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**NORTON CITY COUNCIL
REGULAR COUNCIL MEETING
MONDAY, APRIL 13, 2009**

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-Excused
Justin Markey-Attorney- Roetzel & Andress
Karla Richards
Ann Campbell

The Regular Council Meeting convened on Monday, April 13, 2009 at 7:05 PM, in Council Chambers of the Safety Administration Building. The meeting was called to order by Mike Zita, President of Council, followed by the Pledge of Allegiance and a moment of silent prayer.

COMMUNICATIONS FROM THE PUBLIC:

Ms. Maggie Abbott, from the Norton Kiwanis, announced the annual Prayer Breakfast, (see attached). Ms. Abbott stated she had tickets and if anyone was interested they could see her after the meeting.

Mr. Zita announced that Mr. Kostoff was excused this evening and that we have Attorney Justin Markey, from the law firm of Roetzel and Andress in his place, welcoming Mr. Markey to the meeting.

Mr. Mike Meusel of the Barberton Health District, read a report on the status of the septic system program (see attached).

Ms. Charlotte Whipkey, a Norton resident, commented on Ord. #45-2009 questioning how this got on the agenda with emergency language and waiving readings when it was not discussed that way in the minutes. Ms. Whipkey discussed how it was snuck in last weeks meeting that this would be a law by an ordinance. Ms. Whipkey commented about the reason given for it needing to be an ordinance was because the rules referenced other laws and she could only find two (2); in Section 201 and 206 which refers to unruly people. Ms. Whipkey stated this is nothing more than a fancy way to muzzle the people and Council. Ms. Whipkey stated Issue #26 is not a dead issue and this may just come down to the five on Council that will have to answer to this monster you created with the Council Rules legislation.

Mrs. Elaine Tompkins, a Norton resident, mentioned her concerns with Section 702 of the Council Rules. Mrs. Tompkins stated she understood that this was to be changed to allow for the liberty of Council to modify this, however when this version of the Council Rules came out it is very specific to allow for only thirty (30) minutes.

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Mrs. Tompkins expressed her concerns with limiting the public speaking and urged Council to rethink this before voting on this. Mrs. Tompkins discussed her suggestions she submitted to Council privately last week on alternative financing for the tax credit issue. Mrs. Tompkins complemented Council for supporting the Mayor on this idea, however this is not to say there would not be someone within the community that takes exception with it and runs a referendum to rescind it. Mrs. Tompkins discussed possibly reaching the same goal of saving \$560,000.00 annually if you would take two (2) steps; one is to encourage employee contributions for health care. Even if they pay half of it, you could save approximately \$361,000.00 annually. Secondly, because we were so generous with the Fire Dept, and once this new station is built, we would end up with a surplus of \$1,000,000.00 each year for this department to use. It would seem practical to reduce the millage for that department to \$500,000.00. Mrs. Tompkins stated that between the two of them this would produce a total of \$861,000.00 annually as an alternate suggestion. Mrs. Tompkins discussed the reimbursement issue for Mr. Jones, and that our Charter is silent on this issue. Mrs. Tompkins stated that she would like to see this paid in addition to seeing that the next Charter Review Commission addresses this issue in the future.

COMMITTEE OF THE WHOLE:

Mrs. Hlas moved to send Ord. #49-2009 back to the Committee, seconded by Mr. Pelot. Mrs. Hlas stated there were some discrepancies in the legislation and rather than amend it later, she prefers to send it back to Committee.

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

Motion passed 7-0.

