



**NORTON CITY COUNCIL  
REGULAR COUNCIL MEETING  
MONDAY, SEPTEMBER 11, 2006**

Roll Call: Ken Braman  
Tom Jones  
Dennis McGlone  
Bill Mowery  
Scott Pelot  
James Price  
Mike Zita

Also Present:  
Mayor Joseph Kernan  
Claude Collins  
John Moss  
Jeff Pritchard  
Mike Lyons  
Karla Richards

The Regular Council Meeting convened on Monday, September 11, 2006 7:02 PM, in Council Chambers of the Safety Administration Building. The meeting was called to order by Michael Zita-President of Council, followed by the Pledge of Allegiance and a moment of silent prayer. Mr. Jones requested an additional moment of silence in memory of the anniversary of September 11, 2001 and those lives lost in at the World Trade Center, Pentagon and on Flight #93.

**COMMITTEE OF THE WHOLE:**

No items addressed

**CONSIDERATION OF THE MINUTES:**

Minutes of the Regular Council Meeting of August 28, 2006. Mr. Jones called for a correction on page #5, second paragraph the word "that" is listed twice. Mr. Jones stated that he still has questions on this speed limit issue. Mr. Jones asked Mr. Collins if he asserts that 35 MPH is the legal speed limit on St Route #261 from Collier Road to Medina Line Road west? Mr. Collins answered that 35 MPH is the legal speed limit. Mr. Jones asked if this was the State's legal limit? Mr. Collins answered that 35 MPH is the legal speed limit. The minutes of the Regular Council Meeting of August 28, 2006 were accepted as corrected.

Minutes of the Committee of the Whole of September 5, 2006. Mr. Jones inquired about the reference to Clark Mill Road on page #4, line #7 from the bottom. Mr. Jones stated that he thought the proper name was Clarks Mill and not Clark Mill. Mr. Collins and Mr. Pritchard both concurred that it is Clark Mill as stated in the minutes. Mr. Jones indicated that in regards to the minutes of August 28, 2006, he would not abide by those minutes because of the discrepancy of the speed limit on St. Route 261. Mr. Zita stated that is what is written; however Mr. Jones stated that he does not go along with it.

**COMMUNICATION FROM THE PUBLIC:**

Ms. L. Patricia Simmons, President and CEO of the Akron Zoo introduced Dr. Gary Riggs, DVM, a member of the community and a Veterinarian at the Akron Zoo. Ms. Simmons stated that Dr. Riggs is on WAKR every Monday morning to discuss how to take care of your pets at home. Mr. Riggs stated he has been practicing in Norton since 1981, and now works with the Akron Zoo along with many other Veterinarians from his practice as well as Veterinary students from Ohio State that also work at the Akron Zoo and our practice in Norton. Ms. Simmons provided a power point presentation of Your New Akron Zoo, (see attached). Ms. Simmons stated that Issue #20 would be on the ballot this November and the Akron Zoo is asking for this renewal of a .8 mill levy. Ms. Simmons stated that for a \$100,000.00 valued home it would cost the homeowner approximately \$24.00 per year.

**PUBLIC HEARINGS:**

Mr. Zita temporarily recessed the Regular Council Meeting at 7:22 PM in order to convene the Public Hearing for Ord. #67-2006:

AN ORDINANCE RECLASSIFYING PROPERTY LOCATED ON THE SOUTH SIDE OF EASTERN ROAD, ACROSS FROM 33<sup>RD</sup> STREET, FROM R-1 ONE-FAMILY RESIDENTIAL DISTRICT TO R-3 ONE-FAMILY RESIDENTIAL DISTRICT

Mr. Zita asked the Clerk of Council to certify the legal notice for this hearing. The Clerk of Council certified that a notice for this public hearing was published in the Barberton Herald on August 24, 2006 and notices were mailed to the contiguous property owners on August 22, 2006.

Mr. Zita called for anyone in favor of this rezoning to come forward. Mr. Andrew Lehner, a Norton resident spoke in favor of this rezoning. Mr. Lehner stated that this was a good idea for expansion to have more residents in this community. Mr. Zita called twice more for anyone else in favor, no one came forward.

Mr. Zita called for anyone opposed to this rezoning to come forward. Mr. Tom Millhoff, a Norton resident stated he was not too concerned with what they intend to do, however he was more concerned about water runoff in this area. Mr. Millhoff stated that he is east of this property, and where the pipeline goes through there is a low spot. Every time it rains, he gets flooded which is natural, however with the new houses going in he is concerned with where the water will go. Mr. Millhoff stated that there is a creek along the north side of this property, this also fills with water during heavy rains. Mr. Millhoff stated that he has not seen any plans or indication of a retention basin, and no plan to address the water runoff. Mr. Millhoff urged Council to check into this before moving ahead.

