



COMMITTEE WORK SESSION FEBRUARY 5, 2007

Committee Members Present: Ken Braman
Tom Jones
Bill Mowery-Excused
Scott Pelot
Mike Zita
Dennis McGlone
James Price

Also Present: Mayor Joseph Kernan
Claude Collins
John Moss
Rick Esdinsky-Municipal Engineer
Jeff Pritchard
Karla Richards

The Committee Work Session convened on Monday, February 5, 2007 at 7:00 PM, in Council Chambers of the Safety Administration Building. The meeting was called to order by Council President, James Price. Following a salute to the flag and the Pledge of Allegiance, there was a moment of silent prayer.

Committee Work Session General Discussion:

Ord #93-2007 Sewer Construction

Mr. Price turned this discussion over to Mr. Esdinsky the Municipal Engineer. Mr. Esdinsky stated that since Council sent this back to be reviewed, there have been some revisions and discussed the changes. Mr. Jones inquired about the size of the line proposed for Weber Drive. Mr. Esdinsky stated that he has looked over the plans and he believed it to be eight (8) inches. Mr. Jones stated that he was concerned that the size of the line would be adequate to support future development later on. Mr. Esdinsky stated that it is sized properly for any future connections. Mr. Collins added that the County would have the ultimate say so. Mrs. Brenda Anderson, a Norton resident asked about a future Summit County Wastewater package plant in Norton. Mrs. Anderson asked if these laterals would be required if we had an ordinance to be hooked in at that time with Summit County, could we go ahead and do that? Mr. Esdinsky replied that at any time a new line is proposed, it has to go through the Planning Commission for their recommendation and approval and Council may also need approval. Mr. Price stated that Council has been discussing this issue since November 13, 2006. Mr. Price discussed a statement that Mr. Harrison from the Barberton Health District regarding the new health laws that went into effect in January 1, 2007. This new law mandates that septic systems will be abandoned if a sewer line is available, whether or not your septic system has failed or not.

Ord #93-2007 Sewer Construction continued:

Mr. Price stated that he is the Chair of the Utilities Committee and he just found out about this last week. Mr. Price stated the felt he was not in the loop and somewhat at a disadvantage on this issue. Mr. Price asked for verification on this law. Mr. Pritchard replied that the new requirements are that you have to connect, in our ordinances 1042 it also states you have to connect. Mr. Pritchard stated that what is important for Norton is the clause in the 208 Prescriptions. Mr. Pritchard stated that he was in error and recently found out today that our 208 Prescriptions were modified from when they were written and submitted. Mr. Pritchard stated that he was not sure if they were modified by the Ohio EPA or the US EPA level. Mr. Pritchard sated that we need to look at this and get this corrected. Mr. Price asked about being grandfathered in and Mr. Pritchard stated that these are State and Federal laws. Mr. Pritchard stated that the only way we could correct this is to re-evaluate our 208 Wastewater Prescriptions which has to be approved and endorsed by the Ohio EPA and the Ohio Department of Health. Mr. Price gave an example of if he just installed a new septic system and now there is a new sewer line, he would have to pay to connect, correct? Mr. Pritchard answered that the way it is now, yes. Mr. Pelot asked where do we start to get the ball rolling. Mr. Pritchard replied that first you have to establish that a new sewer line is available. Mr. Pritchard stated that he has already contacted the local agencies to find out when and how it was modified. The 208 Prescriptions have to go through a review process before approval. Mr. Pritchard stated that he wrote the piece in the 208 Prescriptions and was quite surprised that it is not in there now. Mr. Pelot questioned at what point would the developer be able to pass off the cost of the laterals? Mr. Esdinsky stated this would be something to be discussed at the Planning Commission level and the repayments would be addressed then as well. Mr. Esdinsky stated that in some communities, they tell the developer to pay for everything and there are no paybacks, others work with the developer and offer a type of payback program, there could also be assessments involved. Some communities take a very hard line that if you want to do business, they cannot help nor can the residents. Mr. Stavarz, a Norton resident, asked if the use of copper tracer wires is common, he thought that the locations were usually indicated on the maps and drawings? Mr. Esdinsky stated that maps do get lost and misplaced, and there is scanning equipment that would pick up the location of the tracer wire. There was a question if the lateral costs could be split up between the developer, the city, and the resident? Mr. Esdinsky stated that again, this is something that should come to the Planning Commission, and for Council to discuss and decide. This is more of a city policy and not really up to a Municipal Engineer to decide. Mr. Price stated that we need to be resident and business friendly here and we need to do this as a partnership. Mrs. Anderson stated that she has been aware of the new EPA mandates since 2005 and came to Council with this many times and it fell on deaf ears. We have been misled. Mrs. Anderson stated that she attended the Saturday Workshop and learned a lot about the discussions with Summit County. Mrs. Anderson thanked Mr. Price and Mayor Kernan for their efforts with Mr. McCarthy in getting a package plant in Norton. Mrs. Anderson stated that she was ashamed of the Norton Health Advisory Board and Council for allowing this to go on. Mrs. Anderson stated that she wanted someone to explain verbally and in writing the Memorandum of Understanding agreement with the State of Ohio, and how much weight does it carry and does this stand up to State mandates? Mr. Pritchard stated that we have known for years that the Ohio Health Dept. has been working on the general NPDES permit. Ms. Violet Carr, a Norton resident, stated that the residents of Weber Drive have been talking about this for two (2) years and we were told by Columbus and we have come in front of you and you were told what to expect. Ms. Carr asked how is it that the educated people that are supposed to be planning for our city, did not know about this? Everything we have said has come to pass.