CONSIDERATION OF THE MINUTES:

Minutes of the Regular Council meeting of March 23, 2009 were approved as submitted. Minutes of the Committee Work Session of April 6, 2009; Mr. Jones requested the following text be added at the bottom of page #4 and asked the Clerk to read the addition. *“Mr. Jones read from a letter to Mr. Moss dated February 27, 2009: Enclosed please find a copy of the addendum report of my Annual Post Special (recall) report dated January 26, 2009 along with the receipt from the BOE dated January 29, 2009. As you can see, I filed a form 31-J-1, which related to “in kind” contributions. Form 31-J-1 is used to report “items or services purchased by the candidate” and “for which reimbursement is not requested or desired”, otherwise considered “out of pocket” expenses. Those expenses were paid by me, or my wife, and not the committee. Mr. Jones asked Council if they had read this letter completely?”* Mr. Pelot noted this is not a correction, it is an addition to the minutes. Mr. Jones noted there was some dialogue within the minutes that he found fault with, however he would allow it to go on. Mr. Zita stated that Mrs. Richards has done an exemplary job with these minutes, trying to put as much into these minutes. Mr. Zita stated there are approximately 10-12 pages of minutes for this meeting, which was quite a lengthy meeting. There was no objection to this addition, and the minutes were approved as amended.

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REPORTS FROM OFFICERS, BOARDS AND COMMISSIONS:

Mayor Koontz stated that we did not receive the Stimulus Transportation Grant that we had applied for. Mayor Koontz indicated AMATS received approximately \$10,000,000.00 to \$12,000,000.00 and that about \$6,000,000.00 is going to specific projects, the remainder would be split among other projects, which would include the Greenwich Road & Norton Avenue resurfacing and repair project. Mayor Koontz stated the vote should be taken on April 21, 2009. Mayor Koontz stated if we are awarded this funding it would be an 80/20 split, and the city's share would be roughly \$100,000.00 for these improvements. Mayor Koontz stated they have not come up with a listing for any sewer or water projects and he received an email today advising this list would be out soon.

Mr. Moss requested that Council place on next weeks agenda, discussion on the budget changes necessary to go forward for the Cleveland Massillon Waterline Project. Mr. Moss stated he does not have numbers right now, however we need to start some discussion on this.

PUBLIC HEARINGS:

None

INTRODUCTION OF NEW LEGISLATION:

ORD #45-2009

Mr. Pelot offered Ord. #45-2009, for its first reading and asked the Clerk to read it:

AN ORDINANCE ADDING SECTION 220.06 TO THE CODIFIED ORDINANCES OF THE CITY OF NORTON, OHIO, AND DECLARING AN EMERGENCY.

Mr. Pelot moved to waive the second and third readings, and Mr. Jones called a point of order. Mr. Jones referenced to page #3 of the minutes of April 6, 2009; *Mr. Pelot moved to add this to Councils next agenda with all of the changes discussed with an ordinance, seconded by Mrs. Hlas.* Mr. Jones stated there was no mention of emergency language or waiving the readings. Now we find it on the agenda tonight with emergency language and waiving the readings, and we were absent of one member of Council last week. Mr. Zita reminded Mr. Jones that the one member who was absent last week, could still vote no this evening if he so chooses. Mr. Jones stated he understood that, however the motion was only to place this on the agenda, the motion did not include emergency language or to waive the readings. Mr. Zita asked Mrs. Richards if she recalled how that motion was stated last week, and Mrs. Richards concurred with Mr. Jones, there was no request for emergency or to waive readings, as the minutes reflect. Mrs. Richards indicated that Mr. Kostoff was present at this meeting for the discussions, however she did not specifically request the legislation be prepared this way, its just how it was received by the Law Director. Mr. Mowery suggested this just go as a first reading this evening. Mr. McGlone asked if there was a reason for waiving the readings, and Mrs. Hlas stated anyone could vote no on waiving the readings. Mr. Braman stated he would rather it go three (3) readings, and noted a small correction on page #7 in the exhibit where it states the Public Comment *shall be/is not* and that this was double talk. Mr. Pelot withdrew his motion. Mr. Pelot informed everyone that there have been several times in the past where the Council Rules were

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approved with an Ordinance. Once in 1964, again in 1969 and as recent as 1997. Mr. Pelot stated that there was one Councilman that was on Council at that point in time in 1997 and he approved them being passed as an actual law.

