



**NORTON CITY COUNCIL
REGULAR COUNCIL MEETING
AUGUST 22, 2016**

Roll Call Rick Rodgers
 Dennis McGlone
 Joe Kernan
 Dennis Pierson
 Paul Tousley
 Scott Pelot
 Charlotte Whipkey

Also Present:
Mayor Mike Zita-Excused
Valerie Wax Carr
Ron Messner
Justin Markey
Karla Richards

The Regular Council Meeting convened on Monday, August 22, 2016 at 7:00 PM, in the Council Chambers of the Safety Administration Building. The meeting was called to order by Charlotte Whipkey, President of Council, followed by the Pledge of Allegiance and a moment of silent prayer.

COMMITTEE OF THE WHOLE

Mr. Rodgers commented on the reception of this meeting and urged anyone that could not hear or see to call in to a Council member. Mr. Rodgers noted that last week we did have issues with the sound which was very faint when in fact the video playback had no sound at all.

Discussion on Silver Spring Drive Reconstruction Project – Dave Martin, P.E., GPD

Mrs. Carr noted we are in the process of advertising the bid for Aug 25 and Sept 1 and bid opening on Sept 9 she is just waiting for the confirmation from the media on those run dates. Mrs. Carr stated she would be coming to Council soon with the proper legislation and would be asking for emergency language and waiving of the readings; all the information on that should be in the memo she sent out to Council and hoped it was clear. Mrs. Carr indicated that she and Mr. White made personal delivery to the residents affected in this area regarding to the information being discussed this evening so they could understand better as to what could take place. Mr. Martin discussed the time lines as previously mentioned by Mrs. Carr and they were authorized to start design plans which he hoped would be complete by the end of the week. Right of way acquisition has started as of today and we have 4-5 weeks to complete this process and Mr. White & Mrs. Carr are leading the way on this. We hope to get this built later this year and would be discussing the cost projections associated with this project; he did not want to use the term estimation as it is a project that has gone difficult. If we get the right number and the right contractor, we have a very good option to get the construction completed this year with the site restoration done in early spring of next year. Mr. Martin discussed the power point presentation (see attached) and noted that we would be completing the project by June 30, 2017 as a second option. We will know more by September 9, 2016 as to the exact timing.

They were projecting the public property project to run about \$350,000.00 and the private property expected to be valued at \$65,000.00 for a total of \$415,000.00 for a 2017 completion, but he believed that number would increase with the project done this year. Mr. Martin stated that with both options we will ask the contractor for a premium to substantially complete the work by this fall; he could not say if that number will increase by 10%, 25%, or 50% above the number being projected. They would ask the contractors for numbers on the public part and on the private part and also ask the property owners for a donation for a public right of way. Mr. Martin opened the floor to questions. Mr. Rodgers stated he spoke with the residents today and a few residents felt the forms they looked at referenced that they would not be responsible for the costs associated with the easements, this means the project is at no cost to them. Mrs. Carr stated the easement process would not be a cost to them; however if the Council wants to pass legislation for a cost sharing that would be a separate issue and Mr. Martin concurred. Mr. Rodgers stated just to be clear, it does not mean that there is no cost to them and both Mrs. Carr and Mr. Martin concurred. Mr. Rodgers asked about the extension length of 100 feet and Mr. Martin explained that it is a little over 100 feet and it seems a little high, but they are replacing two culverts ~~7:44~~ and there are retaining walls upwards of 12 feet high. Mr. Rodgers asked how many feet encompass the restoration portion and Mr. Martin replied about 400 ft. Mr. Pelot asked about the 30" pipe and the length of time it would uphold and Mr. Martin said a 25 year storm. Mr. Martin explained if we want to do 5 or 10 years from now you should revisit the storm water management plans and make proper adjustments if necessary. It is oversized at this point but is being restricted to 25 year capacity with the capability of a 100 year storm for future use; it would not be fair to those downstream to use open it up to full capacity at this time. Mr. Martin recommended the City consider a larger culvert to provide for future flexibility to the city when looking at this entire watershed area. Mr. Rodgers asked if this is a tributary to the Wolf Creek and Mr. Martin concurred. Mr. Rodgers stated he felt this is where the City's responsibility should come into play to control the water runoff. Mr. Pierson concurred that this recommendation is basically option #3 as it was proposed. Mr. Martin indicated the costs have come down since early June to about \$415,000.00. Mr. Pierson indicated that the only thing he is hearing different is on restricting the flow and he thought we were going to get the water out as soon as possible although he could be wrong. You would almost be forced to do downstream improvements right now which is not part of the original direction by the City as he understood it. The culverts are properly designed to address the normal water flow for a local road according to the standard. Mr. Kernan stated he understands there would be some restriction upstream so then you don't have to deal with the down flow now and the problems it would bring to those downstream to which Mr. Martin agreed. Mr. Tousley asked about the 30 inch pipe and when he visited this area there was quite a bit of water here and asked what's the remedy here? Mr. Martin stated there are some dilapidated pipes that are not functioning properly. There are some catch basins to be placed there that will address this and dump it into the tributary. The deep part of the storm sewer will be from the storm sewer to the outlet. Mr. Pelot asked about the storm sewer traveling towards the bridge and Mr. Martin explained that would be at a higher elevation than the underdrain. Mr. Rodgers asked about the total gallons of water there and Mr. Martin stated he would like to defer this until he has time to look that up.

Mr. Rodgers noted that several residents have had their driveways washed out at least a couple of times, even with restricted flow, and we had even talked about retention ponds to help stop that, and questioned if we are really doing enough here. Mr. White stated that it's a very complex interaction and the importance of the deep underdrains is because of the 2 or 3 issues here. The discharge from the underdrains does not impact the culverts too much. By putting these deep underdrains it will help with the issue here. Mr. Rodgers stated his point is that this is an overall watershed issue and Mr. White agreed. Mrs. Carr noted we do not own the tributaries and wanted to make sure the public was aware of this. Mr. Rodgers clarified what he stated is that he believes we are responsible for the storm water runoff and how it affects the residents. Mr. White stated that we need to find the best way to address this in the watershed aspect and none of us are sure how we will do that. Mr. Rodgers stated we will improve water flow with this construction to those downstream and he does not feel this should be done on the back of Mr. Kostalief just because he owns that driveway and we should be the ones to bear the cost of this. Ms. Whipkey asked about the road extension and clarified this will be a 2 lane street and Mr. Martin concurred. Mr. Martin suggested the city convert this to a right of way where the city would own it in the future. Mr. Rodgers added that if this is all paid for by the city it would become part of Silver Springs drive and our right of way; he did not believe those residents had an objection to that. Ms. Whipkey inquired on the need of the City taking possession before we could start construction. Mr. Markey stated we cannot use public dollars to extend the street, which is why we asked for the alternate bid. Mr. Kernan added Council needed to decide before that part of the project could proceed and Mrs. Carr and Mr. Markey agreed so the paperwork could be started and finished. Ms. Whipkey asked if the City is asking these residents to donate a portion of their land as part of the right of way and Mr. Markey concurred? Mr. Rodgers moved to allow any residents on Silver Springs to speak now if there were any, seconded by Ms. Whipkey.