Mr. Zita called again for second time for anyone else opposed to come forward. Mr. Walter Melnick, a Norton resident spoke against this rezoning. Mr. Melnick stated that we will go from approximately 36 to 106 new residential units, and questioned how this will impact the school systems. Mr. Melnick asked if there was an impact study done on this issue? Mr. Melnick stated that in addition to this development, there are approximately 300 houses adjacent to Fairland Road, and approximately 500 units going in on Cleveland-Massillon Road. Mr. Melnick stated he has been unable to get answers if an impact study has been done either by the city or the schools. Mr. Melnick expressed his concerns about changes in the zoning that would no longer keep our area rural. Mr. Pritchard stated that there is a School Board Member on board with the Comprehensive Plan Committee and the school is well aware of proposed residential development coming into Norton and New Franklin area. Mr. Pritchard stated that he has not received any indication from the school district that they are opposed to these developments. Mr. Melnick asked Mr. Pritchard if an impact study was done? Mr. Pritchard stated that he was not aware if the school has done this, however, it was discussed in detail during these meetings. Mr. Pritchard stated that he believed the School Board would be holding public coffee meetings later this fall in order to gain input from the residents. Mr. Melnick stated that even though the School Board is aware of this and discussed it; some of these answers need to be in front of Council before they make any decision. Mr. Melnick stated that he does not believe that our current school system can accommodate the impact on the schools. Mr. McGlone asked if we could have someone from the School Board come to a meeting and discuss this. Mr. McGlone stated that he received a call from a resident who expressed his concerns about water run off problems.

**Public Hearing Continued:**

Mr. Pritchard stated that the issue here tonight is the rezoning, and the concept plan is what was presented. There will need to be improvement plans that will have to incorporate storm water management controls Phase Two regulations and storm water will have to be managed on site. No additional waters are permitted, so what is current in predevelopment conditions must be maintained after post construction. Mr. Pritchard stated that typically some developments have actually improved the water run off. This will have to go through the engineering reviews, stormwater reviews, before there would be any approvals. Mr. McGlone wanted to make sure the Norton residents would be more of a concern for the City of Norton than the builders or developers.

Mr. Zita called one last time for anyone else opposed to come forward, no one came forward.

Mr. Zita closed the Public Hearing at 7:40 PM and reconvened the Regular Council Meeting.

**Communications from the Public continued:**

Mr. Hetrick, a Norton resident, spoke against Ord. #70-2006. Mr. Hetrick stated that no one seems to know how many residents have Time Warner Cable, and suggested maybe less than half of the residents. Mr. Hetrick stated that he does not feel that a small number of residents should have to pay for something that all of the residents have access to use. Mr. Hetrick suggested that Council go back and address the 80-85% of the residents that live here and don't pay income tax here. Mr. Hetrick stated that if the city got ½ % to ¼% of these residents to pay, the city would be rolling in money.

Mr. Andrew Lehner, a Norton resident discussed the paving project along Norton Avenue near Clark Mill Road. Mr. Lehner asked if Council could do anything to speed this up, the potholes are a mess. Mr. Collins advised Mr. Lehner that this is not a City of Norton project, this is under the City of Barberton's jurisdiction.

Mrs. Sargent, a Norton resident spoke regarding the recent discussions about sewer rates, and was not sure where this issue stands. Ms. Sargent stated that she has read the law on this and still does not understand it and has questions about it. There seems to be confusion as to what the fees are based on; the City of Norton goes by meter sizes, the City of Barberton goes by the number of seats. Ms. Sargent stated that she did come to the city to apply for a permit, and even the permit application form is complex. Ms. Sargent stated that Barberton told her to go to Norton first and then come back to them to pay, she felt residents should have one entity to deal with not two. Ms. Sargent stated that she would have to sell 60,000 \$1.00 ice cream cones in one year to pay for this and that would be impossible. Ms. Sargent reflected back to September 11, 2001, and that for a short time after this tragedy, people were kinder to each other.

Ms. Megan Booth, a Norton resident discussed the Columbia Woods ballfields and stated that it was sad to see the trees taken down. Ms. Booth discussed a wetland in that area that has been there for such a long time, now it has dried up so much that the dirt has actually cracked. Ms. Booth stated that this particular area was always wet since 1970, and questioned where this water has been diverted to now? Ms. Booth stated that she was interested if this wetland is classified as a One, Two, or Three. Ms. Booth stated that she was also concerned about some of the comments during the Public Hearing; 700 new homes, if there are two children per home that is 1400 students impacting our schools, and is something for the city to think about.