Ord #93-2007 Sewer Construction continued:

It was there all they had to do is use this information we brought it all to you and you did nothing about it. Ms. Whipkey, a Norton resident, stated that it has finally been fessed up to the fact that hook ups would be mandatory. Ms. Whipkey stated that the Director of Planning has continued to mislead and lie to us. On January 16, 2007 he stated that we would not have to connect unless our systems had failed. Mr. Pritchard stated that the 208 Wastewater Prescriptions were put together several years ago to protect single family residential units, and they would not have to connect unless their systems failed. Once it leaves this point, it gets reviewed by State and Federal levels and it can be modified. However, we do have the authority to go back and have that original language put back in. Ms. Whipkey asked about the meaning of 1042.03. Mr. Pritchard stated that it states *"A residential property within a sanitary sewer service area must connect to an accessible public sanitary sewer system within three months after receipt of notification that the septic or other waste system of the residence has been condemned by the Board of Health"*. Mr. Pritchard stated that our main concern is that we must address this because it could be a huge financial hit for someone that has recently replace their septic system, and then have to connect. Mr. Pritchard stated that he is absolutely opposed to this. Mr. Price asked Mr. Esdinsky if he was aware of any solutions similar to our situation? Mr. Esdinsky stated that it appears to be growing pains within the community and policies could be flexible and is why the clause is added to include the Planning Commission. That is the proper forum to this type of discussion to occur. It is difficult to have an ordinance to cover every single situation and each development. There was discussion if the Planning Commission should have the final say on these issues. Mr. Pritchard stated that it really is Councils final decision because it is a citywide issue. Mr. Jones asked Mr. Esdinsky if it was beneficial to have the laterals put in at the same time the new sewer line is being installed? Mr. Esdinsky replied yes. Mr. Jones stated that we are trying to do it once at the same time and have less disruption in the area. We are also trying to do it right for both the residents and the businesses. Mr. Jones discussed Mr. Prices idea of sharing the costs 1/3 for each for the resident, the city and the developer. Mr. Jones stated that this could be more of a Band-Aid solution if taken to the Planning Commission and worked out and with approval from Council on a project by project basis. Mr. Price stated that this is not just a Weber Drive issue, this is a citywide issue. Mr. Pritchard agreed and stated that it is what keeps him up at night. Mr. Pritchard stated that these newer regulations are costly to all of the Norton residents. Mr. Stavarz discussed the 1/3 plan for all and inquired as to how can this be fair, and how do you handle it for the next project. Mr. Stavarz suggested the city set up a fund to help those that need the financial assistance. Council needs a plan of some type to address this issue. Mr. Price asked about a timeline to get the 208 Wastewater Prescription issued corrected? Mr. Pritchard replied approximately three (3) months if all goes well. There was further discussion on this issue and Council agreed with the recently modified version of Ord. #93-2006. Mr. Collins suggested that Council consider doing the same legislation with water connections. Mr. Stavarz discussed adding language so that the developer pays for the connections over a certain time, recover costs for hook ups and amortize the septic systems that are affected on that road. This way there is no immediate hardship on the resident. Mr. Price moved to place this amended version of Ord. #93-2006 on the next agenda, seconded by Mr. Jones. There was discussion as to how this ordinance would come back to Councils agenda. The Clerk of Council stated she thought that Council had tabled it indefinitely and this was killed, however it would start over with a new piece of legislation and a new number for 2007, possibly as Ord. #6-2007. *(Note: See statements clarified under New Business)*

Ord #93-2007 Sewer Construction continued:

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

Motion passed 6-0.