Roll Call: Yes: Rodgers, Whipkey, McGlone, Kernan, Pierson, Tousley, Pelot.
 No: None

Motion passed 7-0.

Don Kostalief, 2690 Silver Springs Drive, Norton, Ohio, asked about the underground water coming into the creek and Mr. Martin stated that water would get collected and still would end up in the stream. Mr. Kostalief noted there will be 3 points of water coming into that creek and you want to restrict the water coming from Reimer Road Extension, and he was confused. Mr. Martin stated our opinion of a 30 inch restricted to a 24 inch size allows for the same as 2 (two) 18 inch culverts. Mr. Kostalief stated that you are relying on not having any storms like in the last 3-4 years and Mr. Martin concurred. Mr. Martin stated that we could upsize now but that is the wrong thing to do because the person at the end of this stream would be adversely affected. Mr. Kostalief noted that if we have another heavy storm like the last 3-4 years it would overflow to the road and Mr. Martin concurred that it could, but he did not believe there would be more water. Mrs. Carr noted that would be flooding city wide not just on Silver Springs Drive. Mr. Kernan stated this discussion on the size of the culverts is only relating to the private portion and Mr. Martin concurred. Mr. Rodgers asked if it would be better off to send all of this to Wolf Creek instead?

Mr. Martin said it could possibly, but you would need to spend additional monies in order to do so to prepare the area beyond culverts that would include erosion control. Mr. Kernan stated that would require us to replace all of the culverts going downstream. Mr. Martin stated there are some challenges to do that watershed conveyance, it's a lot of work on private property and do you have a policy to deal with that. Mr. Kernan pointed out the money that would be needed for that to which Mr. Martin and Mr. Rodgers agreed. Mr. Rodgers stated that it should be the proper size so that when we address the larger watershed project down the road. Mr. Martin stated that is exactly what we did, and is why GPD recommended the larger size with the reduced capacity for now. If we are to fix the road here the larger culverts is what is required. Mr. Martin stated Council will have to decide on what kind of money they are willing to spend; it would not be surprising to see six digit numbers on that part and we will not know this until the bids are opened on Sept. 9, 2016. Mr. Rodgers pushed Mr. Martin on the issue of our safety crews getting in there this winter. Mr. Martin replied he could not say if the road would last and would depend on the winter weather, adding that you are pushing the contractor to a great risk to get this done this year, and that is a very risky situation that translates into dollars and possibly blocking access to those people. Mr. Rodgers urged the City and Council to look into having access to this area using the Barberton access road for providing safety services and we may need to spend monies preparing that road for use. Mrs. Loraine Crogan, 2699 Silver Springs Drive, Norton, stated you have been out and can see where the stones were put in and there used to be three (3) good sized boulders which is now receded to just 1 and she felt this road will not make it through this winter. Mrs. Carr stated we are looking at some other temporary access options, which we are not ready to reveal at this time. Council thanked Mr. Martin for his presentation and he responded that he hoped to get some good bid results back.

Acknowledgement of the July 2016 Budget reports from Mr. Messner, Director of Finance.

Ms. Whipkey formally acknowledged Council's receipt of the July 2016 Budget reports from Mr. Messner.

COMMUNICATIONS FROM THE PUBLIC-Agenda and Non-Agenda Items

Mr. William Paluch, 3740 Shellhart Road, Norton, Ohio, spoke regarding his request for information from his June 23, 2016 time stamped notice with the eight (8) questions he had about the Nash Heights assessment process. Mr. Paluch asked if they were ever going to be answered? If they were not going to be answered, he would sue. Mr. Markey noted that these were given to him for review and that he felt that they had already been answered twice already; once at the Assessment Board hearing and another time during a Council meeting. Mrs. Carr noted we can provide Council with the questions and agreed that these were answered numerous times and she can provide the minutes to back that up. Mr. Markey noted that unless formally requested by Council to address them again, he is not responding. Mr. Rodgers stated once we receive these questions he would move to direct Mr. Markey to address them in writing.

Ms. Sherry Smith 3794 Easton Road, Norton, Ohio, spoke regarding the issue of no sound last week and asked if the issue has been resolved? Ms. Whipkey noted the MP3 audio was put up on the City main web page where you can listen to this.

Mr. Messner noted that we did discover there was a sound switch not working last week and we have corrected this and the sound is coming in very clear.

CONSIDERATION OF MINUTES

Minutes of the Regular Council Meeting of July 11, 2016 were approved as submitted. Ms. Whipkey noted the Minutes from August 15, 2016 are deferred to the September 6, 2016 meeting.

REPORTS FROM OFFICERS, BOARDS AND COMMISSIONS

PUBLIC HEARINGS-None

INTRODUCTION OF NEW LEGISLATION

ORD #59-2016

Mr. McGlone offered Ord. #59-2016 for its first reading and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING THE PURCHASE OF A DODGE RAM 1500 PICKUP TRUCK FOR THE POLICE DEPARTMENT AT A COST NOT TO EXCEED \$24,015.00, AND DECLARING AN EMERGENCY.

Mr. McGlone noted the lease is due soon and moved to waive the second and third readings, seconded by Ms. Whipkey.

Roll Call: Yes: McGlone, Whipkey, Rodgers, Kernan, Pierson, Tousley, Pelot
 No: None

Motion passed 7-0.

Mr. McGlone moved to adopt Ord. #59-2016, seconded by Ms. Whipkey. Mr. McGlone noted we are going to buy out the remaining lease after having free use of the vehicle during the previous time frame. We have Fund 140 that has \$34,414.00 from towing fees and will use this to transfer the funds.

Roll Call: Yes: McGlone, Whipkey, Rodgers, Kernan, Pierson, Tousley, Pelot
 No: None

Motion passed 7-0.

ORD #60-2016

Mr. McGlone offered Ord. #60-2016 for its first reading and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING THE PURCHASE OF CERTAIN FIRE TURN OUT GEAR FOR THE DIVISION OF FIRE AND EMERGENCY MEDICAL SERVICE AT A COST NOT TO EXCEED \$15,246.00, AND DECLARING AN EMERGENCY.

