



**NORTON CITY COUNCIL
REGULAR COUNCIL MEETING
MONDAY, AUGUST 25, 2008**

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

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

The Regular Council Meeting convened on Monday, August 25, 2008 at 7:02 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.

COMMITTEE OF THE WHOLE:

Mr. McGlone moved to add Ord #76-2008 to tonight's agenda and asked Mr. Moss for the details. Mr. Moss stated that we received one quote for the 2008 Road Program from Lytle Construction out of Wooster in the amount of \$433,000.00 and that is not what we had budgeted it is considerably more. Since then we sat down with the contractor and have developed a way to reduce the 2008 Budget by \$73,000.00 bringing this to \$360,000.00. In order to do that we are taking Clark Mill Road, which is \$44,000.00, out for this year and holding it off until next spring. The reason this makes more sense is because the specifications for this road include some things that should not occur because of colder nighttime temperatures. As soon as the weather breaks in 2009 they would begin work on this contract but within the 2009 Budget. Mr. Moss stated that Cynwood and Durham have also been pushed back to a later date and that we would do them at the same time we do Greenridge, after the waterline project is complete. Mr. Moss indicated that this brings us down to \$360,000.00, which is still \$87,000.00 more than the budgeted amount. Mr. Moss stated that we received \$119,000.00 in 2008 from the estate tax revenue and suggested applying \$87,000.00 toward the Road Program. Mr. Moss discussed a transfer of \$12,000.00 to the Special Events fund. Mr. Moss indicated that there is already some money in this fund; we only need \$8,300.00, there is already \$3,700.00 available. Mr. Moss stated that the remainder of \$20,570.00 would be in the General Fund is for fixing up a cemetery project that was already in progress and some additional work in the parks. Mr. Jones asked Mr. Kostoff if he prepared this legislation and Mr. Kostoff replied no that he had reviewed this and that he is satisfied with it. Mr. Pelot questioned how soon the road program would begin and Mr. Moss stated that we would sign the contract this week and work could begin in the next 2-3 weeks. Mr. Jones discussed taking off Clark Mill Road and Mr. Moss indicated that it is not being taking off, it is simply being pushed into the spring of 2009. Mr. Moss indicated that you are taking a chance with doing this area in the fall because of the lower temperatures, you would get a lower adhesion on the surfaces, and different roads require a different material. Mr. Jones questioned the inheritance money that we agreed to use for the gazebo and Mr. Moss stated that money was transferred last year and that is already

committed. Mr. Jones questioned the road conditions with the paving on Summit Road adding that this was a really bad paving job. Mr. Jones asked how could get some of our money back for this? Mr. Moss stated that we have contacted them, we are pushing them to make corrections to those repairs. Mr. Jones asked the Mayor to have the Street Dept. to look at the area of the allotment towards Copley; there are some large holes in the road going north. Mr. Moss indicated that we would have someone look into this. Mr. McGlone moved to add Ord. #76-2008 to the agenda, waiving the second and third readings, as an emergency, seconded by Mr. Zita.

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

Motion passed 5-1.

Mr. Zita moved to add Ord. #75-2008 to tonight's agenda, seconded by Mr. Jones. Mr. Zita turned the discussion over to Mr. Kostoff for the details. Mr. Kostoff stated that he has been advised by the Summit County Board of Elections that there were enough valid signatures on the petition for a proposal to amend the city's Charter-City Council Section 3.02. Mr. Kostoff indicated that this proposal would reduce the At Large Council Members from three (3) members to one (1). Mr. Kostoff stated that under Ohio Law, there are certain functions that are ministerial acts and Council is compelled by law to follow. It is your responsibility to place Charter amendments on the ballot when they are initiated by the community, and when the Board of Elections certifies them. This ordinance would fulfil that function. Mr. Zita moved to add Ord. #75-2008 to tonight's agenda, waiving the second and third reading, seconded by Mr. Jones.

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

Motion passed 6-0.

Mr. Zita mentioned that under Consideration of Minutes the minutes of the August 21, 2008 were not listed on the agenda and need to be added for approval.

CONSIDERATION OF THE MINUTES:

Minutes of the Regular Council Meeting of July 14, 2008, approved as written.

Minutes of the Committee Work Session of July 7, 2008, approved as written.

Minutes of the Special Committee Work Session of July 21, 2008, approved as written.

Minutes of the Special Council Meeting of July 21, 2008, approved as written.