MPO revision-Service Dept.

Mr. McGlone turned this discussion over to Mr. Collins for the details. Mr. Collins stated that Mr. Weinsheimer has asked for a second mechanic to be added to the schedule. Mr. Collins indicated that the Service Dep. services most of the city equipment. Mr. Collins stated that we couldn't promote within without a change in the MPO. Mr. Collins asked to keep the number of laborers the same at three (3). Mr. McGlone moved to place this on Councils next agenda for three full readings, seconded by Mr. Jones.

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

Motion passed 6-0.

Charter Review Resolution #9-2006 (Executive Sessions)

Mr. McGlone introduced Ms. Vimont-Chair of the Charter Review Commission. Ms. Vimont stated that the Charter currently does not provide for executive sessions, however under Ohio Revised Code executive sessions are permitted for specific reason, such as disciplinary actions against an employee, litigation issues, etc. Ms. Vimont stated that if approved by the voters, executive sessions would follow the exact same guidelines under Ohio Revised Code. Mr. Jones stated that in the past we tried executive sessions and it failed. Mr. Jones stated that he could not support this. Mr. Jones stated that as he understood it there are no minutes prepared for executive sessions, and Mr. Moss concurred, adding that you can take your own notes. Mr. Zita stated that we did touch on this subject last year in Council, and he would support holding executive sessions. Mr. Price stated asked if this would need to go to the voters, and Ms. Vimont replied yes. Mr. Price stated that he could support this since it would be going to the voters. Mayor Kernan stated that he thought this was a good thing and to let the people decide. Mr. Pelot stated that he thought it was a good idea too, adding that with certain issues you would have leverage and that you could always invite a resident or two to be involved in the discussions. Mr. McGlone moved to place this on the next agenda, seconded by Mr. Zita.

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

Motion passed 5-1.

Charter Review Resolution #10-2006 (Names, boundaries, wards & powers)

Mr. McGlone turned the discussion over to Ms. Vimont for the details. Ms. Vimont explained some of the changes were to reset the numbers and there were a few places with new language in Section 3.03 which is Council there were a couple of changes regarding being qualified elector and we removed the qualified elector.

Charter Review Resolution #10-2006 (Names, boundaries, wards & powers continued):

In order to be a resident of the city you also have to be a qualified elector. And the word shall was removed, resident removed and inserted qualified elector. The new language added is *“The period of residence hereby required shall include the period of residence in any territory which has been annexed to the Municipality or ward thereof or shifted from one ward to another”*. Ms. Vimont stated that if you are elected to Council and your ward has shifted you could still be a councilperson. Mr. Price questioned the change in percentage of 10% to 20% in the ward boundaries. Ms. Vimont stated that is another change, when reviewing other municipalities most used the language of the population shall not differ more than 20% was very common. Ms. Vimont stated that this gives a little more flexibility before Council would have to re-design the wards. Mr. Price asked if the Board of Elections or Council sets the wards? Ms. Vimont stated that it is the City Councils duty and is done in conjunction with the census. Mayor Kernan stated that there was a major re-drawing of the wards back in 1992. Ms. Charlotte Whipkey discussed the change from 10% to 20% and felt it could be a big difference if it does not state from the smallest ward. Mayor Kernan stated that it is stating that no ward could be more than 20% larger than any other could, then the largest ward could be more than 20% larger than the smallest ward. Mr. Pritchard stated that in effect its default. Ms. Whipkey stated that she felt this change might result in less representation in a certain ward. Mr. Moss stated that he could not recall that what just one ward would be voting on other than their representative. All other voting would involve the entire city and represent all of the wards. Mr. Stavarez asked if we were in compliance with the wards now, because we have had some growth, who monitors this? Mayor Kernan stated that the last time the census was done in 2000 and the city ratified the wards by an ordinance.

Mr. McGlone moved to add this to Councils next agenda, seconded by Mr. Braman.

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

Motion passed 6-0.