Mr. Pierson stated he did not like the answers or how they are given. Bunker gear is coat and pants, if they want to do the difference; it can be done with their clothing allowance. When doing a purchase request it should be specific. Mrs. Carr stated Section A clearly spells out what we supply and if you want this changed then that is a contract issue. Mr. Pierson argued this should be a separate order. We are being very generous and he does not like to see items added in and it's not a blanket shopping trip to the mall. If you ask to purchase a coat and trouser, all of the other items are extra. Mr. Rodgers asked if the Chief could be here next week to explain this. Mrs. Carr stated yes and noted that you have all had a week to look at this before now and request the Chief's presence here tonight. Mr. Rodgers stated, speaking from experience, that he would have written up any injured firefighter that did not have on a hood, gloves, boots, coat, and bunker pants; that is considered bunker gear. Mr. Pierson did not agree with Mr. Rodgers on his listing. Mr. Pierson stated we are not doubting they need the proper equipment he just wants to see the request spelled out exactly for what we are purchasing and why. Mr. Pelot called the bunker gear Mr. Pierson is referring to is the same as turn out gear and Mr. Pierson concurred. Mr. Pierson stated he would rather go back to a quarter master system. Mr. McGlone moved to waive the second and third readings, seconded by Mr. Kernan.

Roll Call: Yes: McGlone, Kernan, Pierson, Tousley, Pelot, Whipkey
No: Rodgers

Motion passed 6-1

Mr. McGlone moved to adopt Ord. #60-2016, seconded by Ms. Whipkey. There was more discussion as to having a specific listing of items that are included in this purchase for future purchases.

Roll Call: Yes: McGlone, Whipkey, Rodgers, Kernan, Pierson, Tousley, Pelot
No: None

Motion passed 7-0

ORD #61-2016

Ms. Whipkey offered Ord. #61-2016 for its first reading and asked the Clerk to read it:

AN ORDINANCE TO AUTHORIZE A TRANSFER FROM THE BRENTWOOD WATER PLANT FUND (160) TO THE TRANSFER ACCOUNT OF THE GENERAL FUND (001), AND DECLARING AN EMERGENCY.

Ms. Whipkey stated that this is money we had in the Brentwood Water Fund which we don't own any more and would be moved into the General fund.

Ms. Whipkey moved to waive the second and third readings, seconded by Mr. Pelot.

Roll Call: Yes: Whipkey, Pelot, Rodgers, McGlone, Kernan, Pierson, Tousley
 No: None

Motion passed 7-0.

Ms. Whipkey moved to adopt Ord. #61-2016, seconded by Mr. Pelot.

Roll Call: Yes: Whipkey, Pelot, Rodgers, McGlone, Kernan, Pierson, Tousley
 No: None

Motion passed 7-0. Mr. Pierson asked to have the remainder of these funds go back into the road fund. Mr. Messner noted the State Auditors require this to be sent to the General Fund as a transfer first. Mr. Messner suggested we leave this in the transfer budget and wait for the Silver Springs and other road repairs and then he would have to come back to Council to ask for this at a later time. Ms. Whipkey pointed out that this is nothing that needs to be decided tonight as there are several areas that could use the funds and are only meeting the Auditor's requirement tonight.

ORD #62-2016

Ms. Whipkey offered Ord. #62-2016 for its first reading and asked the Clerk to read it:

AN ORDINANCE TO AUTHORIZE A TRANSFER FROM THE COURT COMPUTER FUND (125) TO THE TRANSFER ACCOUNT OF THE GENERAL FUND (001), AND DECLARING AN EMERGENCY.

This is a fund no longer in existence. Ms. Whipkey moved to waive the second and third reading, seconded by Mr. Pelot.

Roll Call: Yes: Whipkey, Pelot, Rodgers, McGlone, Kernan, Pierson, Tousley
 No: None

Motion passed 7-0.

Ms. Whipkey moved to adopt Ord. #62-2016, seconded by Mr. Pelot. Mr. Kernan noted this amount is approximately \$64,000.00.

Roll Call: Yes: Whipkey, Pelot, Rodgers, McGlone, Kernan, Pierson, Tousley
 No: None

Motion passed 7-0.

ORD #63-2016

Ms. Whipkey offered Ord. #63-2016 for its first reading and asked the Clerk to read it:

AN ORDINANCE TO RECLASSIFY ADVANCES PREVIOUSLY MADE BY THE CITY AND NOT RETURNED AS TRANSFERS, AND DECLARING AN EMERGENCY.

Ms. Whipkey stated this was an oversight from a few years ago that the State Auditors caught and was an advance that was never transferred back. Mr. Messner concurred this was from the Gardner Road project and the Auditors pushed it this year; no money movement is actually involved, it only needs acknowledgment for the books. Ms. Whipkey moved to waive the second and third readings, seconded by Mr. Pelot.

Roll Call: Yes: Whipkey, Pelot, Rodgers, McGlone, Kernan, Pierson, Tousley
No: None

Motion passed 7-0.

Ms. Whipkey moved to adopt Ord. #63-2016, seconded by Mr. Pelot.

Roll Call: Yes: Whipkey, Pelot, Rodgers, McGlone, Kernan, Pierson, Tousley
No: None

Motion passed 7-0.

ORD #64-2016

Ms. Whipkey offered Ord. #64-2016 for its first reading and asked the Clerk to read it:

AN ORDINANCE TO AMEND THE APPROPRIATIONS FOR THE CURRENT EXPENSES OF THE CITY OF NORTON FOR THE FISCAL YEAR ENDING DECEMBER 31, 2016, AND DECLARING AN EMERGENCY.

Ms. Whipkey noted this is another housekeeping item and asked Mr. Messner for the details. Mr. Messner noted this is needed because he had budgeted \$400,000 for the Cleveland-Massillon Road Widening Project and now the cost has increased due to an ODOT mistake and is asking for an additional \$53,000.00. It was pointed out that Norton is only responsible for 10% and 20% of the actual costs of the project. Ms. Whipkey moved to waive the second and third readings, seconded by Mr. Pelot.

Roll Call: Yes: Whipkey, Pelot, Rodgers, McGlone, Kernan, Pierson, Tousley
No: None

Motion passed 7-0

Ms. Whipkey moved to adopt Ord. #64-2016, seconded by Mr. Pelot.

Roll Call: Yes: Whipkey, Pelot, Rodgers, McGlone, Kernan, Pierson, Tousley
No: None

Motion passed 7-0.