Minutes of Committee Work Session of August 18, 2008; Mr. Jones noted a correction that Mayor Koontz was not present for that meeting, adding that Mr. Braman also noticed this. The minutes were approved as corrected.

COMMUNICATION FROM THE PUBLIC:

Ms. Monica Beran, of the Chippewa Lake Water Ski Team, spoke promoting their waterski show at Emerald Lake in Norton. Ms. Beran stated that from June –August every Wednesday they put on a free waterski show at the lake. Practice is on Mondays and this is also free and open to the public, and there is plenty of free parking on the premises.

Ms. Beran indicated that their membership for the team is up to about 100 and covers all ages. Ms. Beran stated that for the past eleven (11) years they have competed nationally and for the 5th year in a row they placed at Division 1, which is very hard to achieve. Ms. Beran stated that they are a 501-C organization and they do ask for donations during the show to

help offset the cost for gas in the boats, maintenance, costumes, port-a-potties. Ms. Beran stated that it's free, it's fun and family oriented, and that this Wednesday is the last show for this summer.

Ms. Charlotte Whipkey, a Norton resident, thanked those residents who took the time to sign the petitions and those who helped carry it.

PUBLIC HEARINGS-None

INTRODUCTION OF NEW LEGISLATION:

RES #66-2008

Mr. Jones offered Res. #66-2008 for it's first reading, and asked the Clerk to read it:

A RESOLUTION APPROVING THE REPORT OF THE ASSESSMENT EQUALIZATION BOARD ON OBJECTIONS CONCERNING THE ESTIMATED SPECIAL ASSESSMENTS FOR THE IMPROVEMENT OF BERRY, MCGOWAN AND WADSWORTH ROADS IN THE CITY BY CONSTRUCTING AND INSTALLING WATER LINES, HYDRANTS AND RELATED IMPROVEMENTS AND ALL OTHER NECESSARY APPURTENANCES THERETO, COMPRISING THE BERRY, MCGOWAN AND WADSWORTH ROAD WATERLINES PROJECT, AND DECLARING AN EMERGENCY.

Mr. Jones moved to waive the second and third readings, seconded by Mr. Braman.

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

Nays: None

Motion passed 6-0.

Mr. Jones moved to adopt Res. #66-2008, seconded by Mr. Braman.

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

Nays: None

Motion passed 6-0.

ORD #67-2008

Mr. Jones offered Ord. #67-2008 for it's first reading and asked the Clerk to read it:

AN ORDINANCE DETERMINING TO PROCEED WITH THE CONSTRUCTION AND INSTALLATION OF WATERLINES, HYDRANTS, AND RELATED IMPROVEMENTS AND ALL OTHER NECESSARY APPURTENANCES THERETO, COMPRISING THE BERRY, MCGOWAN AND WADSWORTH ROAD WATERLINES PROJECT, AND DECLARING AN EMERGENCY.

Mr. Jones moved to waive the second and third readings, seconded by Mr. Braman.

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

Nays: None

Motion passed 6-0.

Mr. Jones moved to adopt Res. #67-2008, seconded by Mr. Braman. Mr. Jones asked Mayor Koontz how far west this project would be going, and Mayor Koontz indicated that he was

not 100% sure without the plans present to look at. Mr. Jones commented that he thought it was going to Wilbanks.

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

Motion passed 6-0.

ORD #68-2008

Mr. Jones offered Ord. #68-2008 for it's first reading, and asked the Clerk to read it:

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 HAZELWOOD & CONNECT ROAD WATERLINES, AND DECLARING AN EMERGENCY.

First reading only.

RES #69-2008

Mr. Mowery offered Res. #69-2008 for it's first reading and asked the Clerk to read it:

A RESOLUTION AUTHORIZING THE CHIEF OF POLICE TO APPLY FOR GRANTS FOR THE NORTON POLICE DEPARTMENT FOR THE PURPOSE OF PROVIDING FUNDS FOR THE SALARIES OF CERTIFIED DARE OFFICERS, TEACHING OR PLANNING TO TEACH THE APPROVED DARE CURRICULUM IN LOCAL SCHOOLS AND DECLARING AN EMERGENCY.

First reading only.

ORD #70-2008

Mr. Braman, offered Ord. #70-2008 for it's first reading, and asked the Clerk to read it:

AN ORDINANCE TO RECLASSIFY THE PROPERTIES KNOWN AS 3175 AND 3147 BARBER ROAD, NORTON, OHIO- VACANT LOTS (PERMANENT PARCEL NUMBERS 4700310, 4700311, 4700168 AND 4700166) FROM I-1 LIGHT INDUSTRIAL TO B-3 HIGHWAY BUSINESS DISTRICT.

