



COMMITTEE WORK SESSION MAY 5, 2008

Committee Members Present: Ken Braman
Brenda Hlas
Tom Jones
Dennis McGlone
Bill Mowery
Mike Zita
Scott Pelot

Also Present: Mayor David Koontz
Rick Ryland
John Moss
Mike Lyons
Jeff Pritchard
Karla Richards
Ann Campbell

The Committee Work Session convened on Monday, May 5, 2008 at 7:00 PM, in Council Chambers of the Safety Administration Building. The meeting was called to order by Council President, Scott Pelot. Following a salute to the flag and the Pledge of Allegiance, there was a moment of silent prayer.

Committee Work Session General Discussion:

Law Director Position

Mr. Pelot stated that Mr. Kostoff was present in the audience to answer any questions from Council. Mayor Koontz stated that he has searched for a new Law Director since Mr. Lyons has announced his resignation to spend more time as Richfield Village Mayor and his private practice. Mayor Koontz introduced Mr. Kostoff and asked for a brief background. Mr. Kostoff stated that he has been married to his wife Pam for 16 years, and they currently reside in Fairlawn. Mr. Kostoff stated that he has been employed with Roetzel & Andress since 1995 after he retired as Mayor of Fairlawn. Mr. Kostoff stated that he also served on Fairlawn City Council and he was the Law Director for Mogadore for 5 years. Mr. Jones asked if Mr. Kostoff was available to attend our Committee Work Sessions and Mr. Kostoff replied yes, if requested he would be available. Mr. Pelot asked Mr. Kostoff how long he has been practicing law and Mr. Kostoff replied 25 years licensed in Ohio.

Set Recall Election Date

Mr. Pelot stated that the Clerk of Council has certified the petitions as sufficient and the signatures have been checked with the Board of Elections. Mr. Pelot stated that he would like the Clerk of Council to read the section of our Charter that defines Councils time line. Mr. Jones handed an envelope to Mr. Pelot and asked for the Clerk to read it aloud. Mr. Pelot instructed the Clerk to read the Charter section first, and then if there were any objections there would be a vote. Mrs. Hlas stated that she would like to see it before the Clerk reads it aloud. The Clerk of Council read the following statement: *“If such officer shall not resign within 5 days after the day on which delivery shall have been made, the Council shall thereupon fix a day for holding a recall election, not less than sixty days nor more than seventy five days after the date of such delivery”*. All of council read the letter from Mr. Jones and forwarded it to the Clerk of Council to be read aloud as follows: *“Section 9.03 of the Norton Charter on recall says, in part “if the Clerk shall find the petition insufficient, the Clerk shall promptly certify the particulars in which the petition is defective, deliver a copy of the Clerk’s certificate to the person who filed the petition, and make a record of such delivery. Such person shall be allowed a one-time period of twenty days after the day on which delivery was made in which to make the petition, and all parts thereof, if so filed, sufficient” Here the same person filed the first insufficient petitions and the second petitions. In order to make the first petitions sufficient, language had to be reprinted (bolded). However, changing the print would be meaningless unless signers had a chance to see it before they signed. Therefore, new signatures had to be obtained to make the petitions sufficient. The filer had twenty days to resubmit according to Section 9.03. She re-filed the corrected petitions past the deadline and she had only a one-time window to correct. The filing is invalid”*. Mr. Pelot asked Mr. Lyons to respond to this objection. Mr. Lyons indicated that it is his understanding that the petitions that were recently submitted are new petitions signed after the new language was put on the petition. These rules of the Charter do not apply to this situation; there was not an attempt to correct the first set of petitions. They started all over again and submitted new petitions. Mr. Lyons stated that the statement is correct, but the application is not, and it does not apply to this situation. Mr. Jones stated that back on January 17, 2008 when the Clerk of Council gave the petitions back to Ms. Cunningham, she being such person or being the same person, had a one-time period, and asked Mr. Lyons if he read that clearly? Mr. Lyons stated that the opportunities to correct were in reference to the petitions that were submitted. They were found to be insufficient and those could not be corrected because the language was insufficient so those were entirely insufficient and could not be corrected. Mr. Jones asked Mr. Lyons if he had read that section and Mr. Lyons replied yes, he is familiar with this section, but they created new petitions after that and went out again and obtained signatures separately. Mr. Lyons stated that he does not believe the Charter prohibits someone from going out starting all over again and submitting petitions. Mr. Jones stated that his argument is with the “same person”, and Mr. Lyons repeated his answer, and Mr. Jones stated that he disagreed with Mr. Lyons. Mr. Lyons indicated that he is quite certain of his reading of this.