Charter Review Resolution #1-2007 (Merge Articles Vii & X)

Mr. McGlone turned the discussion over to Ms. Vimont for the details. Ms. Vimont stated that we have two sections here. One on the Charter and the savings clause, we felt that this could be merged together. Ms. Vimont stated that we added a new paragraph, which states *“The Charter Review Commission shall, in meetings open to the public, review the Municipal Charter. This Commission shall discuss changes to the Charter which are in the public interest of the municipality”*. This is more of a guide to give them direction as to what they should be working on. Section B-Methods & Procedures is just moved from another section. We have added Section C-Amendments to the Charter, and that Council *shall* rather than May. The last sentence was combined. We removed the title of adoption and kept the language. There were other small format changes discussed. Mr. Pelot questioned about the required percentage of signatures to appeal something, and Ms. Vimont stated it is 10%. Mr. Braman asked to have General Election added to Section C-Amendments of the Charter? Ms. Vimont stated that it would be possible, it would be for Council to decide. Mr. Pelot stated that he thought we should leave it as is and keep the option open. The Clerk of Council stated that the actual legislation for the Charter amendment specifically states the desired election. Mr. Stavarez stated that he suggested this to the Commission earlier and thought that it would be in there. Mr. Stavarez stated that more residents are exposed to the General Elections and would have better representation.

Charter Review Resolution #1-2007 (Merge Articles VII & X) continued:

Mr. McGlone agreed with Mr. Stavarz's comment. Mr. Pelot also agreed, however if you put it in the Charter for the General Election, then what do you do in an emergency situation that comes up, you would be held to the Charter and wait to the November election. Mr. Moss cited a situation in Wadsworth where there was a referendum issue and the residents had to wait a year to vote because of the timing and deadlines. There was further discussion on this item and Ms. Megan Booth, of the Charter Commission, stated that the Commission's intention was for the Charter to be a voice to of the people and she was fine with adding General Election to this section. Ms. Vimont stated that both languages to cover all elections. Mr. Andrew Lehner, a Norton resident, suggested the Council have the public give their input at the next meeting. Mr. McGlone moved to place this on Councils next agenda as it is, which can be amended if necessary, seconded by Mr. Pelot.

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

Motion passed 6-0.

Request for Agricultural District (Normal Kendall)

Mr. Braman stated that this application appeared to be more complicated than most. Mr. Braman stated that Mr. Mark Spisak; Chairman of the Planning Commission was present for his input. Mr. Spisak stated that the Commission denied the application based on two reasons. The first was that they felt the documents submitted were not conclusive of the standards required. The bills of sale had no name, hand written notes, etc. The second reason was the concern for the impact to the health and safety of the neighbors. Mr. Spisak stated that by turning this application down we are not causing an impact on the community. Mr. Braman stated that Mr. Pritchard and Mr. Arters have submitted their opinions approving the application. Mr. Pritchard stated that this is not a zoning issue or a tax issue. This process delays assessments assigned to the property, and it protects the owner from nuisance complaints. Mr. Pritchard stated that if Council denies his application, Mr. Kendall could still continue to do what he is currently doing with his property. Mr. Pelot stated that Mr. Kendall has been farming this property for decades, and he was there before the development came in. Mr. Pelot discussed the issues with the residents in the new development have potentials for nuisance complaints in the future. Mr. Pelot stated that the documentation for income is not acceptable and based on this issue alone he would deny this. Mr. Braman stated that the Public Hearing for this application in Monday February 12, 2007 at 7:15 PM and that Council does not have to decide anything on this tonight. Mr. Braman moved to place this on Councils next agenda, seconded by Mr. Zita.

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

Motion passed 6-0.

PC Resolution #21-2006 Approve Comprehensive Plan

Mr. Braman asked Mr. Spisak to comment on this issue. Mr. Spisak read a statement explaining the Commissions decision. (see attached) Mr. Price inquired if the plan is posted to the web site and Ms. Campbell stated it was not. Mr. Pritchard stated that Council had not approved the document yet.

PC Resolution #21-2006 Approve Comprehensive Plan, continued:

