



**COMMITTEE OF THE WHOLE MEETING
JULY 5, 2005**

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

Administration Members Present Mayor Joseph Kernan
 Claude Collins
 Jeanne Zerga
 Jeff Pritchard
 Russ Arters

The Committee of the Whole convened for a meeting on Tuesday, July 5, 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:

Contractor Registration-Draft Ordinance #56-2005:

Mr. Pelot opened the discussion stating that this ordinance would provide the city with a listing of every contractor working within the city. Mr. Arters stated that the reason for this is to ensure quality contractors and to keep the residents protected somewhat. Mr. Arters indicated this would take a while to have everyone registered. Mrs. Hlas discussed reference to a Section 1311.03 on page #4 of the ordinance and that this code does not exist. Mr. Arters indicated this is a typo and would look into this and correct it. Mr. Arters mentioned that the entire section of 1428.42 on page #16 needs to be stricken. Mr. Pelot stated that there are inconsistencies with the permits and registration and that we are talking about registrations not permits. It was decided to have the text changed throughout the entire document to read registrations where applicable. Mr. Arters indicated he would get those corrections and have them ready for the next Committee of the Whole meeting to review. Mr. Price inquired about the effective date, and Mr. Arters indicated this would take effect 30 days from the Mayor's signature. There was further discussion on this and it was decided that regardless of when it becomes a law, the effective date should be January 1, 2006. There was also discussion on posting this listing to the web page and updating it quarterly.

Building Code Update Draft Ordinance #57-2005:

Mr. Pelot stated that Ohio Basic Building Code was updated to the 2005 Ohio Building Code, which essentially changes throughout the update. Mr. Arters indicated that we have been using the 1998 edition, and the current edition is 2002/2005. Being that there is a transfer of code, the State has allowed the 2002/2005 to be in effect for the last six months. Starting September 1, 2005 the State will only authorize 2005 for prints. Mr. Pelot moved to place Ordinance #57-2005 on Council's next agenda, seconded by Mr. Price.

Ord. #57-2005 Continued:

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

Motion passed 6-0.

Building Code Update Draft Ordinance #58-2005:

Mr. Arters explained that the Ohio Official Building Association is for residential only and we will be updating to the 2004 edition. Mr. Arters indicated the OBOA does not update every year or even every other year, the last update was in 1998. Mr. Arters stated that this ordinance is for one, two and three family dwellings. Mr. Pelot moved to add Ordinance #58-2005 to Council's next agenda, seconded by Mr. Price.

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

Motion passed 6-0.

Appointment to Mosquito District Advisory Council-Draft Resolution #59-2005

Mr. Mowery questioned the need for emergency action on this and who Barberton's representative is on this. Mrs. Hlas indicated that Barberton Council appointed Mr. Suboticki. Mayor Kernan indicated the need to pass this right away is because the Judges order states that Council must appoint someone within 30 days from her decision entry, which was June 23, 2005. This means Council must act by July 23, 2005 and Council goes on recess after the July 11, 2005 meeting. Mr. Mowery had several questions regarding the process, amount of signatures, and who certified them, the public hearing, etc. Mayor Kernan stated that the process is authorized by the Ohio Revised Code and was not sure who certified the signatures, possibly the Board of Elections. Mrs. Hlas stated that she checked into this and the signatures are not required to be certified. Mr. Mowery stated that if you have 500 that signed this and Norton has 12,000 residents, it makes you wonder what the remaining 11,500 residents think. Mr. Mower inquired about the fee and if this would be an additional fee on the residents taxes. Mrs. Zerga stated that yes it is an additional mileage on the property tax. Mr. Mowery questioned of this fee can go up? Mrs. Zerga stated that once the mileage is set, she did not believe it could go up. Mr. Alex Stavarz, a Norton resident was present and questioned what would happen to the Mosquito Control District if the Barberton Health District changes. Mayor Kernan stated that the Mosquito Control District is a completely separate entity, so if the Barberton Health District ended tomorrow, the district would continue to exist. Mr. Stavarz questioned why did this district choose Norton and not Copley or New Franklin or Coventry? Mrs. Hlas stated that we were chosen because we are currently under their contract for mosquito spraying. Mrs. Hlas stated that with their financial situation they felt they may need to cut back on the spraying and that's is why they picked Norton. Mr. Stavarz stated that he believed there is more to this such as salaries and wages for Health Dept. employees. Mrs. Hlas stated that the district cannot use the money raised from the mileage to be used for anything other than mosquito control, equipment, and salaries for the employees in the district. Mr. Stavarz questioned Mayor Kernan's earlier comments regarding the potential savings being applied to the roads and asked for clarification. Mayor Kernan stated that we would not have that portion of our contract, and there should be a refund, and our contract should be reduced. Mr. Mowery stayed that you would be assured that the City of Norton would not receive any money refunded from the Barberton Health District.