First reading only.

ORD #71-2008

Mr. Braman offered Ord. #71-2008 for it's first reading and asked the Clerk to read it:

AN ORDINANCE TO RECLASSIFY PROPERTY KNOWN AS 3095 BARBER ROAD, NORTON, OHIO (PERMANENT PARCEL NUMBER 4603791 AND 4603792 FROM I-1 LIGHT INDUSTRIAL DISTRICT TO B-3 HIGHWAY BUSINESS DISTRICT.

First reading only

RES #72-2008

Mr. Jones offered Res. #72-2008 for it's first reading, and asked the Clerk to read it:

A RESOLUTION DECLARING IT NECESSARY TO IMPROVE CLEVELAND-MASSILLON ROAD, GREENRIDGE ROAD, DURHAM ROAD, DRIFTWOOD ROAD AND CERTAIN OTHER PARCELS BY CONSTRUCTING AND INSTALLING WATER LINES, TOGETHER WITH NECESSARY APPURTENANCES THERETO COMPRISING THE CLEVELAND-MASSILLON ROAD WATER IMPROVEMENT PROJECT, AND DECLARING AN EMERGENCY.

First reading only.

ORD #73-2008

Mr. Braman offered Ord. #73-2008 for it's first reading, and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING THE DEMOLITION OF THE UNSAFE STRUCTURES AT 3829 EASTON ROAD, NORTON, OHIO AND DECLARING AN EMERGENCY.

First reading only.

ORD #74-2008

Mr. McGlone offered Ord. #74-2008 for it's first reading, and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING THE MAYOR OR HIS DESIGNEE TO ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION AND DECLARING AN EMERGENCY.

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

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

Motion passed 6-0.

Mr. McGlone moved to adopt Ord. #74-2008, seconded by Mr. Jones. Mr. McGlone clarified that this is to make repairs the fascia underneath the bridge because a trucker tried to go under several times and didn't fit. Mr. Jones questioned if this trucker had insurance and if the city would be reimbursed. Mayor Koontz replied that this is an ODOT project and they would seek recovery.

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

Motion passed 6-0.

ORD #75-2008 (Added to the Agenda)

Mr. Zita offered Ord. #75-2008 for it's first reading, and asked the Clerk to read it:

AN ORDINANCE SUBMITTING TO THE ELECTORS OF THE CITY OF NORTON A PROPOSAL TO AMEND ARTICLE III SECTION 3.02 OF THE CHARTER OF THE CITY TO AMEND THE COMPOSITION OF THE CITY COUNCIL.

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

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

Nays: None

Motion passed 6-0.

Mr. Zita moved to adopt Ord. #75-2008, seconded by Mr. Jones. Mr. Kostoff read aloud the three (3) specific Whereas clauses in particular the third clause which states “WHEREAS, notwithstanding the City’s position that the Amendment proposed by the Petition is unconstitutional under the provisions of the Ohio Constitution as has been interpreted in decisions rendered by the Ohio Supreme Court, the City Council has a mandatory duty under the Ohio Constitution to submit the proposed Amendment to the electors of the City if the Petition is valid on its face as to form; and”. Mr. Kostoff stated that this legislation is mandatory for Council to place on the ballot if the Board of Elections certifies there are enough valid signatures. Mr. Kostoff stated that it in no way shape or form is this personal, and as Council you are fulfilling your statutory duties. Mr. Kostoff indicated that he has been reviewing this since August 18, 2008 and he believes that there are some serious defects, however the opportunity for the city to challenge this matter could only take place after the voting of the electorate. Mr. Kostoff stated that at some juncture down the road he would advise Council of the process and procedure and will ask for authorization to take legal action on behalf of the city. Mr. Kostoff stated that there are numerous cases as it relates to the constitutionality and in particular as it relates to trying to retroactively deal with the subject matter. Mr. Kostoff stated that even the Ohio Supreme Court has given guidance on this and the city would have a strong and reasonable argument to challenge it at that time. Mr. Kostoff stated that it is his job to prepare legislation that its face is constitutional, but this is an exception because we have no discretion Mr. Kostoff stated that he does not believe this is constitutional or that it would stand. Mr. Jones asked what about the amount of valid signatures, and Mr. Kostoff stated that it was his understanding that there were about 30 plus signatures above the minimum amount. Mr. Jones asked what the minimum was and Mrs. Richards indicated that 436 signatures were required. Mr. Kostoff added that the Board of Elections has advised him the other matter dealing with the reduction of the fire levy did not have enough sufficient signatures to place that on the ballot. Mr. Kostoff stated that he was asked prior to the meeting, what would happen if Council failed to act on this legislation. Mr. Kostoff indicated that the Courts would issue a Mandamus Act and would expose the city to additional attorney fees.