Mr. Pelot stated that the Law Director instructed us if we do not pass it with an ordinance, you have no legal standpoint of enforcing what is in there when you relate it to a city ordinance. Ordinance #45-2009 stands as a first reading only.

ORD #46-2009

Mr. Braman offered Ord. #46-2009 for its first reading and asked the Clerk to read it:

AN ORDINANCE AMENDING SECTION 1236.08 OF THE CODIFIED ORDINANCES OF THE CITY OF NORTON, OHIO, AND DECLARING AN EMERGENCY.

First reading only.

ORD #47-2009

Mrs. Hlas offered Ord. #47-2009 for its first reading, and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING A CONTRACT TO BE ENTERED INTO WITH THE SUMMIT COUNTY GENERAL HEALTH DISTRICT TO PROVIDE PUBLIC HEALTH SERVICES IN NORTON, OHIO AND DECLARING AN EMERGENCY.

Mrs. Hlas moved to waive the second and third readings, seconded by Mr. McGlone. Mrs. Hlas explained that our current contract is ending and we need to get something in place.

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

Motion passed 7-0.

Mrs. Hlas moved to adopt Ord. #47-2009, seconded by Mr. McGlone. Mrs. Hlas stated this was a very hard decision for the Norton Council and the Norton Health Advisory Board members to make. We took many things into consideration and it was the recommendation of the Norton Health Advisory Board to contract with Summit County Health District.

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

Motion passed 7-0.

ORD #48-2009

Mrs. Hlas offered Ord. #48-2009 for its first reading and asked the Clerk to read it:

AN ORDINANCE AMENDING SECTION 880.15 OF THE CODIFIED ORDINANCES OF THE CITY OF NORTON, OHIO TO REDUCE THE TAX CREDIT PERMITTED ON MUNICIPAL

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INCOME TAXES PAID BY RESIDENTS TO ANOTHER MUNICIPALITY FOR A TWENTY-FIVE YEAR PERIOD COMMENCING JULY 1, 2009, AND DECLARING AN EMERGENCY.

First reading only.

INTRODUCTION OF PRIOR LEGISLATION:

ORD #41-2009

Mr. Mowery offered Ord. #41-2009 for its second reading and asked the Clerk to read it:

AN ORDINANCE ADDING SECTION 660.18 TO THE CODIFIED ORDINANCES OF THE CITY OF NORTON, OHIO, AND DECLARING AN EMERGENCY

Second reading only.

ORD #39-2009

Mrs. Hlas offered Ord. #39-2009 for its third reading and asked the Clerk to read it:

AN ORDINANCE ADOPTING THE ALTERNATIVE TAX BUDGET FOR THE CITY OF NORTON FOR THE FISCAL YEAR 2010 AND DECLARING AN EMERGENCY.

Mrs. Hlas moved to adopt Ord. #39-2009, seconded by Mr. McGlone.

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

Motion passed 7-0.

ORD #40-2009

Mrs. Hlas offered Ord. #40-2009 for its third reading and asked the Clerk to read it:

AN ORDINANCE TO AUTHORIZE AND DIRECT THE MAYOR TO ENTER INTO A CONTRACT WITH ORIANA HOUSE, INC. AND DECLARING AN EMERGENCY.

Mrs. Hlas moved to adopt Ord. #40-2009, seconded by Mr. McGlone. Mr. Jones stated he has nothing against Oriana House, it's with the person that prepared and approved this legislation as legal Counsel. Mr. Jones stated that since Mr. Kostoff is a lobbyist for this or their firm, we had to pay Mr. Irv Sugerman, and he cannot support that. Mr. Pelot commended Mr. Kostoff for removing himself from the conflict of interest with this.

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

Motion passed 6-1.