**INTRODUCTION OF NEW LEGISLATION:**

**RES. #76-2006**

Mr. Zita stated that Mr. Terence Judge was unable to attend the meeting to receive his Resolution of Appreciation Mr. Pelot offered Res. #76-2006 for its first reading, and asked the Clerk to read it:

A RESOLUTION OF APPRECIATION FOR THE SERVICE OF MR. TERENCE JUDGE AS A MEMBER OF THE NORTON BOARD OF BUILDING & ZONING APPEALS.

Mr. Pelot moved to suspend the second and third readings, seconded by Mr. Jones. Mr. Zita stated that the reason for the suspension is that Mr. Judge is stepping down from this position and Mr. Mike Droppleman will be taking over.

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

Motion passed 7-0.

Mr. Pelot moved to adopt Res. #76-2006, seconded by Mr. Jones.

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

Motion passed 7-0.

**RES. #77-2006**

Mr. Pelot offered Res. #77-2006 for its first reading, and asked the Clerk to read it:

A RESOLUTION CONFIRMING THE APPOINTMENT OF MIKE DROPPLEMAN TO FULFILL THE UNEXPIRED THREE-YEAR TERM AS THE WARD 2 REPRESENTATIVE ON THE BOARD OF ZONING AND BUILDING APPEALS OF THE CITY OF NORTON, AND DECLARING AN EMERGENCY.

Mr. Pelot moved to suspend the second and third readings, seconded by Mr. Jones. Mr. Pelot stated that the reason for the suspension is to enable the city to have Mr. Droppleman on board quicker. Mr. Zita stated that Mr. Droppleman was present and asked him to stand for recognition.

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

Motion passed 7-0.

Mr. Pelot moved to adopt Res. #77-2006, seconded by Mr. Jones.

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

Motion passed 7-0.

**ORD #78-2006**

Mr. Pelot offered Ord. #78-2006 for its first reading and asked the Clerk to read it:

AN ORDINANCE TO APPROVE THE MAJOR SUBDIVISION FINAL PLAT OF THE STONEYWYCK RESIDENTIAL SUBDIVISION PHASE II, A MAJOR SUBDIVISION OF 16.5425 ACRES LOCATED AT 3560 CLARK MILL ROAD, PERMANENT PARCEL NO. 4608582, INTO THIRTY-EIGHT BUILDABLE LOTS.

First reading only.

**PRIOR LEGISLATION**

**ORD #67-2006**

Mr. Pelot offered Ord. #67-2006 for its second reading, and asked the Clerk to read it:

AN ORDINANCE RECLASSIFYING PROPERTY LOCATED ON THE SOUTH SIDE OF EASTERN ROAD, ACROSS FROM 33<sup>RD</sup> STREET, FROM R-1 ONE FAMILY RESIDENTIAL DISTRICT TO R-3 ONE FAMILY RESIDENTIAL DISTRICT.

Second reading only.

**ORD #68-2006**

Mr. McGlone offered Ord. #68-2006 for its second reading, and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO A CONTRACT WITH ORIANA HOUSE, INC.

Second reading only.

**ORD #70-2006**

Mr. Zita indicated that Mayor Kernan has a statement to read prior to the reading of this ordinance. Mayor Kernan stated that he just received a resolution from the Parks & Recreation Board meeting, which just ended. Mayor Kernan read the resolution aloud which states: "The Norton Parks and Recreation Board supports raising the franchise fees to 5% to upgrade and fund park improvements and to provide available funds to secure grants. Mayor Kernan stated that all five (5) members approved and signed this resolution.

Mr. Price offered Ord. #70-2006 for its second reading, and asked the Clerk to read it:

AN ORDINANCE TO INCREASE THE WARNER-CABLE FRANCHISE FEE FROM 3% OF GROSS REVENUES TO 5% OF GROSS REVENUES.

Mr. Price asked Mr. Moss about the difference of adopting this now or waiting another two weeks? Mr. Price indicated that he was almost late in arriving tonight because he was answering phone calls about this issue. Mr. Price stated that this increase is forever and if he could give the residents two more weeks to voice their opinion, he would feel better about supporting this. Mr. Price stated that this is almost like a tax and he wants to drag his feet and take his time with it. Mr. Moss replied that the franchise fee is a tax and Council could take whatever time they want with this.