ORD #65-2016

Mr. Kernan offered Ord. #65-2016 for its first reading and asked the Clerk to read it:

AN ORDINANCE SUBMITTING TO THE ELECTORS OF THE CITY OF NORTON A PROPOSAL TO AMEND SECTION 3.06 OF THE CHARTER OF THE CITY; AND DECLARING AN EMERGENCY.

Mr. Kernan stated this is for a first reading only and requested to have a Special Council on Sept. 6, 2016 so the amendments can get to the Board of Elections in time. Mr. Kernan explained this would permit the Council to appoint the vacancy and that the candidate would then need to run for this position at the next election to save on special election costs. Mr. Markey noted the tracked changes may not have printed correctly and would see that Council gets these. Mr. Rodgers moved to amend this to require a three fourths super majority vote of Council rather than majority, seconded by Mr. Pierson. Mr. Markey clarified this would require five votes of the remaining members.

Roll Call: Yes: Rodgers, Pierson, McGlone, Kernan, Pierson, Tousley, Whipkey
No: None:

Motion passed 7-0.

ORD #66-2016

Mr. Kernan offered Ord. #66-2016 for its first reading and asked the Clerk to read it:

AN ORDINANCE SUBMITTING TO THE ELECTORS OF THE CITY OF NORTON A PROPOSAL TO AMEND SECTION 3.19 OF THE CHARTER OF THE CITY; AND DECLARING AN EMERGENCY.

Mr. Kernan stated this would allow for posting of notices of meetings and would be at the Norton Public Library, the lobby at City Hall, and the City website.

First reading only.

ORD #67-2016

Mr. Kernan offered Ord. #67-2016 for its first reading and asked the Clerk to read it:

AN ORDINANCE SUBMITTING TO THE ELECTORS OF THE CITY OF NORTON A PROPOSAL TO AMEND SECTION 3.20 OF THE CHARTER OF THE CITY; AND DECLARING AN EMERGENCY.

First reading only.

Mr. Kernan stated this is regarding the broadcasting meetings, if we lose broadcasting during the meeting we can continue during an equipment failure.

ORD #68-2016

Mr. Kernan offered Ord. #68-2016 for its first reading and asked the Clerk to read it:

AN ORDINANCE SUBMITTING TO THE ELECTORS OF THE CITY OF NORTON A PROPOSAL TO AMEND SECTION 6.04 OF THE CHARTER OF THE CITY; AND DECLARING AN EMERGENCY.

First reading only. Mr. Kernan noted that this was not brought forward by the Charter Review Commission; however it would amend the Civil Service section and would remove the Chief of Police and Fire from the Civil Service rules. Mr. Rodgers noted that last year we had a Police Chief retire and because of the Civil Service Rules he could not be rehired in an interim position. This is not for discipline, it's for better management of the departments and gives more leeway to the Mayor and Administration to retain critical positions.

INTRODUCTION OF PRIOR LEGISLATION

ORD #51-2016

Mr. Pelot offered Ord. #51-2016 for its third reading and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A SANITARY SEWER AGREEMENT BETWEEN THE CITY OF NORTON AND THE CITY OF BARBERTON.

Mr. Pelot moved to adopt Ord. #51-2016, seconded by Whipkey. Mr. Tousley stated that currently the residents pay a 50% surcharge for their sewers, 22.5% goes to the City of Barberton and 27.5% stays here in Norton. Mr. Tousley stated that if we pass this all of the 50% goes to Barberton and it does not guarantee that we will have any funds staying here in Norton. We will be part of their sewer system so it would make sense to use it here. It still does not guarantee that and we are giving away our 27.5% so he would not be supporting this. Mr. Pelot stated that 27 ½ percent that comes back goes into a fund to make repairs or replacements and Barberton would be doing the same. The EPA is not going to let Barberton not fix our broken sewer systems. Mr. Rodgers commented that money could also be used to build pump stations, so that does save money for the residents. Mr. Markey concurred the money in the sewer fund can be used to build future pump stations. Mr. Rodgers noted it can also be used for infrastructure needs in the City because we will probably have more sewers in the future and it does save the residents money in that regard. Mr. Rodgers stated as he has said before this is not a good contract. We could have done better and for some reason we are choosing not to.

The prior MOU which we voted down; was better for the residents and at the end of the day we would have had a surplus of about \$7 million dollars and those funds could also have been used for future sewer projects.. We need to negotiate a better deal for the people. Ms. Whipkey asked Mr. Markey if that \$7, million surplus was based on the 1400 new customers and Mr. Markey concurred it was projected over a twenty-five (25) year period and was under the original Norton MOU proposal to Barberton. Part of this was based on grant funds received for pump stations and the 1400 customers being added over time. Ms. Whipkey asked if there was a cap at some point like up to \$700,000 and Mr. Markey concurred on the amount, but that was the revenue fee that was going to be shared on new customers. Ms. Whipkey explained that we have now eliminated the entire tie in fees for Norton customers and Barberton has eliminated their fees to half, and Mr. Markey concurred adding this was also for future mandated EPA or Health district projects. Mr. Rodgers clarified that is only if they tie in within the first year. Mr. Rodgers stated the 50% forgiveness which was up to \$700,000.00 was part of that original MOU and is another part of what is missing in this one. Mr. Rodgers stated that the system development charge now is about \$1400.00. Mr. Markey stated the presumption is that with this going forward Council would repeal Norton's existing system development charge. Mr. Rodgers stated this is still not a good deal and the people deserve more although he knows the majority will pass it. Mr. Tousley commented on the number of sewers that Barberton owns and that the 27 ½% we get now it's just for a handful that we own that needs serviced. Mr. Markey stated there is a list of what they have. Mr. Tousley stated he thought Norton owns about eighty (80) along down Cleveland-Massillon road south towards Oak Street. Mrs. Carr stated that was not correct, it's just a handful Mr. Tousley stated that Barberton is not going to be using the same amount, and is not an apple to apples comparisons. Mr. Pierson discussed the increased rates each year and Mr. Markey stated Barberton have the right to increase up to 2% each year and they have to increase their own resident's rates as well. Mr. Pelot stated we should have purchased our systems from the County when the opportunity was before us in the past, and we have lost control of our own destiny there. Mr. Kernan stated this City for fifty (50) years has said we should have, we could have, why didn't we, etc. Mr. Kernan stated we hear this all of the time. Mr. Pierson stated it still has to be paid for in one way or another; it's easy to say "let's do it" until it comes time to pay for it. Mr. Pierson stated that when you have mostly an entire community getting older and living on fixed incomes; that creates problems for some residents. .Mr. Pierson stated this will all affect everyone in the long run. Why would we have bought and maintained a system from Summit County when they would have been forced into doing it? Summit County would have been forced to replace those package plants and thought Barberton was stupid for buying them. Mr. Pierson stated he would never vote for this, once we join up with Barberton, they will dictate policy to us because they will own the utilities and needs a revenue stream. Mr. Pelot stated that was exactly his point when we passed up that opportunity of buying the system from the County. Mr. Rodgers commented on Mr. Kernan's remarks on regrets, which is why he is urging this City to look at this further. Mr. Rodgers stated we are going to regret this. If anyone on this Council does not believe we will not get those 1400 new connections over the next twenty-five (25) years, then he has something to sell you because that's exactly what is going to happen.

