



**NORTON CITY COUNCIL
REGULAR COUNCIL MEETING
MONDAY, JUNE 9, 2008**

Roll Call: Ken Braman
Brenda Hlas
Tom Jones
Dennis McGlone
Bill Mowery
Scott Pelot
Mike Zita

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

The Regular Council Meeting convened on Monday, June 9, 2008 at 7:03 PM, in Council Chambers of the Safety Administration Building. The meeting was called to order by Scott Pelot, President of Council, followed by the Pledge of Allegiance and a moment of silent prayer. Mayor Koontz announced June 12 through June 19 as Nursing Assistants Week and urged all citizens to join him in expressing encouragement and appreciation for their services, and read a proclamation (see attached).

COMMITTEE OF THE WHOLE:

There were no reports

CONSIDERATION OF THE MINUTES:

Minutes of the Regular Council Meeting of May 27, 2008, Mr. Jones noted a correction to page#2 under Committee of the Whole, the width of the vehicle should be 12 ft. 8 inches not 39 ft. 8 inches. Mr. Jones noted a correction to page #7 under Res. #39-2008, second line he stated that Barberton would not be joining. Mr. Jones indicated that he discussed these with Mrs. Richards and Mrs. Richards indicated that these corrections have been verified and addressed.

Minutes of the Committee Work Session of June 2, 2008, Mr. Jones indicated that on page #4 the minutes are not completed the way he thought they should have been, he would not go into detail on it, however he would not accept the June 2, 2008 minutes. The minutes were approved as written.

COMMUNICATION FROM THE PUBLIC:

Ms. Charlotte Whipkey, A Norton resident, spoke, about citizens being censored left and right since the beginning of the year. We are being told how to talk, no names, no titles, no rules, etc. Ms. Whipkey stated that she got reprimanded at last weeks meeting and reflected to the minutes where Mr. Pelot warned the residents about asking for respect and that there is to be no reference to he or she, You are to address Council as a whole. Ms. Whipkey stated that on April 28, 2008 when she asked if this applied criticism, Mr. Pelot stated no, and that it applied to personal attacks which have taken place lately. Ms. Whipkey stated that what she complained about last week, which she still felt deserved a public apology, she questioned how was she supposed to do that. She got reprimanded for saying "she". Mr. Pelot stated that Ms. Whipkey could have addressed that by stating " a member of Council".

COMMUNICATION FROM THE PUBLIC CONTINUED:

Ms. Whipkey stated that all this is, is a way so that whoever is being the one that has committed the atrocity in this case, they get off of it, they are not pointed out. Ms. Whipkey stated that she didn't see any of Council standing up saying that it wasn't them. Ms. Whipkey stated that it is leaving the public out in the dark, and if you go back a year from now and read the minutes you would have no idea who this pertains to unless you see the video tape. Ms. Whipkey stated that this is censorship in maximum form. Ms. Whipkey stated that it's one thing to use a name but you should be allowed to use a ward location or position, you are keeping too much out of it and it's not for our benefit.

Ms. Megan Booth, a Norton resident, spoke regarding the road program and the section of road broken away on Woodbine Drive. Ms. Booth stated that there have been some workers repairing driveways on Woodbine Drive and someone had mentioned that these are city workers. Ms. Booth stated that she was not aware of that and if this is the case they should have noticed the road crumbling and would like to bring this to the city's attention. Mr. Pelot thanked Ms. Booth for bringing this to the city's attention and would have this looked into.

Mrs. Elaine Tompkins, a Norton resident, spoke regarding her concerns with agenda items, (see attached).

PUBLIC HEARINGS:

None

INTRODUCTION OF NEW LEGISLATION:

RES #52-2008

Mr. Braman offered Res. #52-2008 for its first reading, and asked the Clerk to read it:

A RESOLUTION SUPPORTING THE RENEWAL OF THE CLEAN OHIO FUND BOND.

First reading only.

ORD #53-2008

Mr. Zita offered Res. #53-2008 for its first reading, and asked the Clerk to read it: Mr. Jones called a Point of Order, the agenda states a Resolution. Mr. Pelot clarified that this legislation is an Ordinance not a Resolution.

