



**NORTON CITY COUNCIL
REGULAR COUNCIL MEETING
MONDAY, SEPTEMBER 14, 2009**

Roll Call: Ken Braman-Excused
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 At Law
Karla Richards
Ann Campbell

The Regular Council Meeting convened on Monday, September 14, 2009 at 7:00 PM, in the 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.

COMMITTEE OF THE WHOLE:

Mrs. Hlas announced that due to many conflicts she can no longer serve on the Norton Health Advisory Board and stated that Council would need to appoint a replacement.

Mr. Zita announced that Mr. Kostoff was excused this evening, and that Attorney Mr. Justin Markey is sitting in as the Law Director in Mr. Kostoff's absence.

COMMUNICATIONS FROM THE PUBLIC:

Mr. Jeff Case, a Norton resident, spoke regarding existing funds for water and sewer and the information he found on the city web site from 2004-2007. At the end of 2007 there was \$645,349.00 in the sewer fund, and he realized this would not be enough money to put sewers in the city. Back in 2004 we had 12.5 miles of water lines and 8.4 miles of sewer lines in the city, as of 2007 there is no change. If we have \$645,000.00 in this fund why cant we put in at least a half a mile every year? Mr. Case stated your average growth on the sewer system over four years is \$151,916.00. If a quarter of a mile for Oak Street costs \$200,000.00 we could do a quarter of a mile each year. The water system fund averages about \$28,911.00 per year and over a four year period \$152,000.00 of that went into the Brentwood system which we all know is a failing system. Mr. Case stated that if we are worried about the EPA lets use the money we have already. We have not grown one foot since we have started collecting these funds. Before we start taxing us for this lets use the money we already have to grow these systems.

Ms. Charlotte Whipkey, a Norton resident, spoke regarding some research she did on ideas available for funding Norton relating to the EPA issue and the moratorium she mentioned last week (see attached). Ms. Whipkey discussed the issue that was mentioned about who had the authority to force a connection to a sewer if you have a failed septic. Ms. Whipkey stated that her research showed that this is up to your local health district to enforce (see attached). Ms. Whipkey stated that with the House Bill #1 with the Budget it did include an extension on this to January 1, 2010, and suggested this could help with our EPA problem. Ms. Whipkey stated she could not find anything in the Ohio Revised Code that says we have mandatory hook ups. Granted it states the local health departments may require hook ups.

Ms. Whipkey stated where she grew up may mean it could or it could not. Shall would mean that it is required so it would be left up to the health dept. to decide. Everything that she has found all says may not shall and the only one that is requiring the connections is Summit County, which caused her to ask why did we decided to go with them in the first place. Ms. Whipkey stated that with Barberton we were not forced to connect. Ms. Whipkey stated this is wrong and you need to repeal you own ordinance that mandated these connections. As a matter of fact under the Ohio Revised Code it states if your system has not failed you do not have to hook up. Ms. Whipkey stated she asked for a copy of the contract with Summit County, which she understood we would have for a year to try them out. There are two different contracts, one says we have 6 months notice to cancel and the other one says we have 90 days to cancel. She saw nothing stating we are with them for a year. We still have nothing in place about providing shots to the citizens without having to go up there to get them.

Mr. Gilbert Chaney, a Norton resident, spoke regarding the article in the paper from ‘The Mayors Desk’ about residents being self appointed and he felt that comment was arrogant. Mr. Chaney stated our founding Fathers were self appointed to deal with the problems. Mr. Chaney stated most kings and dictators just want to take more money from the people. We have a constitutional right to regulate these people who try and regulate us all of the time.

Mr. Jim Lino, a Norton resident, spoke regarding the Natural Gas pricing plan and he was just informed that the city has a new plan and something will be on the web site about it soon.

Mrs. Elaine Tompkins, a Norton resident, spoke, stating that she was pleased with the construction work being done by Lockhart Construction. Mrs. Tompkins discussed the gas aggregate rate that Wadsworth received a rate of less than \$6.50 and hoped we would do as well or better. The best she could find on her own was \$6.99. Mrs. Tompkins discussed the Oak Street project and there could be a problem of 100 percent assessment. Mrs. Tompkins suggested using 25% of funding from the Sewer Fund, 25% from the residents and 50 % from the State. Mrs. Tompkins stated she would like to see someone entertain this idea rather than a full 100% assessment to these residents, if not you may have a problem with ownership rights. Normally a city does own a waterline and will be required to maintain them once they are up and running.