Set Recall Election Date continued:

Mr. Jones reminded Mr. Lyons that he was not certain last August when the petitions were filed and you were saying that we had to have so many signatures according to registered voters, and asked if he recalled this incident, and that Mr. Lyons was incorrect at that time. Mr. Lyons indicated that he did not recall that incident. Mr. Jones stated that when we surrendered the petitions to Mrs. Richards, along with Ms. Whipkey about the Charter changes, and he asked Mr. Lyons if he recalled that incident? Mr. Lyons stated that yes; he does recall that incident. Mr. Jones asked Mr. Lyons if he was true on that? Mr. Lyons stated that would be a similar situation, lets say you had submitted petitions that were insufficient, and Mr. Jones interjected, stating that then you would have the 20 day period to get the additional signatures, and Mr. Lyons replied right. Mr. Jones stated that in this case, that is not so. Mr. Lyons stated you are right, they could not correct those petitions. Mr. Jones stated that the same person surrendered them again. Mr. Lyons stated lets go back to your situation, if your petitions were invalid because the language was inaccurate, you could not have corrected them at that time. However, you could have started all over again as the same person, and started new petitions. Mr. Jones stated that he still disagreed with Mr. Lyons and warned Council that if you vote on this tonight without at least taking a review of this by Mr. Lyons, then Council may be opening themselves up to a lawsuit. Mr. Lyons stated that he did not think so, and respectfully disagrees with Mr. Jones on that. Mr. Jones stated, all right, he could address that. Mr. Jones stated that he is satisfied with Mr. Lyons, we will see what the outcome is. Mr. Pelot asked Mrs. Richards for the outcome of the 60-75 days, and Mrs. Richards replied that the 60th day would be June 29, 2008 and the 75th day would be July 14, 2008. Mr. Pelot asked Council for their suggestions or recommendations and reminded that this election date would be set for Ward 1 residents only. Mrs. Hlas stated that she recalled an email from the Board of Elections stating their suggested dates. Mrs. Richards stated that the Board of Elections had concerns with the 4th of July holiday and short staffing due to training and had a first choice of July 14, 2008 and their second choice of July 10, 2008. Mrs. Richards stated that Council needs to keep in mind that the Election Day does not have to be on a Tuesday, it could be any weekday. Mr. Pelot also reminded Council that the Board of Elections has a deadline of 6 weeks prior to the election to post this. Mr. Jones asked Mrs. Richards what this election is going to cost the city, and she replied that she received preliminary estimates of \$700.00 per precinct and there are 3 precincts in Ward 1, for a total of \$2,100.00 and printing costs on top of this. Mrs. Richards stated that it could be \$3,000.00 to \$4,000.00 before it is all said and done and she does not have definite figures. Mr. Pelot indicated that Mr. Moss is also working on getting these figures. Mr. Jones asked Mr. Lyons, that he does not agree with his attorney's opinion, and Mr. Lyons stated that he did not realize this was from Mr. Jones' attorney, however he does not agree with what is written here. Mr. Pelot stated that he would rather not go with the July 14 2008 because it is the 75th day and the July 10, 2008 is more in between our time line. Mr. Pelot moved to place this item on Councils next agenda setting the recall election date for July 10, 2008 with emergency language, waiving the second and third readings, seconded by Mr. Zita.

Set Recall Election Date continued:

Roll Call: Yeas: Pelot, Zita, Braman, Hlas, McGlone, Mowery
Abstain: Jones

Motion passed 6-1.