AN ORDINANCE APPOINTING AN ASSESSMENT EQUALIZATION BOARD TO HEAR OBJECTIONS RELATING TO THE CONSTRUCTION OF WATER MAINS, HYDRANTS AND RELATED IMPROVEMENTS AND ALL OTHER NECESSARY APPURTENANCES THERETO, COMPRISING THE PROJECT KNOWN AS BERRY, MCGOWAN AND WADSWORTH ROAD WATERLINES, AND DECLARING AN EMERGENCY.

ORD #53-2008 CONTINUED:

Mr. Zita moved to waive the second and third readings, seconded by Mrs. Hlas. Mr. Zita stated that we are already behind in our time line and the funding has already been awarded.

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

Motion passed 6-1

Mr. Zita moved to adopt Ord. #53-2008, seconded by Mrs. Hlas. Mr. Jones questioned Mr. Kostoff regarding the discussion he had earlier as to this ordinance appearing on the agenda and the votes at the Committee meeting last week. Mr. Kostoff stated that he reviewed the Charter Section 3.14 and the requirements for a quorum for either a Council meeting or a Committee meeting. Mr. Kostoff stated that a majority is required. Mr. Kostoff stated that Charter Section 3.18 relates to legislative procedures, which requires an affirmative vote of 4 or more is required to enact an ordinance or resolution. Mr. Kostoff stated that Council Rules are silent on the required number of votes necessary to send an item to Council's agenda. Mr. Kostoff explained that at the last Committee meeting there was a vote of 3-1 to send a matter to Council's next agenda. The action of the Committee was not passing a piece of legislation, it was a action of the majority of members present to forward a recommendation to Council to place something on the agenda. Mr. Kostoff stated that it was his opinion that you do not have the same requirement as you do in relationship to a higher standard as with legislation, so a majority of 4 people present, and 3 is sufficient to move something forward to the agenda. Mr. Kostoff stated that this does not mean that it will get passed or not, it merely places it on the agenda. Mr. Kostoff further explained that if you have a 3 member committee, and in order to move a matter to the agenda you would need 2 members voting affirmative of that committee. Mr. Kostoff stated that Council Rules do not address this and he was deriving his opinion on logic and looking at the Charter. Mr. Kostoff stated that a simple majority is all that is required. Mr. Jones stated that although he agreed with what Mr. Kostoff was saying, and the fact that he was not here in the past, he questioned what took place on April 7, 2008 when a vote of 3-1 failed on Amended Ord.#28-2008. Mr. Jones asked if we have set precedence in that respect with tonight's agenda? Mr. Kostoff stated that he does not have the previous legislation in front of him to review, however his response pertains to the situation before him now, and he cannot comment on what took place in the past. Mr. Jones read an excerpt from the minutes of April 7, 2008 regarding Amended Ord. #28, 2008; "*Roll Call: Yeas:Hlas,Zita,Braman Nays: Jones. Motion failed by a vote of 3-1 a majority vote of at least 4 yeas is required. Mrs. Hlas stated that she did not understand why Mr. Jones voted no on this, and questioned why he wanted to wait on this just because three (3) members were not present for the discussion?*" Mr. Jones stated that this is the same thing that happened last Monday night, which is why he brought it to the Clerk's and Mr. Kostoff's attention. Mr. Jones stated that he was not sure that some of the people are even landowners. Mr. Kostoff stated that Council appoints these people and it's your purview to determine if they are disinterested free holders. Mr. Kostoff stated that he indicated to Mr. Jones that if he wanted to place this on the agenda by way of the Committee of the Whole that was an option.

ORD #53-2008 CONTINUED:

However, if this option is used, Mr. Kostoff stated that he would draft a piece of legislation to place in the Council Rules how to move a matter through the Committee process. Mr. Jones stated that he was glad that Mr. Kostoff explained this and Mr. Jones wanted everyone to know that he had discussed this with Mr. Kostoff. Mr. Jones stated that Mayor Koontz indicated that he had made these recommendations for the Assessment Equalization Board, and Mr. Kostoff stated that the Mayor may submit a recommendation for any Board and it is Council that makes the final approval. Mr. Jones stated that with a special assessment process there is a 16-step process that takes place, and Mr. Kostoff concurred. Mrs. Hlas stated that she can attest that Mr. Maier, Mr. Nada, and Mr. Bennett are all homeowners, she did not know about Ms. Dixon. Mrs. Hlas stated that in defense of Mr. Lyons, he was not present on the evening of April 7, 2007 for the decision on that vote, that was a judgement call between Council members. Mr. Jones discussed Section 3, the date of Wednesday, June 28, 2008. This is a Saturday, so lets change that to June 25, 2008. The Clerk advised that the correct date for the Public Hearing is Wednesday, June 18, 2008. Mr. Pelot stated that Ms. Pam Dixon, the alternate on the Board, was in audience this evening.