Mr. Dennis Pierson, a Norton resident, asked if Council was aware that Roetzel & Andress has charged this community \$112,318.09 as of May. As Mr. Moss had indicated the taxes are already down 3% this will be a little tough to pay. Mr. Pierson stated that in June we spent \$1,592.00, in July we spent \$6,000.00 in August we spent \$20,924.00. Mr. Pierson stated that at the last couple of meetings it seemed like Mr. Kostoff, (and he wished Mr. Kostoff were present this evening) was ill prepared. On our income tax issue he did not even realize that it was unconstitutional to go against the State of Ohio Constitution. If we are paying this much for him to represent us why isn't he researching this, anybody at Akron University or Kent State could go on Lexis Nexus and research case study and laws. Why isn't this man doing that? There again we have our land deal with Barberton that is in direct violation of the city Charter. There again this was ill prepared. If we are paying him these kind of dollars he should be prepared when he comes to a Council meeting with what we are doing with our city's money. If we are having shortfalls in Mr. Moss's office there is no reason for this, it ridiculous. This needs to be addressed and the Council needs to do your homework and ask some questions. Mr. Pierson took issue with Mayor Koontz making comments about our city being polluted. He has lived here over fifty years and he is proud of this community.

It is not polluted. Do we have some issues with sewers, yes, and we should address them but in a timely manner. Mr. Pierson also took issue with the Mayor's comment about it being on someone else's nickel. Mr. Pierson stated that on face value you are going to assess people so it's not exactly on someone else's nickel. Mr. Pierson stated one of the first rules you learn in sales is that you never criticize the customer when you are trying to sell something. There is a way to do this and it is not by pointing fingers and name calling. This really demeans our community as a whole.

CONSIDERATION OF THE MINUTES:

Minutes of the Regular Council meeting of August 24, 2009; Mr. Jones noted a correction to page #4 line #4 the word *if* needs added. Mr. Jones also noted a correction on line #6 of this same page it should be *if*. Mr. Jones stated these are just typos and he already went over them with Karla. The minutes were approved as corrected.

Minutes of the Committee Work Session of September 8, 2009; Mr. Jones noted a correction to the roll call on pages #2 and #3--insert Pelot on both. The minutes were approved as corrected.

REPORTS FROM OFFICERS, BOARDS AND COMMISSIONS:

Mayor Koontz stated the city has reached a price of \$6.83 per MCF for natural gas. Mayor Koontz responded to Mr. Pierson's comments of the city not being polluted. The city is polluted we do have a real problem and he does not recall making any such statement about "someone else's nickel" and suggested they were not reading his quote. He is not trivializing the cost of this problem and it is not a trivial thing. Mr. Ryland stated the traffic light at Greenridge Road and Cleveland-Massillon Road is temporarily set at flashing mode until the construction is done. It is set at flashing red stop at Greenridge. The Beldick situation is ongoing and depositions are being taken. The appraisal has come in on the Beldick side and was reduced by \$400,000.00 and we are continuing to work on that. Mr. Ryland addressed Mr. Case's comments and he was correct that we do have these funds available. However engineering does come from these funds, and last week he announced the true cost for the engineering for Oak Street was \$288,000.00 for that quarter mile strip. We are also looking at Grove and the west side of St. Rt. 21 and engineering costs will come from that. You are correct about Brentwood failing, last year we poured over \$60,000.00 into that system alone. Mr. Ryland addressed Ms. Whipkey's research regarding funding and grants and advised that we have made applications for Community Development Block Grants and pursue them on a daily basis. We look at them very hard in addition to loan opportunities. To some of us it may seem old school, we get some of the grants and sometimes we don't. Mr. Ryland addressed Mr. Pierson's comment about the city not being polluted. He is not as nice as the Mayor because he is telling you this city polluted. When you have fecal coliform counts in excess of 3,000,000 when you are only allowed 5,000 and you have the EPA looking at the water fallout areas we are sitting in a polluted environment situation. That is pollution and that is a direct quote. Ms. Whipkey was correct the EPA will not order you to put in sanitary sewer lines, but they will order you to have a plan in place to clean up the streams and lakes, which is what we are facing right now.

Mr. Moss commented about Mrs. Tompkins suggestion of the State picking up the 50% tab for Oak Street project. Unfortunately the State will not consider funding for any new construction so if we wish to go forward you have to do so without the State funding. Mr. Markey stated the Administration had asked him to look and review the issue of whether or not Council has the authority to place the tax credit reduced on the ballot for the vote of the people, and what that ballot language would look like. After review, we have determined the Ohio Supreme Court has said that the issue of a tax credit reduction is solely an issue for Council.

There is no separate authority in the Ohio Revised Code for Council to place a tax credit reduction on the ballot. Mr. Markey stated therefore this item cannot be placed on the ballot. Mrs. Hlas asked Council if we are not able to send it to the voters what should we do with Ord. #81-2009, table it until we come up with another plan? Mr. Jones suggested we go ahead and act on it and turn it down just like the Mayor said. If he wants to repeal it he is all for it. Mr. Pelot stated there are other means of getting this on the ballot such as the citizens could do a petition. Mr. Markey stated that a citizen initiative can sponsor an ordinance just like Council can sponsor an ordinance. Mrs. Hlas stated we could have further discussions next week as she has more questions and concerns. Mayor Koontz stated his initial request to repeal this legislation came literally a day or two before the EPA letter. We need to give this a lot of consideration and the EPA letter changes a lot of things. Mayor Koontz stated at that time he felt this was the best way to fund the sewer and water systems.

