



**COMMITTEE OF THE WHOLE MEETING  
FEBRUARY 21, 2006**

Committee Members Present: Ken Braman  
Tom Jones  
Dennis McGlone  
Bill Mowery  
Scott Pelot (Arrived at 7:22 PM)  
James Price  
Mike Zita

Also Present: Mayor Joseph Kernan  
Claude Collins (Excused)  
Jeanne Zerga (Excused)  
Jeff Pritchard  
Russ Arters  
Karla Richards

The Committee of the Whole convened for a meeting on Tuesday, February 21, 2006 at 7:22 PM, in Council Chambers of the Safety Administration Building. The meeting was called to order by Council President, Mike Zita.

**Committee of the Whole General Discussion:**

**Resolutions and Appointments to Boards & Commission**

Mr. Zita turned this over to Mayor Kernan for details. Mayor Kernan thanked all of the past members for their service; they have all done a great job. Mayor Kernan thanked the residents that came forward to serve on these various Boards & Commission.

Mr. Zita moved to approve the resolution of appreciation for John Campbell for his service on the BZA and place this on Council's next agenda, seconded by Mr. McGlone.

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

Motion passed 6-0.

Mr. Zita moved to approve the resolution of appreciation for John Corp for his service on the Parks Board and place this on Council's next agenda, seconded by Mr. McGlone.

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

Motion passed 6-0.

Mr. Zita moved to approve the resolution of appreciation for Paul Nasrallah for his service on the Parks Board and place this on Councils next agenda, seconded by Mr. McGlone.

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

Motion passed 6-0.

Mr. Zita moved to approve the confirmation of Todd Bergstrom to BZA and place this on Councils next agenda, seconded by Mr. McGlone.

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

Motion passed 6-0.

Mr. Zita moved to approve the confirmation of Janet Jacobs to the Planning Commission and place this on Councils next agenda, seconded by Mr. McGlone.

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

Motion passed 6-0.

Mr. Zita moved to approve the confirmation of Mark Spisak to the Planning Commission and place this on Councils agenda, seconded by Mr. McGlone.

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

Motion passed 6-0.

Mr. Zita moved to approve the confirmation of Frank Laury II to the Parks Board and place this on Councils next agenda, seconded by Mr. McGlone.

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

Motion passed 6-0.

Mr. Zita moved to approve the confirmation of John Conklin to the Parks Board and place this on Councils next agenda, seconded by Mr. McGlone. Mr. Mowery stated he is against this appointment and he is not joking around on this. Mr. Mowery stated that he was concerned that out of 13 applicants, Mayor Kernan felt Mr. Conklin was the best candidate. Mr. Mowery did not agree with this especially with Mr. Conklin's voting history on Council. Mayor Kernan stated that all 13 applicants were good candidates, and he selected John Conklin because of his prior knowledge for being on Council. Mr. Mowery stated that it was obvious the residents voted not to keep Mr. Conklin on Council-he was voted out of office for a reason.

Mayor Kernan stated that yes; he did not win the election, however he has appointed other residents to Boards & Commissions whom also have lost elections. Mr. Mowery stated that who ever is appointed would still be in office after Mayor Kernan's term ends. Mr. Jones asked Mr. Mowery if he had anyone else in mind, and Mr. Mowery stated that he spoke to a few residents, adding that these are important decisions, and you need to be very selective on who you appoint. Mr. Stavarz, a Norton resident spoke regarding this appointment, adding that Mr. Conklin has been appointed time and time and time again, its time to appoint someone else. Mr. Price stated that he trusts the Mayors judgement and would support this.

Roll Call: Yeas: Zita, McGlone, Braman, Jones, Price  
Nays: Mowery

Motion passed 5-1.

Mr. Zita moved to approve the confirmation of Scott Testa to the Parks Board and place this on Councils next agenda, seconded by Mr. McGlone.

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

Motion passed 6-0.

Mr. Zita moved to approve the confirmation of Bill Helmick to the BZA and place this on Councils next agenda, seconded by Mr. McGlone. Mr. Mowery stated the decisions from BZA do not come to Council, and asked Mr. Helmick if he was aware of that? Mr. Helmick stated that he was aware of that fact. Mr. Mowery questioned Mr. Helmick about his appointments and election to Council in the past. Mr. Helmick stated that yes he did lose an election to Mr. Mowery by 12 votes. Mr. Mowery raised the issue regarding Mr. Helmick's comments on previous minutes when the first time the rezoning issue for Cleveland-Massillon & Weber Drive came up. Mr. Mowery stated that at that time this developer was willing to bring in water and sewer, now the Weber property will have gravity main sewer. Mr. Helmick had stated in the minutes that he could not support this and voted no. Mr. Mowery asked Mr. Helmick if he felt that he is the right candidate for this position? Mr. Helmick stated that the proposed zoning change at that time would be for all uses, it was not specific. Mr. Helmick stated that he was concerned with what would go in there if they chose not to develop the medical building. Mayor Kernan reminded Mr. Mowery that the BZA does not rezone property, that decision is up to the Planning Commission, adding that the BZA is a quasi-judicial board. Mayor Kernan stated it does not matter if someone has won or lost an election, people win and lose all the time. Mr. Price stated that Mr. Helmick listened to the residents concerns on that issue and he would be supporting this appointment.