Purchase Agreement for Lake Dorothy:

Mrs. Hlas stated that she was not sure why this appeared on the agenda, and Mr. Ryland indicated that the purpose for this on the agenda is for discussion. Mr. Ryland indicated that he would be meeting with PPG officials on Friday, May 9, 2008 to discuss the purchase. Mr. Ryland stated that at a recent meeting a Council member suggested we continue discussion on this. Mr. Jones clarified that the value of this property is \$1,400,000.00 and Mr. Ryland concurred, which amounts to approximately \$3,800.00 per acre. Mr. Jones asked if we are looking at using grant money to help purchase this? Mr. Ryland stated that we are looking at a Clean Ohio grant funding and other sources such as Federal and State grants to help with the cost. Mr. Ryland stated that we have contacted Floyd Brown and Associates who specialize in these types of grants. The belief is that there is money available, we are just uncertain how much is available at this time. Mr. Jones stated that since the property is contiguous to Norton we are the first choice to purchase the property, and Mr. Ryland agreed. Mr. Moss stated that he has not been asked if the city has the funding to purchase this property, however we do not have the funds available at this time. Mr. Moss indicated that with an option to purchase the property, this would give the city the time necessary to secure the funding. Mr. Ryland indicated that the appraised value of \$1,400,000.00 is an acceptable price by PPG and the first step in securing the land is to set up some type of a purchase agreement. Mr. Ryland added that Lake Dorothy is a part of the Comprehensive Plan for the city. Mr. Pritchard indicated that one request from PPG is to establish a park zoning within our zoning code to help protect Lake Dorothy and to set the use for this property. Mr. Pritchard discussed the Clean Ohio Fund and that this is to be voted on in November, and depending on that outcome, some things may or may not be on the table. Mr. Jones questioned how much grant money could the city receive, and Mr. Pritchard indicated that he could not even begin to take a guess at this point. Mr. Ryland indicated that earlier discussions regarding the Clean Ohio Fund had the split at 50/50. Mr. Jones stated that this property would fall under the Parks and questioned the maintenance of the land. Mr. Ryland indicated that the intention is to leave this land in its natural state as is, adding only hiking trails. Mr. Pelot questioned the reports on the dam by the engineers, and Mr. Ryland indicated that he has all of the reports in his office for review, however at the request of PPG they are to be held in confidence. Mr. Ryland indicated that he has the appraisal documents for anyone who may want to take a look at them. There was discussion as to whether or not legislation was necessary at this point, and Mr. Ryland indicated that what he really needs is Councils blessing to move forward on the purchase and that he would be coming back to Council once he has an agreement on the purchase price for their approval.

Purchase Agreement for Lake Dorothy: continued

Mrs. Hlas moved to allow the Administration to move forward on this, seconded by Mr. Braman.

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

Motion passed 7-0.

CCA Discussions:

Mrs. Hlas turned this discussion over to Mr. Moss for the details. Mr. McGlone questioned the \$123,000.00 fees for 2008. Mr. Moss stated that \$123,000.00 is what was budget for 2008. Last month the cost was \$, 6,900.00 and if you analyze that the average is \$82,000.00. Mr. Moss stated that first quarter of 2008 was \$35,000.00, so analyzing that it would be \$141,000.00. The truth is the exact number for 2008 is not known. Mr. McGlone stated that it appears it would cost us \$35,000.00 more if we did this in house, and Mr. Moss explained his memo (see attached). Mr. Moss stated that this information was prepared initially by the former Finance Director and he does not agree with them nor the cost of doing this today. Mr. Pelot questioned if this subject was even worth discussing in the future. Mr. McGlone stated that he felt the fees will continue to go up, however it appears that he does not have Councils support to continue discussing this, and Mr.. Moss agreed. Mr. Jones stated that he wanted to leave this on the agenda and was interested in seeing a quote from RITA as requested earlier. Mrs. Hlas asked what is there to discuss at this point? Mr. Jones stated that he wants a quote from RITA, and Mr. McGlone stated that it is not necessary for a presentation by RITA, however Mr. Moss could get a written quote. Mr. Zita recalled in past discussions that RITA was considered state of the art and that their fees were more expensive. Mr. McGlone stated that he thought the reasons we went with CCA was that eventually we would bring this back in house. Mr. McGlone stated that data bases are so much more simplified these days. Mr. McGlone agreed that he would like to see what RITA has to offer and continue the discussions. Mrs. Hlas suggested we leave this on the next Committee agenda for discussion. Mr. Moss stated that we do not have the staff to follow up with the collection process and that there was a combination of reasons to consider outsourcing.