Roll Call: Yes: Pelot, Whipkey, Kernan, McGlone,
 No: Rodgers, Pierson, Tousley

Motion passed 4-3.

UNFINISHED BUSINESS

Ms. Whipkey moved to table Ord. #53-2016 (Option #1 for Silver Springs Drive) indefinitely as we had an ordinance approved already for it and is a mute point, seconded by Mr. Kernan

Roll Call: Yes: Whipkey, Kernan, Rodgers, McGlone, Kernan, Pierson Tousley
 No: None

Motion passed 7-0.

Mr. Rodgers discussed the poor broadcasting at the last meeting, and that we have addressed the sound. The problem is that last week there were 49 people signed on to watch and the week before there were 100. Mr. Rodgers stated that although he could support the proposed Charter change, but not without this being addressed. Mr. Rodgers asked if anyone has contacted Wadsworth about their system. Mr. Messner stated he has looked into this and noted that Wadsworth has their own TV station and that our IT person Nick Sattler is working on contacting them on their system. Mr. Rodgers stated he felt last week we violated the Charter by not producing the sound during our meeting and we all participated in that. Mr. Rodgers questioned the legal ramifications on this. Mr. Markey stated that he did not feel there is any liability here but the idea of the Charter provision is for the Council and Administration to arrange for the broadcasting, however he would not comment on what a Court would say. Mr. Rodgers stated this should not be taken lightly and he would not support a Charter amendment unless we get out act in gear here with new sound, new microphones, and state of the art equipment to make sure everything works as well as better video. Mr. Rodgers stated he would take charge in contacting Mr. Matting to take up his offer to help us. Mr. Kernan asked for the Property Chair to take this issue and run with this to get it resolved. Ms. Whipkey noted that there is a difference on the numbers and those could be actual viewers not those watching live. Ms. Whipkey explained that could just be the number of people looking at the video which is put up from the same night immediately after the meeting as the data showed only eleven viewing live with three of them are in this room. It's not like we are waiting a week or more to post the videos like in the past. Since we have not had any more complaints it appears that everyone can hear it. Mr. Rodgers stated he has been told when they cannot get good reception they quit watching it. Mrs. Carr stated that Mrs. Richards is looking into this with Livestream as to the difference in numbers of live viewers and those just viewing at a later point. Mr. Pierson stated the bottom line we agreed 3 years ago to broadcast these meetings. We need to provide the best possible. Mrs. Richards commented on the use of the camera currently in use and that since going with Livestream this camera has always been in a fixed position and cannot be moved with the focus on Council. Mrs. Carr clarified it wasn't Livestream and Mrs. Richards restated the time as when live viewing started; it was never used for panning. Mr. Pierson stated that the residents want to see everyone during the meeting. Mr. Pierson asked for some kind of time frame and Mr. Rodgers stated that he would hope to have this addressed before November and have the issues dealt with.

Mr. Rodgers discussed the movement of the pump station and the memo from Mrs. Carr in the packet. Mr. Rodgers stated he did not believe anyone was questioning Mrs. Carr's honesty here. Mr. Rodgers questioned the additional expense of spending over \$200,000.00 to \$300,000.00 on this project, without an ordinance, and who authorized that expenditure of money? Mr. Markey stated the original loan had the pump station was at Golf Course and not at Shellhart. Mr. Pierson suggested that by moving the location it changed the entire contract and that could be illegal? You had a piece of land on Shellhart you were going to use and you changed it down the road, which changed the contract. Mr. Markey stated that the loan application was budgeted and that is how the loan was appropriated and is how you are spending the money. Mr. Markey stated he believed we are in the right with the procedure we are following now. Ms. Whipkey asked if this discussion even belongs on the floor due to it involving acquiring property. Mr. Markey stated that is where they wanted to do it and Mr. Pierson stated we were spending the tax payers money with Mr. Rodgers concurring. Mr. Markey stated the money has been appropriated and that is how you are spending the money. Mr. Tousley stated he would love to address this and Mr. Pierson responded we know where you are coming from, go ahead. Mr. Tousley went on to say we did receive Mrs. Carr's memo and Mrs. Carr stated it's all in the public packet. Mr. Tousley took many issues with this because he does not think the public knew that \$288,000.00 was being spent on the project because of that. Mr. Tousley stated that had this been in the public discussion, perhaps the gentlemen that came forward before we voted on this, it would have and we could have prevented yet another lawsuit. This is the public's body and we have to listen to the public. Mr. Tousley took issue with Mrs. Carr's comments in her memo stating *"Again, for full disclosure, and in case you did not fully understand the previous legislation passed, please be aware that Ord #41-2016 passed on June 13, 2016 authorized the Administrative Officer permission to enter into a contract with the low bidder. The only step we are required to perform is to have the BOC approve the contract dollar amount. If this is going to be a problem I would appreciate the professional courtesy of a civil discussion, If not, I will be scheduling a BOC meeting.....I am disappointed that the information provided to City Council, either during an open public meeting or more disturbing, from executive session, continues to be twisted into false information back out to the public"*. Mr. Tousley read Section 2 of Ordinance #41 which states: *"The Improvement shall be made in accordance with the provisions of the Resolution of Necessity and with the plans, specifications, profiles and estimates of cost previously approved and now on file in the office of the Clerk of this Council"* Mr. Tousley stated that he called Mrs. Richards today and made certain that right now the pump station is at Shellhart Road. You do not have authorization to change this to Shellhart Road as it says what is on record with the Clerk and that is not authorization. Mr. Tousley read a portion of the email from Mrs. Carr from July 8, 2016, which states: *"I am following up with the discussion from Executive Session on Monday regarding the pump station. I received a quote from EDG for the final design for the pump station at Golf Course Drive. Although there was no clear direction to whether we should move forward on the design. Since Monday, four(4) of you have communicated to me that you would not support eminent domain proceedings"*. Mr. Tousley stated he has an issue with this, he knows that he was not one of the four (4) contacted and questioned why we are only dealing with those that are in support of this. We should all be involved in this. Mr. Tousley also read another section of Mrs. Carr's email : *"In checking with Justin, Section 719.05 of the Revised Code requires a two-thirds vote (5 members) of Council to authorize a filing of eminent domain."*