Roll Call: Yeas: Zita, McGlone, Braman, Jones, Price  
Nays: None  
Abstain: Pelot

Motion passed 5-1-1.

**Cingular Cell Tower Reconsideration**

Mr. McGlone stated that this last proposal looks like Cingular reduced the rent guarantee. Mr. Pelot stated he felt that we have three choices here; go back and renegotiate, accept this proposal, or tell them to go pound salt. Mr. Pelot suggested we go back and renegotiate with the items they rejected. Mayor Kernan stated that we can go back, and maybe we should wait a little while, lets not appear too eager to settle. Mr. Pelot stated we should let them contact us. Mr. McGlone stated that this would be discussed again at the next Committee of the Whole in two weeks, and we should try to get that rent guarantee back up to 60 months. Mr. Jones agreed, we won four out of the eight items, let's go for a higher number. Mr. Jones added that if they remove the tower, and want to put in another one later on, they still have to come to Council for approval. Mr. Pritchard stated that what might be gained is very little, a few hundred dollars, and wondered if Cingular is willing to terminate the contract for such a small difference. Mr. Jones stated that he still wants this revenue to be set aside for a special use instead of being in the General Fund. Mr. Jones stated that the Finance Director and Board of Control have the right to use it internally if it is in the General Fund. Mayor Kernan stated that we could discuss doing this and earmark it for certain items. Mr. Zita stated that in item #6 they did agree to increase the rent from 5% to 7 ½% after the first five years, and we are not even to the first five-years of the contract. By the time the five years comes, we may have to negotiate that contract. Mayor Kernan stated that in regards to #6, they originally offered us 5% after 5 years or 1% per year, then they came back and gave what us what we already had.

**Equalization Board Report & Resolution to Proceed**

Mr. Price turned the discussion over to Mr. Pritchard for the details. Mr. Pritchard stated that there was a public hearing with the Equalization Board to hear the residents concerns with the Gardner Blvd. Phase II Waterline project. The Board listened to all complaints and made no adjustments. This project was to replace 50-year-old water lines and install new fire hydrants. Mr. Pritchard indicated this is a grant project with 50/50 split between the residents and the city. Mr. Price moved to place the resolution approving the report from the Equalization Board on Councils next agenda, seconded by Mr. Pelot.

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

Motion passed 7-0.

Mr. Price discussed the resolution to proceed with the Gardner Blvd. Phase II Waterline improvement project. The Clerk of Council clarified that this is actually an ordinance to proceed, not a resolution as listed on the agenda. Mr. Price moved to place this ordinance to proceed on Councils next agenda, seconded by Mr. Pelot.

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

Motion passed 7-0.