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UNFINISHED BUSINESS:

Mr. Jones stated that now that we have a full Council present, he would like to talk about his reimbursement issue. Mr. Zita stated this is not on the agenda, we discussed it last week and a vote was taken. Mr. Jones stated he is bringing it up again because last week we did not have a full Council and now we have a full Council. Mr. Zita told Mr. Jones that last week when we did not have a full Council, he had the option not to discuss it, and he chose to go ahead with it. Mr. Zita stated Mr. Jones you wanted a vote, so we voted on it and you don't like the way the vote went, sorry about that. Mr. Jones asked to have the Legal Counsel, Mr. Markey comment on that.

Mr. Markey stated that there was a quorum at last weeks meeting, a vote was taken and the vote of Council stands.

NEW BUSINESS:

Mr. McGlone thanked Mr. Weinsheimer and his Dept. for the great job they have done with the road patching. Mr. McGlone thanked Mayor Koontz for looking into the surcharges and for seeing that if this passes it would be a double tax. Mr. McGlone stated he is getting a lot of calls about the Eshlich dump with questions on possible expansion. Mr. Ryland clarified that Mr. Eshlich did buy the property to the east on the other side of the creek, however they must apply to the State to use this new property, they cannot just expand the current site with the permits they have in hand today. The work you see taking place now is to put in a driveway so they can get heavy equipment back to that area and clean up all the old tires and debris they are required to remove. Mr. McGlone asked if this approval is something that would have to come to Council, and Mr. Ryland replied he did not know how the application process worked, he would look into it and find out. There was discussion about Eshlich installing a sewer line in this area, and Mr. Ryland indicated the sole purpose would be to protect the residents in this area. It would be used to remove the leachate in this area, protecting the ground water, wells, streams, etc. Mr. McGlone stated these residents have gone through hell in this area and we need to look into this. Mrs. Hlas indicated that the laws have changed since they obtained their initial license, it's not as easy to get licensed. Mr. Jones stated that Eshlich has money and he can go to the EPA and gets his approval, and Mr. Mike Meusel of the Barberton Health District, concurred with that. Mr. Ryland stated he was not aware of any application being made, and Mr. Jones agreed, however it could be made. Mr. Ryland stated that for anyone to conjecture what the plans are for Mr. Eshlich is premature. Mr. Jones stated years ago when Mr. Morgan was here as the City Administrator, Council had no say so when this facility went in at that time. Mayor Koontz stated he recalled this, as he was on Council then. He also recalled the city spending a lot of money trying to fight this, to no avail. Mr. Ryland reminded everyone this land is currently zoned residential, if anything is done, it would have to go before zoning to change that. Mr. Zita asked for clarification of this new property location, and Mr. Ryland indicated it is to the east, on the other side of the creek. Mr. Pelot asked if we have an ordinance or something relating to the pollution being drug out onto the road? Mr. Ryland indicated that Mr. Eshlich does try and keep the road clear, he has a street sweeper and takes it out and clears the roads. He also has wheel washers that clean off the trucks before they go out onto the road. It's difficult trying to keep up with all of the dust on the roads. He does comply with the rules that are in place. Mr. Pelot asked about the number of accidents at the corner of Vanderhoof and Fairland, as there was a nasty accident over the weekend. Mr. Ryland indicated there was a bad accident on Sunday and we can run the records to see how many we responded to since this is a joint response area. When this accident occurred we were not the first on scene, that would have been New Franklin. Mr. Pelot asked Mrs. Richards to also contact New Franklin to see how many they have responded to in that area. Mrs. Richards

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inquired if there was a specific time frame Mr. Pelot was interested in, and he replied to check back two (2) years.

PUBLIC SERVICE ANNOUNCEMENTS:

Mayor Koontz announced the Norton Clean Up Day on Sat. April 25, 2009 (see attached), and the Norton Kiwanis Prayer breakfast on Thursday, May 7, 2009 (see attached).

ADJOURN:

There being no other business to come before the Regular Council Meeting, the meeting was adjourned at 7:44 PM.

Mike 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 April 27, 2009.

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.