I see no support going forward so I think it is imperative that we move ahead with this design in preparation for the bid process. Mr. Tousley stated he figured the designs would need to be done and then come to Council for approval just as with any other design. The end result is that the Administration spent \$288,000.00 without Councils approval. If this was supposedly done out in the open how many have heard about this before today? This is not just about the change in location of the pump station, that's secondary. For him, it's about the sacred form of government that we hold in this country. All of us up here swore an oath to protect the laws of Norton and the United States. Mr. Tousley stated his interest is in protecting a sacred system. He understands that it is truly sacred to him. Mr. Tousley stated that he has nephews that are now deployed and putting their lives on the line just for this sacred system. The Barberton Sewer System was voted on and he lost, and he does not have a problem with that because that's how this system works. What he has a problem with when he is not allowed to vote because we have moved things without allowing this process. Mr. Tousley stated that last week Mr. Markey stated that it was fine to move forward without a vote from Council and Mr. Markey stated that was correct. Mr. Tousley stated that he has obtained an opinion over the weekend that is contrary to that, and the problem is that opinion is from Mr. Markey himself from an email dated March 18, 2015 (see attached). The email is in relation to moving the pump station from Golf Course to Shellart. Mr. Tousley stated this is where his objection takes place, and he will stand to his oath. Mr. Markey stated this is nothing more than another gotcha politics that he does not like. Mr. Markey stated he has addressed this in the past. The Resolution of Necessity deals with the assessment process. When you move the pump station from Golf Course Drive to Shellhart Road you were removing property owners, as he stated last week and once already this evening. You were changing those boundaries of the assessment area and that is what required a new Resolution of Necessity. That is not what is being done here because there are no changes to the assessment boundary itself. Phase II which is the pump station is independent of Phase I and Phase III, those are the assessed areas. That is why a new vote of Council was required then but he felt is not required now. Mr. Tousley stated he has Section 727.12 Section C which states *"State what part of the cost of the improvement is to be paid for by the municipal corporation and what part is to be paid for by special assessments"* It's not saying just the assessments, its saying what is going to be paid for by the municipal corporation. That was just changed by about \$300,000.00 and the public had no clue. Mr. Tousley stated that Ord. #41-2016 says the plans have to be on file now and what is on file do not reflect this. Mr. Markey stated that its true there was a change in the bid specs. Mr. Tousley stated that when he ran for Council this is the exact reason he ran. He was tired of seeing things done in his profession at the time behind closed doors. Mr. Tousley stated he does not want anybody to even think that he is part of this and he does not agree with this and does not want to be part of this. Mrs. Carr stated that we may agree philosophically with this, which is why she wrote this memo, and we do have a time line to stick to. Mrs. Carr noted that very seldom does she ever get any feedback from Council. From the time of her original memo for two Council meetings and all of summer break, she had no feedback from Council. Mrs. Carr stated in relation to her comment on twisted information there was specific information that was provided to Council in executive session that made it to the streets and made it to those on Golf Course Drive and was not being stated correctly. Mrs. Carr stated she got phone calls on it and that she has been dealing with this ever since day one since she got here. Mr. Rodgers asked who it was on Council that supposedly was talking to the residents on Golf Course Drive.

Mrs. Carr stated she was told it was Mr. Pierson that was going door to door and talking to the residents. Mr. Pierson stated that is a damned lie. Mrs. Carr stated that one of the residents is one that has some strong opinions out there that Mr. Pierson spoke to had relayed this information back to her. Mr. Rodgers stated that he told those members in executive session that he was encouraged to go out there and talk to that particular resident. Mr. Pierson stated that he did not go door to door, but you have just opened up the City to another lawsuit. Mr. Rodgers asked Mr. Markey if he stands by his statement that the scope of the project didn't change and Mr. Markey clarified that the scope of the assessed area did not change. Mr. Rodgers argued that the scope did not change when we changed it to Shellhart and Mr. Markey stated this is not true because the assessed boundaries changed when we went to Shellhart. Mr. Markey stated you already have a legal opinion about this, you even stated that last week. Mr. Rodgers argued when it went back to Shellhart we had already eliminated the residents on Golf Course Drive. Mr. Markey stated this is not correct either; you eliminated some on Greenwich Road and some in the fringe areas at that time. In your mind you may have eliminated them but not by a resolution because the original resolution still included them and is why you needed a new one. Mrs. Carr asked if we have a show of at least five (5) hands for the support of eminent domain, if not, she cannot ever get back to Shellhart. Mr. Tousley stated that is not going to change his statements and making a decision without Councils approval is not right. Mrs. Carr stated we did not have the support for eminent domain and because of this we would never be able to obtain that Shellhart property. Mrs. Carr stated that she does not want to lose out on loans and that we have to have everything signed sealed and deliver by October 1, 2016. We cannot do that by starting things over. Mrs. Carr stated we cannot mess with the time line and lose our loan funding. Ms. Whipkey noted that part of her reason for taking this discussion into an executive session as we have an issue with a property owner that says no they will not give up their property and we would have to take it by eminent domain; she would not want to give that property owner an edge in litigation over it. Mr. Pierson stated that it's a straight forward process and it's not a cheap event for anybody. Mr. Pierson stated we were elected by the people to make decisions for them, yet we have people making decisions for the residents that were not elected. Mr. Pierson commented about the Administration going into executive session and be held behind closed doors. Mr. Pierson expressed disgust with this anonymous person making false statements about him going out door to door and would like to know who that coward is. If this was a City worker they should be fired and he would push that to the hilt. Mrs. Carr stated that it was not a city worker. Mr. Rodgers called to the attention that Mrs. Richards email several months ago about Council conducting business through emails with a warning that we should not be doing this. Mrs. Richards recalled that and her point was that if Council contacts one member regarding something you should copy all of Council because you are a group and a team of seven and all of you should be on the same page on everything. Mr. Rodgers asked if Council should be conducting Council business via emails outside of a Council session? Mrs. Richards replied no, you should not and Mr. Rodgers stated that was his point. Mr. Markey stated that is not what was done, and understood Mr. Rodgers' point by throwing out all of the obstructions here. Mr. Rodgers stated that what he is saying is that things pertaining to Council should not be discussed by email or phone calls amongst each other. It should all be discussed on Council floor in open meetings to the public. The predicament we are now in is that this City could be facing some litigation over Nash Heights because of the way it was conducted.