PUBLIC HEARINGS:-None

INTRODUCTION OF NEW LEGISLATION:

ORD # 82-2009

Mrs. Hlas offered Ord. #82-2009 for it's first reading and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING THE USE OF A THEN AND NOW CERTIFICATE IN EXCESS OF \$3,000 PURSUANT TO OHIO REVISED CODE SECTION 5705.41(D) AND DECLARING AN EMERGENCY.

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

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

Motion passed 6-0.

Mrs. Hlas moved to adopt Ord. #82-2009, seconded by Mr. McGlone.

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

Motion passed 6-0.

ORD # 83-2009

Mrs. Hlas offered Ord. #83-2009 for it's first reading and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING THE USE OF A THEN AND NOW CERTIFICATE IN EXCESS OF \$3,000 PURSUANT TO OHIO REVISED CODE SECTION 5705.41(D) AND DECLARING AN EMERGENCY.

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

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

Motion passed 6-0.

Mrs. Hlas moved to adopt Ord. #83-2009, seconded by Mr. McGlone.

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

Motion passed 6-0.

INTRODUCTION OF PRIOR LEGISLATION:

ORD #79-2009

Mrs. Hlas offered Ord. #79-2009 for it's second reading and asked the Clerk to read it:

AN ORDINANCE TO ESTABLISH A FUND TO PROPERLY ACCOUNT FOR REVENUE AND EXPENSES ASSOCIATED WITH COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING.

Second reading only.

ORD #81-2009

Mrs. Hlas offered Ord. #81-2009 for it's second reading and asked the Clerk to read it:

AN ORDINANCE REPEALING ORDINANCE NO. 48-2009 AND DECLARING AN EMERGENCY.

Second reading only.

UNFINISHED BUSINESS:

Mr. Jones commented on St. Rt. 261 being nearly completed and that about 70 driveway approaches have been done so far, in addition to some berming being done. Mr. Jones stated that on August 24, 2009 he discussed the situation of the C & D dump bringing dirt and mud onto this new pavement and questioned if there was any kind of penalty or charges we could impose here? It's a brand new road and he did not want to see it get deteriorated by this. Mr. Jones stated they do clean the tires off of the trucks before they come out onto the roadway, but the water lays on the roadway. Mr. Jones suggested taking a backhoe or something and dig the east side of the driveway to the culvert to get rid of the water and mud on the roadway. Mr. Jones stated he believed that construction companies have to put up a bond or something when they build new homes and there must be some type of avenue we can use here. If they do not clean it up then the city goes in and does it and they would lose their money. Mr. Jones asked Mr. Markey to get with Mr. Kostoff to look into this. Mr. Ryland asked Mr. Jones if he was suggesting he dig a ditch from the driveway to the stream? Mr. Jones replied outside the driveway flows to the east and once it gets out onto the roadway it has no where to go. Mr. Ryland stated he understands what Mr. Jones is saying, we can look into this, but its been 10-12 years since this dump has been established and it would be difficult now to come in and tell them a how to run their operations. Mr. Moss reminded Mr. Jones this legal research would go beyond the basic fee we pay, and questioned if we want to do that. Mr. Jones stated he agrees with that and Mrs. Hlas reminded everyone that we are getting tipping fees that go into the Street Dept. which is about \$16,000.00 -\$20,000.00 a year.

Mr. Jones stated that something should be done here, and he asked Mr. Markey to hold off on his previous request for now. Mr. Zita suggested that Mr. Jones get with Mr. Ryland and come up with a solution together, and that lines of communication should always be open here. Mr. Pelot questioned how often the C & D facility sweeps the road area? Mr. Ryland replied on an as needed basis and when the city calls and requests it they have always complied. Mr. Pelot asked if it was something as simple as asking them to do this three times a week or something? Mr. Ryland reminded everyone this is a dump, there is construction debris coming in and out of there and it creates dust and dirt and mud. Mr. McGlone stated the problem is that we have residents that live in this area. Mr. Ryland agreed, but we should have thought about that before we allowed the dump to go in there.

NEW BUSINESS: None

PUBLIC SERVICE ANNOUNCEMENTS:

Mayor Koontz reminded everyone about the last two summer concert series of this Thursday and at Cider Festival on Saturday. Mayor Koontz made several other announcements (see attached).

Mr. McGlone reminded everyone to get your flu shots on Thursday at the Community Center from 12:00 to 7:00 PM.

ADJOURN:

There being no other business to come before the Regular Council Meeting, the meeting was adjourned at 7:51 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 September 28, 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.

