. At that time when a note was purchased and the city borrowed the money. We can roll that note to pay off the debts over a 10-year period. After 5 years we are required to begin paying it down, and we are into the 4<sup>th</sup> year of that 5-year time frame. Mrs. Zerga indicated that by doing so within the next couple of years they are paid off and will be paid in full. Mrs. Zerga stated that the original loan for the Johnson Road waterline project was \$177,000.00. In the Waterline fund there is a balance of \$67,000.00, which she will use to pay down the debt in addition to borrowing the balance of \$110,000.00. Mrs. Zerga stated that we originally borrowed \$150,000.00 for the Service Dept. Equipment. Mrs. Zerga stated she would use \$25,000.00 from the General Fund and will be borrowing \$125,000.00. Mrs. Zerga stated that she had contacted various banks for the rates, and Bank One came in at the lowest at 3.34%, and they currently holds both of the notes. Mrs. Zerga indicated that both of these notes are due on February 18, 2005.

Mr. Conklin moved to place this legislation on Councils next agenda, waiving the second and third reading as an emergency, seconded by Mr. Price

Roll Call: Yeas: Conklin, Price, McGlone, Zita, Hlas  
Abstain: Pelot

Motion passed 5-1.

**\$125,000.00 Note sale for Service Dept. Equipment:**

Mrs. Zerga explained this legislation was for two trucks for the Service Department, and that this note is also due on February 18, 2005. Mr. Tomko, a Norton resident questioned the language and felt the legislation was not properly written. Mrs. Zerga stated that this is a standard language approved and written in compliance with the Ohio Revised Code. The details relating to this item was discussed earlier along with the Johnson Waterline discussion.

**\$125,000.00 Note sale for Service Dept. Equipment Continued:**

Mr. Conklin moved to place this legislation on Councils next agenda, waiving the second and third reading, as an emergency, seconded by Mr. Price.

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

Motion passed 6-0.

Mrs. Hlas indicated that items G & H on tonight's agenda would not be discussed until the next Committee of the whole, due to the late hour.

**Pavement Requirements:**

Mr. Pelot stated that the pavement requirements that in the current ordinances are over thirty years old. This explains why our roads are in the shape they are in, because we have no solid bases beneath them. Currently contractors are not required to put the roads in with the proper and adequate bases as they should. This will bring the standards up to date and will ensure the roads will hold up. Mr. Collins stated that our Municipal Engineer-Rick Esdinsky has come up with this Improved standard for residential streets and uses the Ohio Department of Transportation specifications. Mr. Pelot moved to place this on Council's next agenda for three full readings, seconded by Mr. Conklin

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

Motion passed 6-0.

**Other Business:**

Mr. Carris Sr., a Norton resident asked if Council Members received the 3 ½ % raises, and Mrs. Hlas indicated that no one on Council received this increase. Mr. Carris, Sr., asked who was responsible for Karla's increase, whether it is Council or the Administrations responsibility. Mrs. Hlas indicated that Council has to give the authority, and that it is listed in the MPO. Mr. Carris Sr. urged Council to rush this through because she is well worth the money she should be getting. Mrs. Hlas indicated that Karla would receive the 3-½% raise but not until the ordinance actually goes into effect on February 25, 2005 and it will be retroactive to January 1, 2005.

Mrs. Tompkins, a Norton resident stated that after sixteen months, she finally received the initial expense report of the bond sale from the Finance Dept., and thanked Mrs. Zerga. Mrs. Tompkins commented on the timing of this due to the fact that there is another Bill circulating in Columbus that would reinforce public records. If this goes through there would be penalties of \$250.00 per day for each day this is not complied with.

**New Business:**

None

**Old business:**

Mr. Conklin stated that he circulated a memo to everyone regarding Local Government Fund crisis and he would like to discuss this at the next Committee of the Whole meeting.

**Adjourn:**

There being no other business to come before the Committee of the Whole, the meeting was adjourned at 10:13 PM.

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Brenda K. Hlas-President of Council

*Date approved: February 14, 2005*

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