Resolution of Necessity for Hazelwood & Connect:

Mr. Braman indicated that this follows in line with other assessment projects and turned the discussion over to Mr. Ryland for the details. Mr. Ryland stated that this project is one of six water line replacement projects slated for this year. Mr. Ryland indicated that a Resolution of Necessity is the next step for Council before we can go out for bids and hold any public meetings. Mr. Ryland indicated that we have received preliminary assessment costs for this project from URS Engineering. Mr. Braman moved to add this item to Councils next agenda, waiving the second and third readings, seconded by Mrs. Hlas. Mr. Ryland asked for Council to waive the second and third readings so we can get the advertising for the bids and is a smaller project.

Resolution of Necessity for Hazelwood & Connect:

Mr. Moss added that there is another step for Council approval to approve the bid from the contractor. Mr. Jones asked what the cost is for this project, and Mrs. Richards indicated this total project assessed amount is \$88,000.00 and Mr. Ryland indicated that is a 50/50 split. Mr. Zita added that this is \$34.15 per linear foot of frontage. Mayor Koontz reminded everyone that this amount is half of the total costs because the Ohio Public Works Commission is paying the other half.

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

Motion passed 7-0.

2008 Road Program:

Mr. McGlone indicated that he wanted further discussion on this because Mr. Jones had concerns and wanted to spread the funding between all wards. Mr. Ryland stated that it was reported out last week that Wadsworth Road was \$234,000.00 of the \$504,000.00 budget has been postponed until 2009. Mr. Ryland indicated that it was discussed to hold that amount in reserves for 2009 and accumulate for the project. Mr. Ryland indicated that this project has now reached \$448,000.00. Mr. Ryland indicated that we still have Mr. Weinsheimer working on assessing the roads in all wards throughout the city. Mr. Ryland stated that he disagrees with Mr. Jones' request to split the funds up between the wards. Mr. McGlone suggested we should discuss this again in two weeks after Mr. Weinsheimer evaluates the roads. Mr. Pritchard suggested the city take advantage of any available funding through AMATS to try and stretch our money. Mr. Jones questioned how much money was set aside besides the amount for St. Rt. 261, and Mrs. Hlas replied \$273,000.00.

Gas & Electric Aggregation:

Mr. Jones turned this item over to Mr. Ryland for the details. Mr. Ryland indicated that he was not happy with the services the city received from Buckeye Energy Brokers. Mr. Ryland indicated that he has been working with Mark Burns of Independent Energy Consultants. Mr. Ryland recommends that Council pursue this for gas and electric and go out for the pricing for the November markets. Mr. Jones moved to add the natural gas aggregation to Councils next agenda, suspending the second and third readings, seconded by Mr. Braman.

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

Motion passed 7-0.

Mr. Jones moved to add the electric aggregation to Councils next agenda, suspending the second and third readings, seconded by Mr. Braman.

Gas & Electric Aggregation:

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

Motion passed 7-0.