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

Motion passed 7-0.

ORD #54-2008

Mrs. Hlas offered Ord. #54-2008 for its first reading, and asked the Clerk to read it:

AN ORDINANCE PROVIDING FOR SUPPLEMENTAL APPROPRIATIONS FROM THE UNAPPROPRIATED BALANCES IN THE FIRE FUND AND THE EMS FUND.

Mrs. Hlas moved to waive the second and third readings, seconded by Mr. Zita.

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

Motion passed 7-0.

Mrs. Hlas moved to adopt Ord. #54-2008, seconded by Mrs. Hlas.

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

Motion passed 7-0.

ORD #55-2008

Mrs. Hlas offered Ord. #55-2008 for its first reading and asked the Clerk to read it:

ORD #55-2008

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF FUND #106 FOR THE PORTION OF THE LEVY PROCEEDS ALLOCABLE TO NON-CAPITAL PURPOSES FROM THE 2007 FIRE/EMS LEVY, AND DECLARING AN EMERGENCY.

Mrs. Hlas moved to waive the second and third readings, seconded by Mr. McGlone.

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

Motion passed 7-0.

Mrs. Hlas moved to adopt Ord. #54-2008, seconded by Mrs. Hlas.

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

Motion passed 7-0.

INTRODUCTION OF PRIOR LEGISLATION

RES #48-2007

Mr. McGlone offered Res. #48-2007 for its second reading and asked the Clerk to read it:

A RESOLUTION REQUESTING THAT THE OHIO GENERAL ASSEMBLY ADOPT LEGISLATION TO ENACT A DEPOSITORY RECYCLING PROGRAM OTHERWISE KNOWN AS A "BOTTLE BILL" IN THE STATE OF OHIO.

Second reading only

RES #49-2008

Mr. Jones offered Res. #49-2008 for its second reading and asked the Clerk to read it:

A RESOLUTION DECLARING IT NECESSARY TO IMPROVE HAZELWOOD AVENUE AND CONNECT ROAD BY INSTALLATION OF NEW WATER LINES, AND DECLARING AN EMERGENCY.

Second reading only.

REPORTS FROM OFFICERS, BOARDS AND COMMISSIONS:

Mayor Koontz reported that the City did receive confirmation from ODOT regarding funding for 90% of the preliminary engineering fee for Cleveland-Massillon Road. Mayor Koontz stated that Mr. Pritchard would provide more details in his report. Mr. Moss discussed the Fire Fund and reported that the revenue is at 57% of the budgeted revenue for the year and that does not include any advance as we had initially discussed. Mr. Moss stated that we had originally anticipated an advance of \$100,000.00, which has not been done. It appears that we will not need this advance and will be able to stay on track.

REPORTS FROM OFFICERS, BOARDS AND COMMISSIONS:

Mr. Pritchard elaborated on Mayor Koontz's announcement regarding the ODOT funding. Mr. Pritchard stated that \$350,000.00 is being awarded to the city for the widening of Cleveland-Massillon Road with a 10% match from the city which is \$35,000.00. Mr. Pritchard stated that we still have some other necessary hoops and hurdles to go through in order to move this forward. Mr. Pritchard stated that the recycle bins are now full and will be removed and will be replaced with empty ones. Mr. Pritchard stated that he was pleased that the residents filled these bins in only 2 weeks time. Mr. Pritchard stated that he is working on getting Issue I funding for Newpark Drive, Van Hying bridge at Cleveland Massillon Road, and I-76, and asked to place this on next week's Committee Work Session because of a short time frame for the Issue 1 requirements. Mr. Pelot inquired about the type of work being done on I-76 and Mr. Ryland replied that this is for repairs to exit and entrance ramps and guardrail work. Mr. Jones stated that he thought there was to be some fencing installed as well. Mr. Ryland stated that he was not aware of fencing, only guardrails to keep traffic from crossing over the center median. Mr. Jones questioned the Cleveland-Massillon Road widening project and if this was going from Shannon Avenue north to I-76 and Mr. Pritchard replied; yes this is to be done in 2 phases.