Appointment to Mosquito District Advisory Council-Draft Resolution #59-2005

Mr. Mowery stated that it seems like you are paying twice for the same thing; you are paying once for the Health District mosquito spraying, and again for the formation of this district. Mr. Mowery stated that he does not support this district and does not sponsor this legislation. Mrs. Hlas read a section of Judge Bond's Judgement Decree dictating that Council must act to appoint someone. Mr. Stavarz discussed the Public Hearing of June 20, 2005 and inquired as to who attended the meeting, and who opposed this, etc. Mr. Stavarz stated that Council should consider getting rid of the Barberton Health District and go back to Summit County for their services. There was further discussion regarding the quality of service and amount of mosquito spraying the city received from Summit County. Mr. Pelot strongly agreed with Mr. Stavarz and suggested Council ask the Law Director to look into getting us out of this district. There was further discussion on this issue and Mr. Pelot moved to have the Law Director research the process, costs associated, etc., with filing an appeal to the Court, seconded by Mrs. Hlas. Mayor Kernan reminded Council that this is going to cost the city anywhere from \$10,000.00 to \$20,000.00 dollars whether we are successful or not. Mayor Kernan also stated that if Council chose to do this, he would be coming to Council with legislation asking for money to pay the legal expenses. Mayor Kernan stated that this would be a first flush, and there are only two other districts in the state and have never had an appeal filed. Whoever loses in the 9th District Court of Appeals, is going to want to certify this to the Ohio Supreme Court.

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

Motion passed 6-0.

Mrs. Elaine Tompkins, a Norton resident stated that she was in attendance at the Public Hearing, and has many issues with this process (See Exhibit A). Mrs. Tompkins indicated that she agreed with Mr. Stavarz as well and suggested that this decision needs to be challenged. Mrs. Tompkins indicated that Mr. Lyons indicated to her that he had not read the statues in its entirety because he didn't see any great objections to it. Mr. Lyons said nothing at this meeting, which suggested that Norton had no objections. Mr. Price inquired about the ramifications if Council takes no action on appointing Mr. Conklin. Mayor Kernan indicated that it is a court order and the court could file a writ of mandamus forcing Council to act. Mrs. Tompkins asked if the city could ask for a writ of mandamus against Barberton for doing their job? Mayor Kernan stated he was unsure about that. Mrs. Tompkins indicated that she contacted the Akron University Law School to ask about filing an appeal and was informed that an individual could not file but one of the two parties could. Mrs. Tompkins indicated that there is enough evidence that the city could file an appeal before the 30-day period. Mrs. Tompkins stated that the Law School indicated to her that a writ of mandamus would not work. There was further discussion on this issue and Mrs. Hlas moved to place Resolution #59-2005 on Councils next agenda, waiving second and third readings, seconded by Mr. Zita. Mrs. Hlas reminded everyone that this is just to place it on the agenda, this is not a vote.

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

Motion passed 4-2.

Appointment to Mosquito District Advisory Council-Draft Resolution #59-2005

There was discussion regarding the number of members that will be present on Monday's council meeting, and the required votes to adopt this resolution. Mrs. Hlas stated that she believed we need 5 affirmative votes to adopt this, and asked the Clerk of Council to check with the Law Director on this and the impact if this vote fails.

Old Business:

Mayor Kernan recognized out Audio Visual Tech-Melissa Olson, adding that she would be leaving us to attend Kent State University majoring in Visual Communications. Mayor Kernan thanked Melissa for her assistance and wished her good luck.

Mr. Pelot mentioned that we receive a monthly report from Mr. Pritchard on new minor subdivision filings, and there were none for June 2005.

Mrs. Hlas inquired about how the Road TAC meeting went, and Mayor Kernan stated that the meeting went well, it was over two hours long. They elected a Chair-Mr. Ralph Dowling. The next meeting will be July 21, 2005 at 6:00 PM, and they would be meeting at least once a month for now.

Mrs. Hlas stated that she is still working on the meth labs legislation. Mrs. Hlas inquired from the Mayor as to his action on the Parks Board's decision regarding plaques in the park. Mayor Kernan apologized for not acting on this sooner, and he would be approving the Parks Board's recommendation of freestanding plaques.

New Business:

Mrs. Hlas indicated that the trash haulers bids are in and this would be discussed at the next Committee of the Whole on August 15, 2005.

Topics for next Work Session:

Mrs. Hlas stated that the topics are: #1-Trash Bids, #2-Contractor Registration. Mrs. Hlas inquired on the status of the Cider Mill, and Mayor Kernan indicated that he would get Council a memo and contact Mr. Nelson. There was discussion if the Electric Code needs updated and Mr. Arters indicated that he is still working on this and will have this ready for the Committee of the Whole meeting on August 15, 2005.

Public Service Announcements:

Mrs. Hlas announced the Grace United Church of Loyal Oak is having a free concert of Freedom Brass Band on Sunday July 17, 2005 at 7:00 PM, bring your lawn chairs. There will be free cake and ice cream served during intermission.

Mrs. Hlas announced a free water-ski show by the Chippewa Waterski Team every Wednesday starting tomorrow at Emerald Lake at 6:00 PM. On Sunday July 24, 2005 they will have a BBQ dinner and the show, and Wednesday July 27, 2005 they will have steak dinner and the show. Tickets are available, \$25.00 for adults and \$10.00 for children.

Adjourn:

There being no other business to come before the Committee of the Whole, the meeting was adjourned at 8:29 PM.

Brenda K. Hlas-President of Council

Date approved: July 11, 2005

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