Mr. Markey stated he and Mr. Tousley seemed to know a lot about that and Mr. Rodgers is insinuating there was some illegal action taken by Council email, he is not aware of that under the open meetings law. Mr. Tousley noted for the record that the gentleman that spoke here last week to this day he has not shared one word with him ever. He is not concerned with the gotcha antics; his concern is that we are doing things right for the residents who actually pay us. Mr. Markey responded his concern was to take legal action on behalf of the City and protect the City's interests; that is his job. Ms. Whipkey asked if the bid information is public and Mrs. Carr stated it's been public the entire time. Ms. Whipkey asked if this includes a pump station going down to Golf Course Drive and Mrs. Carr concurred that as she explained there is an addendum now going to Golf Course Drive. Mrs. Carr stated we could not use the Shellhart location and Ms. Whipkey stated that's because we do not have that property and Mrs. Carr stated that's correct. Mr. Rodgers asked if Council voted on the addendum and Mr. Markey replied no. Mr. Rodgers noted that is his point. Ms. Whipkey stated the fact of the matter is the bid is well under the estimate and we are only adding extra line to take the pump station to the end of Golf Course Drive. Golf Course is not going to have a sewer line coming up it; it's going to have a pump station only on the corner as opposed to Shellhart. The public needs to understand we did not have access to use that piece of property on Shellhart. The owner seemed he was originally willing to work with us but has changed his mind about the property. We would have to be paying for this property. We would have to take that by eminent domain, if the Judge would even allow it, and we would have to be paying for this piece of property. Mr. Pierson stated that just because someone says boo we are paying \$300,000.00 more when we could have maybe spent \$100,000.00 in litigation instead and he guaranteed he would spend the same. The man was willing to sell before and all of a sudden he changes his mind so you are willing to cave in just because someone threatens you? Ms. Whipkey pointed out that we did not have a contract and he could change his mind. Mr. Rodgers stated what Ms. Whipkey has said may or may not have been correct; the point is you do not circumvent Council; you have to work through Council. Ms. Whipkey stated oh, just like you added a road to the mandated area behind Councils back without approval, and then you come back and change your mind? Mr. Rodgers claimed he did not know what Ms. Whipkey was even talking about. Ms. Whipkey stated specifically that was Little Blvd. and Council was not asked about this, and who knows what else was done. Mr. Rodgers moved to rescind the Resolution of Necessity to correct it and vote on this again, seconded by Mr. Pierson.

Roll Call: Yes: Rodgers, Pierson, Tousley
 No: McGlone, Kernan, Pelot, Whipkey

Motion failed 3-4.

Ms. Whipkey stated she is not willing to rescind a resolution that is going to put this City in a position to be violating what we have told the EPA we are doing. If we don't maintain our timing with this project they will follow up with their findings and orders. Ms. Whipkey stated although some of you may think they are just blowing off steam, and she is not willing to take that chance.

Mr. Tousley stated that it's been stated that there are three (3) of us up here that are obstructionists when back in 2013 we went to the EPA asking them for an extension to explore vacuum sewers, which they granted. Mr. Tousley stated we did that and now we gave them a map of an area to show them how serious we are. We are now moving the area saying we are worried about the timeline which is probably going to delay the timeline. If he was the EPA he would be thinking we gave the City us extra time to look at vacuum, and they didn't even go there, they were just stalling. They just gave us a map of the area and now if it happens we may have potential litigation for some area not even on the map. Mr. Tousley stated it's not fair to use the EPA as a battering ram. We are all worried about the EPA instead we should be worrying about the plans and specifications that are supposed to be on file. Mr. Tousley stated that what this all means is that there was not authorization for the bids the way that it is right now. He is just asking for us to give the authorization so the public knows what is going on in their City.

NEW BUSINESS

None

PUBLIC SERVICE ANNOUNCEMENTS

Mayor read several announcements (see attached).

PUBLIC UPDATES

Ms. Whipkey noted that Councils next meeting is on Tuesday, September 6, 2016 for a Committee Work Session and there will be a Special for the Charter Amendments, to have their second readings and vote. The next Regular Council Meeting is on Monday, September 12, 2016.

ADJOURN

There being no other business to come before the Regular Council Meeting, the meeting was adjourned at 9:22 PM.

Charlotte Whipkey, 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 12, 2016.

Karla Richards, CMC-Clerk of Council

NOTE: THESE MINUTES ARE NOT VERBATIM*

****ORIGINAL SIGNED AND APPROVED MINUTES ARE ON FILE WITH THE CLERK OF COUNCIL****

Il Council & Committee Meetings will be held at the Norton Safety Administration Building, unless otherwise noted.



NORTON

SILVER SPRINGS DRIVE RECONSTRUCTION

- PRESENTED TO:
- NORTON CITY COUNCIL
- COMMITTEE OF THE WHOLE
- AUGUST 22ND, 2016





NORTON

SCHEDULE

- | | |
|--|-------------------|
| 1. Bid Period | Aug. 25 - Sep. 9 |
| 2. Council Approval/Contract Execution | Sep. 12 - Sep. 20 |
| 3. R/W Acquisition | Aug. 22 - Sep. 23 |
| 4. Material Delivery | Sep. 26 - Oct. 24 |
| 5. Expedited Construction | Oct. 17 - Dec. 15 |
| 6. Final Completion | June 30, 2017 |