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

Nays: None

Motion passed 6-0.

ORD #76-2008 (Added to the Agenda)

Mr. McGlone offered Ord. #76-2008 for it’s first reading and asked the Clerk to read it:

AN ORDINANCE TO AUTHORIZE TRANSFERS FOR FISCAL YEAR 2008, APPROPRIATING SAID FUNDS IN THE 2008 BUDGET, AND DECLARING AN EMERGENCY.

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

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

Motion passed 5-1.

Mr. McGlone moved to adopt Ord. #76-2008, seconded by Mr. Zita. Mr. McGlone stated that this is just to transfer money for the 2008 Road Program and Special Events fund.

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

Motion passed 5-1.

INTRODUCTION OF PRIOR LEGISLATION:

None

REPORTS FROM OFFICERS, BOARDS AND COMMISSIONS:

Mayor Koontz stated that he was happy to learn that the fire levy reduction campaign did not have enough signatures and would not be on the ballot this fall. Mayor Koontz announced that the city did lock in a rate on natural gas of \$10.69 per MCF for the residents and this is a one- year contract. Mayor Koontz stated that our current contract rate is about \$10.96 and is even a better rate than the City of Akron locked in at. Mayor Koontz stated that this is an opt-out program and you do not need to do anything to get this rate. Mayor Koontz announced that our new Dep. Director of Finance, Laura Starosta started her employment with the city today. Mayor Koontz stated that a new AED (Automated External Defibrillator) was installed in the lobby at city hall today and several of the staff members have been trained to use this. Mayor Koontz warned everyone to be cautious while looking at this new equipment because the storage case is wired with an alarm.

Mr. Moss announced that the Norton Ladies Auxiliary has been more active than in the past and they were at the recent fire to provide food and water. They have solicited donations and would like to direct these donations to the city as a conditional gift. This does not require any action by Council, he just wanted to inform Council. Mr. Moss indicated that the city opened the bids for the sale of the old Service Garage and the highest bid was awarded to Rt. 80 Express in the amount of \$80,000.00. Mr. Moss indicated that Administration is working on legislation with the Law Director and that Council should be seeing something very soon on that issue. Mr. Moss stated that he would like to discuss the credit agreement and some audit issues at the next Work Session.

Mr. Kostoff discussed a letter from the Summit County Prosecutors office dated August 21, 2008 on the Direct Indictment Program. Mr. Kostoff stated that the contract has been confirmed and he has advised the Mayor he may proceed with signing the contract and this would be sent over to the Prosecutor's office. Mr. Kostoff followed up on Mr. McGlone's request to look into the deferment issue for property assessments, advising that he has contacted the City of Akron and they are in the process of forwarding something for him to review. Mr. Kostoff stated that he would review it and then bring it to Council for discussion. Mr. Kostoff stated that he would like to withdraw his previous estimates relating to the petition signatures and asked the Clerk to contact the Board of Elections tomorrow to get the exact numbers.

UNFINISHED BUSINESS:

None

NEW BUSINESS:

Mr. Jones asked Mayor Koontz about the abandoned house on 2817 Carillon, which has been vacant for some time and he had emailed Mr. Arters about it. Mr. Jones stated that a tree had fallen onto the roof and a neighbor contacted him because he had seen some animals inside, and the grass needs mowed and the property needs cleaned up. Mr. Jones stated that paving of the off and on ramps on St. Rt. 21 is supposed to begin tonight, closing the ramps from 10:00 PM to 6:00 AM. Mr. Pelot stated that we would add the Service Garage Sale, Credit Agreement, Audit Issue to the next Work Session agenda. Mrs. Richards stated that Mrs. Hlas indicated she wanted to have a Resolution of Support for the Cider Festival on the agenda as well. Mr. Pelot reminded everyone that this year the Cider Festival would be held at Columbia Woods Park.

PUBLIC SERVICE ANNOUNCEMENTS:

Mayor Koontz made several announcements, (see attached)

ADJOURN:

There being no other business to come before the Regular Council Meeting, the meeting was adjourned at 8:06 PM

Scott Pelot, 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 August 25, 2008.

Karla Richards, CMC-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.