### **Property & Maintenance Code**

Mr. Pelot stated that we currently have nothing in place to give our Building Inspector legal backing to enforce maintenance issues. Mr. Arters elaborated on the need for this code and provided everyone with a listing of what cities have a code along with photos of the maintenance issues he has to deal with. Mr. Arters stated he tries to work with the residents and their financial situations. Mr. Arters stated that he could refer residents to a financial assistance program at Summit County that can help with the repairs. Mr. Arters stated that slapping someone with a citation is not always the best solution, and usually nothing gets done. Mr. Arters indicated that this is mostly driven by complaints from neighbors or spotted in a drive by through the neighborhoods. Mr. Arters stated that he worked with a property owner on Union Street and it took almost a full year to get things completed. Mr. Price inquired about the penalty phase, and Mr. Arters indicated that it is a minor misdemeanor. Mr. Arters stated that citation is the last resort, and used only when the resident ignores his warnings and requests. Mr. Arters stated that a lot of this pertains to private property, and there are programs to help the residents, the Administration office has the information on the programs. Mr. Price stated he was mostly concerned with safety issues, and Mr. Arters agreed, adding that we really need to educate the public on this. Mr. Price stated that he hoped to have this information available on the city web site if it's not already. Mr. Arters stated that it currently is not posted, however if this were adopted he would work with Ann Campbell on getting this accomplished. Mr. Pelot stressed that this legislation is not designed to put people in jail, it is to help with the enforcement and clean up. Mr. Jones inquired as to how many employees would this department need to hire in order to enforce this? Mr. Arters replied –none. There is just Ms. Conley and himself in this department and there is no money for new staff. They will continue to work on this and it will be a slow process, it will get done as time allows. Mr. Jones discussed Section 1498.01-A, stating that this allows you to hire staff if the money is there. Mr. Arters disagreed; stating that is not how this is interpreted. Mr. Arters stated that applies to the current people working in administration. Mr. Arters stated that other employees could come to him and that is what it is for, it is not to hire employees. Mr. Jones stated that a lot of what he sees are health issues, and thought the Health Dept. would have some say on this. Mr. Jones discussed the Section D on page #4-Peeling, flaking, chipped paint...and that Mr. Arters would tell the resident they must repair this. Mr. Jones stated that some residents are just barely making it today. Mr. Arters stated that is a reason to refer the resident to the programs at the county. It may take 2-3 months to get the resident to a file for a permit, but if they don't have the money right away he works with them. Mr. Arters stated the issue with the peeling and flaking paint could be nit-picked to death. He is not going to stop, unless a neighbor contacts him about it. Mr. Jones stated that if someone were injured on a property, the homeowners insurance would probably cover it. Mr. Jones noted that the old city garage facility is not included in the photos submitted. Mr. Arters stated that it may not be included but it is on the list. Mr. Arters stated that all the properties in the photos were here when he started, and he has contacted about half of the owners so far. Mr. Jones stated that Local, State and Federal agencies are always digging into your pockets and a lot of residents cannot afford some of the things this would demand. Mr. Arters stated that it is not fair to the neighbor that lives next to these properties and has to look at this. Mayor Kernan stated that obviously we have speeding ordinances, however the police don't always ticket everyone they pull over, especially if it is not a blatant violation of the law. Mr. Arters stated that it is up to him to determine and to use his discretion.

**Property & Maintenance Code Continued:**

Mayor stated that if the resident is truly in a situation that they cannot afford the repairs, that's where the Local, State and Federal government kicks in with the programs that help with this situation. Mr. Pelot stated that a lot of these residents don't even know the funding is there, and they could benefit from the programs to fix up their properties and live comfortably. Mr. Zita stated that he is around town a lot, and residents come to him with complaints about their neighbors property and felt other council members probably experience this. Mr. Jones stated that he couldn't say he has been approached, maybe on other things. Mr. Zita stated that he felt Mr. Arters needs this tool to help enforce this. Mr. Jones inquired if this relates to commercial property? Mr. Arters stated that it is for commercial and residential and includes all city property. Mr. Jones discussed the solar panels on the south side of the Administration Building. Mr. Arters stated that they were put in 30 years ago and they do not work. There is a lot of space here that could be used for additional office or storage space. Mr. Jones stated that this looks like job security, and Mr. Arters stated it has nothing to do with him. Mr. Jones stated that Mr. Arters is not the one that he was referring to. Mr. Mowery discussed the judgment used by Mr. Arters, and inquired if he had ever been overruled? Mr. Arters stated that it is basically his decision, however the Law Director or Administrator can get involved at times. Mr. Mowery discussed the cider mill property and the fact that Mr. Arters at one time had the building condemned. Now this order was removed, was this correct? Mr. Arters stated that was correct, the back wall was repaired and he removed the order. There is still a block wall that they are working on. Mr. Arters stated that any building can be condemned and then made safe again, it does not mean that it must be torn down. Mr. Arters stated that this building is a historical landmark, it is safe and he would not be afraid to take his own children in there. Mr. Braman stated that overall he though it was a good ordinance, however he did have a problem with page #4 Section D, thought it went a little to far with the peeling, flaking, etc. Mr. Braman discussed his concerns with page #5 Section L-insufficient receptacle and lighting outlets. If the house was built, wouldn't this be under the building code, and would this be grandfathered in? Mr. Arters stated no, this has to do with exterior fixtures, such as an electrical box just barely intact, or wires exposed, etc. it has nothing to do with inside the home. This pertains to old homes, not new structures. Mr. Jones discussed the time where the city had no zoning in effect, and wondered if any of these properties would be grandfathered in. Mr. Arters stated no, not unless they were built in that time frame. Mr. Arters stated that the lapse in zoning pertains to something that was done during that 6-month time frame. Mr. Jones stated that he would like to see the website publish this before it takes effect. Mr. Stavarz, a Norton resident spoke about the focus on the safety, security and integrity of a building rather than the peeling, flaking paint. Mr. Stavarz stated that he has a great amount of respect for our Building Dept., it's the best he's seen in a long time. Mr. Stavarz stated he was concerned with what would happen years down the road when Mr. Arters might not be here. Mr. Arters stated that if the peeling, flaking, etc., is a problem, we can remove this from the text. Mr. Price stated that he Mr. Arters does have a good reputation with the residents, and was also concerned how long Mr. Arters might be here and what occurs with the next person. Mr. Price discussed working with the Barberton Health Dept., on some of the health concerns. Mr. Arters discussed the solid waste issues, which is different from what he does. Mr. Price stated that this is a good tool, but could be dangerous in the wrong hands. There was discussion on appeals process, and Mr. Arters stated that there is a provision in this ordinance outlining the process if a resident does not agree with his decision. Mr. Arters stated that there is no fee to file an appeal with the city. There was further discussion on this and Mr. Jones stated that he would like to remove the language in 1498.02(D) with regards to the peeling, flaking, chipped paint, etc.