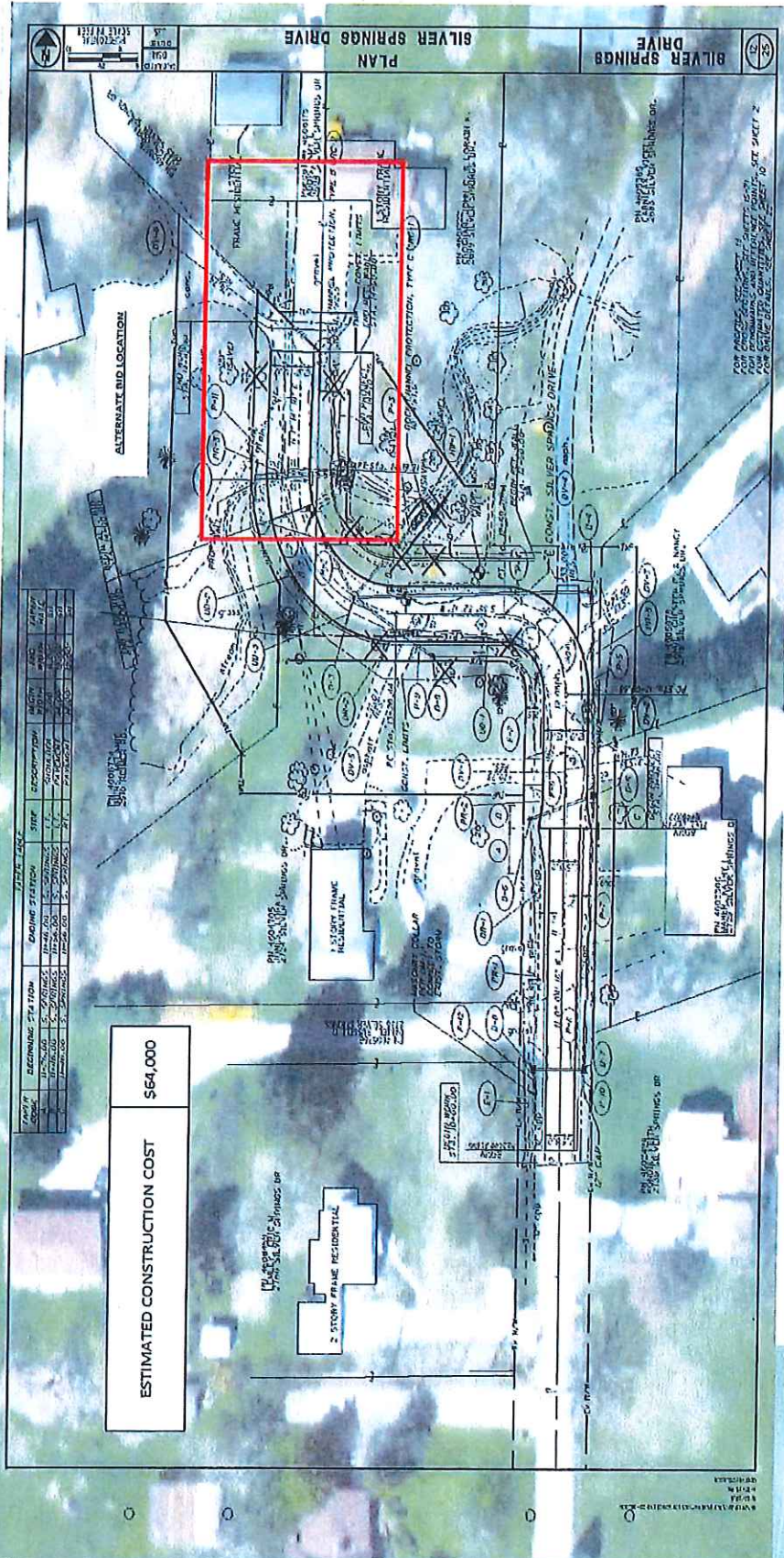






NORTON

EXTEND ROAD RECONSTRUCTION



QUESTIONS?



NORTON



GPD GROUP
Growth, Profit, Success, Sustainability, Inc.

Zoo Community Days SEPTEMBER 13-18

Free Admission!

Free for residents of **Barberton** and **Norton** with valid community day ticket.

TICKETS NOT AVAILABLE UNTIL

7 Tickets available August 29 – September 9, 2016.
Limit of four tickets per household while supplies last. Parking not included – \$3 per car to park.

Free ticket locations:

Barberton Municipal Building
576 W. Park Ave., Barberton

Norton Administration Building
4060 Columbia Woods Dr., Norton

Akron Zoological Park
500 Edgewood Ave., Akron

akron ZOO

Open daily 10 am - 5 pm

YOU'VE NEVER BEEN THIS CLOSE!



akronzoo.org

500 Edgewood Ave., Akron, OH 44307



NORTON BICENTENNIAL 2018

Seeking interested volunteers to form
committees for planning celebrations of
Norton's Bicentennial year in 2018.

I AM INTERESTED IN:

☐	PUBLICITY
☐	EVENTS
☐	FUNDRAISING
☐	OTHER OR SPECIAL SKILL

NAME:

ADDRESS:

PHONE #:

E-MAIL:

Please complete and return to:
Norton Bicentennial
4060 Columbia Woods Dr
Norton OH 44203

From: Markey, Justin

Sent: Wednesday, March 18, 2015 4:47 PM

To: Rick Rodgers (rickrodgers@cityofnorton.org); Charlotte Whipkey; Paul Tousley (paultousley@cityofnorton.org); Dennis Pierson (dennisperson@cityofnorton.org); Dennis McGlone (dennismcglone@cityofnorton.org); Scott Pelot (scottpelot@cityofnorton.org); Danny Grether (dannygrether@cityofnorton.org)

Cc: Mike Zita (mayorzita@cityofnorton.org); Valerie Carr; Karla Richards

Subject: Nash Heights

Jim Demboski is not available for the Council meeting on Monday, March 23rd. However, there is a proposed solution on how to move forward on funding the redesign of the pump/vacuum station location from Golf Course Drive to Shellhart Road. Jim Demboski has agreed to absorb the engineering costs of the redesign under the current contract. Because the costs of the additional soil borings will be completed by an independent contractor, the City would pay that independent contractor directly. Those costs are expected to be approximately \$5,000, which can be contracted directly by the administration without Board of Control or Council approval. To move forward with this proposal, the administration would request that Council pass a motion at Monday's council meeting directing the administration to proceed with the redesign.

As I mentioned on Monday, if the pump/vacuum station is moved from Golf Course Drive to Shellhart Road, then my opinion is that the assessment proceedings need to be restarted. ORC 727.12 requires that the plans, specifications and profiles of the improvement must be filed in the Council Clerk prior to the passage of the resolution of necessity. There is no case law that supports the concept of amending the plans and specs after the resolution of necessity is passed. In fact, the Ohio Supreme Court as stated that compliance with ORC 727.12 is mandatory and essential to the validity of the assessments and failure to comply with ORC 727.12 can void the assessments.

Please let me know if you have any questions.

Thanks,

Justin

Justin P. Markey

jmarkey@ralaw.com DIRECT 330.849.6632 CELL 330.559.9135

Roetzel & Andress 222 South Main Street Akron, Ohio 44308

Both Justin Markey and Roetzel & Andress intend that this message be used exclusively by the addressee(s). This message may contain information that is privileged, confidential and exempt from disclosure under applicable law. Unauthorized disclosure or use of this information is strictly prohibited. If you have received this communication in error, please permanently dispose of the original message and notify Justin Markey immediately at 330-849-6632. Thank you.