UNFINISHED BUSINESS:

Mr. Jones questioned Mr. Kostoff if he has reviewed Ord. #18-2008 (Architect for New Fire Station), #28-2008 (Appropriations for Fire Station Architect) and #41-2008 (Appropriations-Amends Ord #28-2008 not limiting design site to the Community Center)? Mr. Kostoff replied yes, and that he was already asked this. Council was not constrained to the community center location, the Administration had asked Council for direction and Council gave direction by asking the architect for designs. Mr. Kostoff stated that this would have to go out for public bid, which this Council will have to approve and his position on this has not changed, it has not limited Council to other locations. Mr. Kostoff stated that the Administration is proceeding as Council has directed them to do so at this point. Mr. Pelot stated that last week it was brought up that a Council member was laughing at the May 19, 2008 meeting when a resident was at the podium speaking about Mr. Tomko who had passed away. Mr. Pelot stated that he was asked to review the tape and take some action on this. Mr. Pelot stated that he reviewed the tape and the resident who came to the podium and spoke at the beginning stated his name as being "*George Tomko, 2525 Reimer Road, Extention....*" Mr. Pelot stated that he felt the laughing part was taken out of context because that is what it was addressed to, not realizing that this resident was going to go into a little piece about Mr. Tomko passing away. Mr. Pelot stated that anyone is welcome to view the tape, however it was not meant to be disrespectful.

NEW BUSINESS:

Mr. Ryland stated that he would like to add the Newpark Drive, ODOT I-76, Van Hying Bridge Repair and review of the Barberton Health District Contract at the next Work Session. Mr. Pelot stated that he would also like to see clarification in Council Rules regarding the votes required for the enactment of legislation and recommendation to move something forward to an agenda. Mr. McGlone stated that mosquito season is here and would like to know when they will be spraying and questioned if there is a phone number available.

NEW BUSINESS CONTINUED:

Mr. Binic of the Barberton Health District present, and explained that the MAD has contracted with Stewart Pest Control for this year. Mr. Binic stated that questions could be directed to Stewart Pest Control at 745-1910. Mrs. Hlas stated that she contacted Mr. Brumagin last Thursday because she had a complaint in Frashure. Mr. Brumagin was very generous and called her right back and told her that they would be starting on Monday and it would be the same program as last year, which was every other week. Mr. Binic discussed the Silver Creek fish dying out in the lake and they have determined dissolved oxygen as the potential cause, which is a natural occurring event. They have ruled out e-coli and toxic algae as other causes. Mr. Binic stated that swimming has been suspended pending final test results. Mrs. Hlas discussed a memo received from the Norton Prosecutor Holly Reese about the nuisance and maintenance complaints and asked if the Administration was ready to bring this forward? Mr. Ryland stated that we could put it on the agenda for next week, and Mr. Zita stated that he discussed it with Building & Zoning Supt. Russ Arters and he would rather wait for 3 more weeks to discuss it. There was discussion if this could wait until after recess to begin discussion, and Mr. Ryland suggested waiting on the property maintenance until after Council's recess and discuss the nuisance issue at the next work session.

PUBLIC SERVICE ANNOUNCEMENTS:

Mr. Jones urged everyone in Ward 1 to vote yes July 10, 2008 for Tom Jones. Mayor Koontz thanked our AV Student Kate Maneeley, who provided her services this year. Mayor Koontz made several other announcements of events, (See attached). Mr. Pelot stated that a City of Norton Service Dept. employee was involved in a serious accident on his way to work this week, please keep him and his family in your thoughts and prayers. Mrs. Hlas stated that although she appreciates everyone's concerns about her comments, where she goes, where she socializes, her demeanor on Council, etc. Mrs. Hlas stated that yes she did smile when Mr. Hetrick said what he said about Mr. Tomko. Mrs. Hlas stated that when Mr. Tomko found out he had cancer he called her and they talked and he told her that he would be looking over our shoulders for whenever we passed the English language first legislation, which she found to be very comical. Mrs. Hlas stated that when Mr. Hetrick said that she did smile and may have snickered, and felt she needed to say something about it.

ADJOURN:

There being no other business to come before the Regular Council Meeting, the meeting was adjourned at 7:55 PM

Scott Pelot, President of Council

I, Ann Campbell, Deputy Clerk of Council for the City of Norton, do hereby certify that the foregoing minutes were approved at a Regular Council Meeting held on June 23, 2008.

Ann Campbell, Deputy Clerk of Council

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

All Council & 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.