**ORD #70-2006 Continued:**

Mr. Moss stated that the impact of additional time is that it sets back the effective date. Mr. Moss stated that we may have to give a first of the month notice, and that Time Warner may not be able to split their billing. Mr. Moss stated that he felt by waiting two more weeks it would change the effective date to February 1, 2007 instead of January 1, 2007. Mr. Price stated that he would only like to have a second reading on this tonight, and asked how we should do this? Mr. Jones stated that instead of this just being a second reading, he moved to table Ord #70-2006 for more input from angry subscribers like the ones he spoke to today, they are not pleased at all and the service is somewhat undesirable. Mr. Jones stated that he spoke to Mr. Chris Thomas at Time Warner regarding the service issues, and Mr. Thomas indicated that if this passes, the city would be bombarded with phone calls from residents. Mr. Jones asked how many subscribers are actually paying into the franchise fees today? Mr. Moss stated that the 3% increase would generate over \$60,000.00 in a 12-month period, and at the assumed average bill of \$50.00 that would be roughly 3,000 customers. Mr. Jones stated that with that kind of an increase it would be close to \$100,000.00 per year, and Mr. Moss concurred. Mr. Jones asked if any other monies, other than Time Warner fund the Parks? Mr. Moss stated that not generally, however the Parks can pursue grant money which would be a 50% matching grant and he considers this a revenue source, however it is not a regular one that you could plan for future years. Mr. Pritchard stated that he believed there are 3,338 residential units within the city, however he would need to verify this. Mr. Jones stated that some residents in his ward indicated that if this passes they would drop their service with Time Warner. Mr. Price stated that he also heard this from some of the residents in his ward, and if they drop it there would be no money coming into the fund. Mr. Price stated that he didn't like to think of this as a tax and usually when you tax residents they are given something for that tax increase. Mr. Price stated that he does not see the residents getting anything extra. The only thing he can do is give the residents is two more weeks for them to come down and voice their opinions. Mr. Moss stated that the residents are getting something for this increase, they are getting city wide park improvements. Mr. Pritchard stated that without the additional parks funding, he couldn't go out for grant money because we would have no matching funds. Mr. Moss stated that the difference is between having an additional \$30,000.00 next year to spend on parks throughout the city, or having zero because it's all been spent for the ballfields at Columbia Woods. Mr. Jones inquired how we supported the parks in the past prior to Time Warner? Mayor Kernan replied that it came out of the General Fund. Mayor Kernan stated that he was concerned about why this is being addressed now, the residents have already been paying 3%, so what is next, do you roll back that 3% fee? Mayor Kernan stated that this is an inconsistent concept here, this just does not make sense. Mr. Jones stated that he did not think the residents were concerned so much with the increase to 2%, it's the increase without the service. Mr. Jones stated most complaints were about their TV screens pixelating or totally blank screens. Mr. McGlone stated that the quality of service has nothing to do with the franchise fees. Mr. McGlone stated that the residents are getting something extra for this increase, it's better parks for all the residents. Mr. McGlone stated that this is really simple if you want to have better parks for our kids-vote yes, if you don't then vote no. Mr. Price stated that his only intention was to hold off the third reading, and that he felt tabling this was too drastic. After further discussion, there was no second to Mr. Jones' motion to table this ordinance. Mr. Pelot inquired how much revenue we would lose by waiting another two weeks, and Mr. Moss stated that you would lose one month of increased revenue, and Mr. Pelot calculated this could be approximately \$3,300.00. Mr. McGlone stated that he was ready move forward with this, waiting two more week's serves no purpose. Mr. McGlone stated that every time we get ready for a big vote, everyone calls you guys up the night before the vote and we change it. Mr. McGlone moved to suspend the third reading for Ord #70-2006, seconded by Mr. Pelot. Mr. Price stated that this is in his committee and he understands everything, but if you push him in a corner he would have to deny this and he would have to go home and tell his kids he voted the parks funding down.

**Ord. #70-2006 continued:**

Mr. Price stated that he supports this increase, however if he cannot have two more weeks he cannot support this now. Mr. McGlone stated that this was discussed since we came back from summer break, the last two meetings, where were all of these residents then? Mr. Pelot reminded everyone with an \$80.00 per month cable bill this increase comes out to \$1.60 more per month. This equates to \$19.20 a year to take care of the parks within the city. Mr. Price stated that this is a tax that the residents do not get to vote on, all he is asking for two weeks. Mr. Zita asked what would be gained by giving another two weeks? Mr. Price stated that would give the residents their voice, they can come and voice their opinion then we would have to vote on it. Mr. Mowery stated that we really have no one to blame but ourselves because we have tapped out all the money for the new ball fields at Columbia Woods. We have left ourselves wide open to go back to the residents and tax them once again. It really adds up with a lot of people's budget. Maybe we should go back and look at how we did things, maybe we should have only done one field and had some extra monies left aside.