Mr. Braman stated that as he understands it, this plan is just a tool or a guide to be used, it changes nothing. Mayor Kernan asked Council to pass a resolution supporting the Planning Commissions decision. Mr. Price asked to have the plan posted to the city website as a draft so the residents could see the document. Mayor Kernan stated that this document represents what we believe as a whole to be the future of Norton, anything more would require separate legislation. Mr. Jones stated that Council approved to spend \$75,000 with D. B. Hartt on this back in 2005. Mr. Jones stated that there seems to be some confusion with this and the Master Plan that was done by the University of Akron almost twenty (20) years ago, and we don't want to go there. Mr. Jones stated that at that time Council passed it and then there was a referendum filed and the city was without zoning for 6 months. Mayor Kernan and Mr. Pritchard both corrected Mr. Jones stating that it was the zoning code that had a referendum in the past, not the Master Plan. Mr. Jones discussed the plan to widen Cleveland-Massillon Road, and that he worked on this back in 1989 when he was on AMATS. Mr. Jones discussed the on and off ramps at St. Rt. 21 and Greenwich Road in the plan and that he asked for that back when he was on Council in the past. Mr. Jones discussed Ord #82-2006 that was sent back on January 22, 2007. Mr. Jones stated that he was upset to see the city spend \$75,000 on this study, and we need to spend money on what the city really needs and that is water and sewer. Mr. Jones stated that he couldn't support this plan. Mr. Pelot thanked Mr. Spisak and the other members for their hard work on this plan.

Ms. Charlotte Whipkey questioned why there are no minutes from the Comprehensive Plan meetings? Mr. Pritchard stated that these meetings were all open to the public and that D. B. Hartt scheduled and conducted these meetings, not the city. Ms. Whipkey asked if we had the representation of the twenty-five (25) residents from the community? Mayor Kernan stated that yes; we actually had more than twenty-five (25) members. Ms. Whipkey discussed the method of members being appointed. Mayor Kernan stated that he selected members by ward, professional backgrounds, etc. Ms. Whipkey asked if the current Charter is a valid document? Mayor Kernan answered yes. Ms. Whipkey read Charter Section 7.01: *"In January, 1966, and each five years thereafter, the Mayor shall appoint, subject to confirmation by a majority of the members elected and appointed to Council, seven qualified electors of the Municipality holding no other office or appointment in this Municipality, as members of a Charter Review Commission to serve until their duties are completed. The members shall serve without compensation"*. Ms. Whipkey stated that one member serves on the Comprehensive Plan group in addition to the Charter Review Commission, how can that be? Mayor Kernan stated that the Comprehensive Plan group is not a city defined Board or Commission, and not an arm of the city. Ms. Whipkey disagreed; adding that this is just another example of our Charter being broken and this would invalidate the \$75,000.00 Comprehensive Plan and the hard work the Charter has accomplished. There was further discussion and Mr. Braman stated that this is a good guide and we should use this, if we don't we would be throwing away \$75,000.00. Mr. Price asked Mayor Kernan to repeat his answer to Ms. Whipkey's question regarding having the same person serving two committees.

Mr. Price stated that we are supposed to uphold the Charter and he did not like the fact that it appears we are playing with it. Mr. Braman moved to add this to Council's next agenda, seconded by Mr. Pelot.

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

Motion passed 4-2.

Unfinished Business:

None

New Business:

The Clerk of Council corrected her previous statement that Ord. #93-2006 was tabled indefinitely and killed, it was not, it was Ord. #82-2006 that was tabled indefinitely and killed. Ord. #93-2006 was sent back to the Committee to be reworked. It will come back to Council as amended Ord #93-2006.

Mr. Jones thanked Mrs. Richards for addressing the clocks in Council Chambers.

Mr. Zita stated that we had our annual Saturday Workshop session this past Saturday and that Mr. Jones was not present. Mr. Zita asked Mr. Price how this would be reflected in the minutes, as absent or excused? Mr. Price stated that Mr. Jones came to him prior to this asking to be excused due to prior engagements. Mr. Price stated that this was a very good meeting and wished that everyone could have attended. Mr. Zita stated that when it comes to any discussion from that meeting, Mr. Jones should reflect to the minutes and not waste our time on Council floor.

Public Comment on Non-Agenda Items:

Ms. Carr stated that in addition to posting the Comprehensive Plan on the web site, it should also be posted in the library and all of the public places so all of the residents can see this.

Topics For The next Work Session:

Mr. Price indicated that he wanted Mayors Salary on the agenda. Mr. Moss indicated that he might have some final numbers from year-end. Mr. Pelot discussed addressing the listening devices in the future. Mr. Zita stated he would like to continue the discussion on the hotel-motel tax, and Mr. Moss indicated the Law Director has already prepared a draft on this issue.

Adjourn

There being no other business to come before the Committee Work Session, the meeting was adjourned at 10:23 PM.

James Price, President of Council

All Committee Meetings will be held at the Norton Safety Administration Building, unless otherwise noted. If you do not have access to Time-Warner Channel #15, you may request to view a copy of any VHS recorded meeting in Council Chambers. Please contact Ann Campbell in the Administration office to make the necessary arrangements at (330) 825-7815 ext. 14.