**Property & Maintenance Code Continued:**

Mr. Charles Campbell, a Norton resident and new appointee to the Charter Review Commission spoke regarding the property maintenance on a Medina Line Road property, and wondered where the city is on getting this parcel cleaned up. Mr. Arters stated that this is a litter issue and it is being processed through the Administration. Mr. Charles Campbell stated this has been going on for a long time, and this mess degrades the property values in the area. Mr. Pelot moved to add this to Councils next agenda, as presented, seconded by McGlone. There was further discussion to removing the language in question. Mr. Pelot stated he was satisfied with the way it is, and we are working with people here with common sense, there is always the appeal process. Mr. Price stated that if the language remained he would not support it. Mr. Pelot asked Mr. Price, Mr. Braman and Mr. Jones if this language was removed would they support it? Mr. Price stated that he would support it. Mr. Jones said no, he does not like the whole thing period; he felt this needs to go back to a committee, since this came from Administration and not Council. Mr. Mowery suggested Mr. Zita appoint a special committee for this. Mr. Braman stated that he felt this should be discussed more. Mr. Mowery asked what keeps Mr. Arters from going ahead and doing this now? Mr. Arters stated the process in the current ordinances is to board up the property and leave it alone. Mr. Arters asked if Mr. Mowery wanted to have boarded up buildings to look at for the next twenty years? Mr. Mowery did not agree with this and we know what we have now, who knows what we might get later on. Mr. Arters stated that this is a tool to help and nothing more. Mr. Pelot stated that rather than form a special committee we could send it to the Planning Committee. Mr. Pelot amended his original motion to strike the sentence, “peeling, flaking and chipped paint shall be eliminated and surfaces re-painted”, seconded by Mr. Price. Mr. Jones stated that he would support this if it were specific to Mr. Arters, and no one else. If he retires or finds another job, this would go with him and he would support that.

Roll Call: Yeas: Pelot, Price, McGlone, Mowery, Zita  
Nays: Braman, Jones

Motion passed 5-2.

**Modification of Chapter 250-Streets & Highways**

Mr. Pritchard explained that Rosemont is not an improved street and needs to be removed from Section 250.03 and properly listed under Section 250.05. Mr. Pritchard stated that this is a living document and would change when new streets are accepted. Mr. Price inquired on the process to accept a street. Mr. Pritchard explained that there is an inspection process before the street gets accepted and posted on this listing. Mr. Mowery discussed the issues with private streets, and if dedicated it should be done by all the residents on that street? Mr. Pritchard stated any private street must comply with all city requirements for improvements such as curbs, gutters, etc., before acceptance by the city. It would have to go through the city’s Engineer to get the exact specs because it may vary per road type. Mr. Pritchard stated that a private road is exactly that – private, it is not city owned. Mr. Jones stated that there was a typo on page #8 Rangeley Road should be spelled Rangley. Mr. Pritchard stated that the correct spelling is as listed-Rangeley, this was reviewed previously. Mr. Jones stated that on page #9 it should be Easton Road not Eastern Road. Mr. Pritchard agreed this was wrong and that it should be changed. Mr. Jones discussed the culdesac on Mr. Hrubik’s property at 2526 Reimer Road Extension, with the respect to other people using his property. Mr. Pritchard stated that this culdesac was not constructed as it should have been, the 5ft in question is not Mr. HRubic’s property, it is a right of way.

**Modification of Chapter 250-Streets & Highways continued:**

Mr. Jones stated that the residents are using his property to get into their driveway. Mr. Pelot moved to add this to Council's next agenda with the correction to Easton Road, seconded by Mr. Price.