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

Motion to suspend the third reading of Ord. #70-2006 failed by a vote of 4-3, Ord. #70-2006 stands as a second reading.

**REPORTS FROM OFFICERS, BOARDS AND COMMISSIONS**

Mayor Kernan announced the City has received the Natural Gas Aggregation program of \$11.99 per MCF. Mayor Kernan urged residents to look around; there are some rates as low as \$11.28 per MCF. Mayor Kernan stated that the survey is still available for the Parks Dept., and can be accessed at [www.cityofnorton.org](http://www.cityofnorton.org). or by contacting 330-825-7815 Ext. #14. Mayor Kernan reminded everyone about the Cider Festival on Saturday September 30, 2006 and Sunday, October 1, 2006 and urged everyone to attend and to consider donating for the fireworks.

Mr. Pritchard announced the Comprehensive Plan meeting for this Thursday at 6:30 PM at the Community Center.

Mr. Binic, Barberton Board of Health cautioned the residents about two more positive birds for the West Nile Virus in the area. One was collected in Ray Street in Norton and one on Cassell Street in Barberton. This is a total of four specimens sent to State labs, and confirms our suspicions that we have a low level of West Nile Virus throughout our area. Mr. Binic requested that all residents check their property for any containers that may be holding water, and either empty them or discard them, limit exposure, and use repellants when outdoors.

**OLD BUSINESS**

Mr. Jones stated that Summit Road West of McCoy Road is in need of some road patching as well as the entrance to Columbia Woods Drive. Mr. Jones stated that noxious weeds at 2744 Dal Drive need to be addressed. Mr. Collins replied that this issue is in the system waiting for action. Mr. Jones stated that at the last Council Work Session Mayor Kernan and Mr. Lyons were not present for the discussion on the Frashure Park issue, and he asked what could we do about this. Mayor Kernan replied that pursuant to Council's previous request, and the Administration came up with an agreement, which was presented to Council. Mayor Kernan stated that as Mayor he does not have the authority to lease the city land and Council will have to decide if they will let the residents have the right to use the city's land, to lease it or not.

**Old Business Continued:**

Mayor Kernan stated that if Council does not want to do this, the Administration would move forward with enforcing these residents to move the sheds or the city would move them at the resident's expense. Mr. Jones asked how far some of the outbuildings encroached into the city property? Mayor Kernan stated he thought some were 10-15 ft. over the property line. Mr. Collins added that one parcel owner has been clearing the park directly behind their property. Mr. Jones asked if we could sell of the back portions to these residents? Mayor Kernan did not advise doing this. Mr. Price questioned squatter's rights and inquired if this applied to city owned property? Mayor Kernan stated that adverse possession does not apply to municipal or city properties.

**NEW BUSINESS**

Mayor Kernan stated that he would be officially swearing in Mr. Droppleman after the meeting adjourns tonight.

Mr. Pelot inquired if the city has an ordinance on the books limiting the number of cats a homeowner can have. Mr. Collins stated that we have ordinances relating to dogs, but nothing relating to cats. Mayor Kernan stated that he thought the City of Akron may have something on their books. Mr. Pelot stated that someone contacted him about their neighbor who has eighteen (18) cats in their home.

Mr. Zita inquired about the status of the City of Barberton vs City of Norton pretrial that was set for today. Mayor Kernan stated he is waiting to hear from the city's attorney, and would provide Council with an update at the next meeting. Mayor Kernan stated that typically at a pre-trial hearing, future discovery dates are set. Mr. Jones asked who is representing the city on this case? Mayor Kernan replied that Attorney Orville Reed, of Buckingham, Doolittle and Burroughs has been retained.

**PUBLIC SERVICE ANNOUNCEMENTS**

Mr. Zita announced that the Norton High School Band in conjunction with the Norton Acme would be holding a bratwurst sandwich sale on Wednesday September 13, 2006 from 3:00 to 8:00 PM at the Acme parking lot. There would be the worlds largest touring grill truck from Johnsonville Foods, it is 45 ft long and can cook 350 brats at once for a total of 2,500 brats per hour. For \$2.50 you can have a sandwich, chips and soft drink. Proceeds to benefit the Norton High School Band Boosters.

**ADJOURN**

There being no other business to come before the Committee Work Session, the meeting was adjourned at 8:38 PM.

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Michael Zita, President of Council

I, Karla Richards, CMC-Clerk of Council, for the City of Norton, do hereby certify that the foregoing minutes were approved at a Regular Council meeting held on September 25, 2006.

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Karla Richards, CMC-Clerk of Council

*Date approved: September 25, 2006*

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