Unfinished Business:

Mr. Jones discussed a notice of protest from the attorney of an elderly couple regarding their assessment for waterlines on their property. Mr. Jones asked where do we go from here and Mr. Ryland replied that the Administration has sent out letters to residents asking for interest in sitting on the Equalization Assessment Board. Mr. Jones indicated that this was a rather large assessment for this elderly couple, in the range of \$14,000.00. Mr. Lyons reminded everyone that it is Council that sets up the Equalization Assessment Board. Mr. Jones discussed that article in today's Beacon Journal "Payback In Norton" and the article referenced Tom Jones had the nerve to propose a better way for law enforcement but it was turned down last November. Mr. Jones stated that he received a phone call from Mr. Tomko's daughter, Deb Seabeck and that his health is failing, adding that Mr. Tomko has possibly 2-3 days left. Mr. Jones encouraged anyone who was interested to go visit Mr. Tomko at the Hospice Center in Copley. Mr. Jones stated that Mr. Tomko had gone to Washington over this past weekend and the Plain Dealer was working on doing an article. Ms. Seabeck indicated that her father wanted Mr. Jones to know that he supported him.

New Business:

Mr. Jones discussed the Creekside Animal Clinic has started work this past weekend and he was unsure when they would be up and running. Mr. Jones stated that he hoped the city continues to work with the owners.

Public Comment-Non Agenda Items:

Ms. Charlotte Whipkey, a Norton resident spoke about the video equipment being broken at Time Warner and asked if there was an email circulated confirming this? Ms. Whipkey asked if they would be making up the meetings of April 7, 2008 and April 14, 2008?

Ms. Whipkey stated that she understood there was a discrepancy on the way our Charter reads as far as monetary issues and the ordinance recently passed about wages, adding that she would like to know if this has been ruled ok. Ms. Whipkey discussed being treated to Council Rules, specifically Rule 601 which states "*these rules may be amended at any regular meeting by a two-thirds (2/3) vote of Council*". Ms. Whipkey also discussed Rule 602 which states "*These rules may be suspended for the time being, at any meeting of Council, by concurrent vote of two-thirds (2/3) of all its members present at the meeting wherein the motion was made to suspend these rules*". Ms. Whipkey stated that she attended the meeting last week and does not recall any such vote taking place. Ms. Whipkey stated that although she was pleased that she would not be seeing herself on TV, you really didn't think you would be getting off that easily.

Public Comment-Non Agenda Items continued:

Ms Whipkey stated that according to your rule 503 Videotaping which states: *“Videotaping of Council Meetings shall be under the direction of Council without any form of censorship, excepting the deletion of profanity, obscenity or any matter unacceptable under FCC regulations”*. Ms. Whipkey stated that by removing the camera from the podium you have performed an act of censorship in addition to limiting our rights of free speech. Ms. Whipkey stated that since no vote was taken, you are supposed to follow your own rules and Roberts Rules. You have violated your oath of office by not allowing our free speech. Ms. Whipkey discussed having decorum in the room, and commented on people who giggle in the background. Ms. Whipkey stated that she has a problem with you wanting to take away her rights. Ms. Whipkey stated that she comes from a long line of people who went and fought for our rights for each and every one of you. Ms. Whipkey stated that she would be willing to fight for them, even though some of you do not deserve it.

Ms. Megan Booth, a Norton resident, reminded everyone about contract negotiations that are due this fall, and that the public is watching. We were all told last fall that they would be held to a budget and we will be watching that very closely. Ms. Booth stated that there is an \$8,000,000.00 lawsuit against the Police, the City and the School Board. This person was cleared in August and all charges were thrown out. Ms. Booth questioned how much has the City spent on the lawsuit thus far? Mr. Pelot stated that this is communication from the public, and Ms. Booth stated that was fine, however she would like this figure when ever you can get it, perhaps by the next meeting. Ms. Booth stated that last fall Norton was told that regionalism held no savings very vehemently and would actually cost us more money. Well now all of the sudden we are hearing that regionalism is good by combining the dispatchers. Ms. Booth questioned if we are being misled now or were we misled last fall because both situations are regionalism.

Topics for the next Work Session:

Deposit law, Resolution of Appreciation of George Tomko, RITA discussion, 2008 Road Program. Mrs. Richards stated that we may have post cards returned on the assessment project and that Council will need to appoint the members for the Equalization Board.

Adjourn

There being no other business to come before the Committee Work Session, the meeting was adjourned at 8:09 PM.

Scott Pelot, President of Council

****NOTE: THESE MINUTES ARE NOT VERBATIM****

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.