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

Motion passed 7-0.

**Old Business:**

Mr. Mowery inquired about the Finance Directors position, and Mayor Kernan stated he has selected a candidate and is waiting for the background check to be completed.

**New Business:**

Mr. Zita stated that there are several residents from Gulf Course Drive area wishing to discuss their concerns with a new sub division. Mr. Mowery stated that there are 19 homes affected and he tried to contact each of them about their concerns. Mr. Zita stated that Council will hear the residents but reminded everyone that this decision was by the BZA, which is a judicial system in its own. Mayor Kernan stated that the BZA is a quasi-judicial board and makes decision on variances issues. Council or the Administration does not review their decision. The proper appeal to a BZA decision is to appeal to the Summit County Common Pleas Court. Mr. Zita stated he discussed this with resident Mr. Back earlier today. Mr. Zita reminded everyone there would be no decision coming from Council tonight. Mr. Tim Back, of Golf Course Drive spoke, stating that what he just heard was ridiculous. The elected officials have no pull for people that live here, we are letting certain individuals make rulings and decision, they make choices on their own opinions and give no credibility to the elected officials. Mr. Back stated that he lives on a private road, and there is one person that maintains this road. There was no due regard given to this resident. Mr. Back stated that the BZA should have never authorized anything until the issue of the private road had been determined. Mr. John Petro, a Norton resident and previous owner of Brookside Golf Course stated that lots were sold giving the individual authority to use this private road within the deed. There was no easement for the property at the end of the road. Ohio Edison came in and installed new power lines, no one was informed, and no one was notified prior to the cutting of the trees. Mr. Petro stated that something was fishy here. Ms. Debbie Pfeiffer, a Norton resident spoke regarding this issue. Mr. Petro is her father and she has been dealing with this for him due to his health issues. Ms. Pfeiffer stated that she does not understand why this came to BZA in the first place, and why no one on the road was notified about this. Mrs. Pfeiffer stated she was notified by Ohio Edison about trimming trees, and gave permission to "trim" some of the trees. She was given a piece of paper stating that Ms. Christine Jacob had authorized this. Ms. Pfeiffer was concerned with the damage of the trees, and the costs to repair this. Ms. Pfeiffer stated you need to be very careful on who you select for these committees. Ms. Pfeiffer inquired as to whom was notified for the public hearing? Mr. Pritchard stated that local property owners within 200 ft were notified of the BZA public hearing as required. Mr. Pritchard stated the variance was requested for Section 1296.06A-access to street required. Mr. Zita stated the BZA application was filed on October 27, 2006. Ms. Pfeiffer stated that the papers she has from Ohio Edison were dated the beginning of October and this was a done deal before filing with the city. Mr. Pritchard explained the applicant came to the BZA to seek relief from the Planning Commissions decision.

**New Business continued:**

Mr. Mowery stated that this is a total disgrace what has been done with the trees in this area. Mr. Mowery stated this should have gone through the Planning Commission, then to Council and not BZA. Mr. Pritchard stated that the Planning Commission does not grant variances, only the BZA can do this. Mr. Pritchard stated that every property owner has a right to use their property as they wish. Mr. Pritchard stated that this subdivision meets all the requirements. Mr. Mowery stated this is a done deal, and the residents have no recourse but to appeal to the courts. Mr. Pritchard stated that at this point the owner plans on building one home on this property for now.

Mr. Braman asked Mr. Arters to address the concerns from an ongoing problem of parking commercial trucks on residential property. Mr. Arters stated that there are residents that drive semi trucks for a living. The Police Dept. will issue citations to the truck drivers with over-weight trucks traveling on certain roads that are not permitted for semi travel. Mr. Arters stated that we have set up home occupations for those that drive semi trucks for a living. They can come in and apply for this and go through the appeal process to get this type of permit. Mr. Arters stated that these are private individual owners, and most truck drivers only bring home the cab, not the entire rig. Mr. Arters stated that he is working with some of these truck drivers to get them to come in and apply for the home occupation permit. If this is denied the resident would be forced to remove their truck and find some place else to park it.

Mayor Kernan stated that we had a full time Police Dispatcher resign and would need to replace this employee, there would be not additional employees hired. Mr. Pelot inquired as to the salary range, if the Mayor anticipates having to pay more. Mayor Kernan stated that he does not anticipate an increase in salary.

**Topics for next Work Session:**

Cingular Cell Tower contract discussion

**Public Service Announcements:**

None

**Adjourn:**

There being no other business to come before the Committee of the Whole, the meeting was adjourned at 9:14 PM.

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Michael Zita, President of Council

Date approved: February 27, 2006

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