



**NORTON CITY COUNCIL  
REGULAR COUNCIL MEETING  
OCTOBER 13, 2015**

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

Also Present:  
                 Mayor Mike Zita  
                 Valerie Wax Carr  
                 Ron Messner  
                 Justin Markey  
                 Karla Richards  
                 Dave White

The Regular Council Meeting convened on Monday, October 13, 2015 at 7:00 PM, in the Council Chambers of the Safety Administration Building. The meeting was called to order by Rick Rodgers President of Council, followed by the Pledge of Allegiance and a moment of silent prayer.

**COMMITTEE OF THE WHOLE**

**RES #59-2015**      A resolution rescinding Resolution No. 6-2015 passed February 23, 2015 by this Council; and declaring an emergency.

**RES #60-2015**      A resolution rescinding Resolution No. 7-2015 passed February 23, 2015 by this Council; and declaring an emergency.

**RES #61-2015**      A resolution declaring it necessary to improve Alberta Drive, Brookside Court, Brookside Drive, Clubview Drive, Croydon Road, Easton Road, Everett Drive, Greenwich Road, Higgins Drive, Little Boulevard, Nash Boulevard, Rangely Road, Shellhart Road, Valley Drive, Weyrick Drive and Wooddale Drive between certain termini, by constructing and installing gravity sanitary sewer lines, together with necessary appurtenances thereto, comprising the Nash Heights Gravity Sanitary Sewer System Improvements for the East Phase I, the Pump Station Phase II and the West Phase III; and declaring an emergency.

**RES #62-2015**      A resolution declaring it necessary to improve Alberta Drive, Brookside Court, Brookside Drive, Clubview Drive, Croydon Road, Easton Road, Everett Drive, Greenwich Road, Higgins Drive, Little Boulevard, Nash Boulevard, Rangely Road, Shellhart Road, Valley Drive, Weyrick Drive and Wooddale Drive between certain termini, by constructing and installing vacuum sanitary sewer lines, together with necessary appurtenances thereto, comprising the Nash Heights Vacuum Sanitary Sewer System Improvements for the East Phase I, the Vacuum Station Phase II and the West Phase III; and declaring an emergency.

Mr. Pierson moved to add Res. #59-2015 thru #60-2015 to the agenda, seconded by Ms. Whipkey.

Roll Call:      Yeas: Pierson, Whipkey, Pelot, McGlone, Tousley Rodgers  
Nays: None

Motion passed 6-0.

**ORD #68-2015**      An ordinance to add Chapter 881 (Municipal Income Tax) to the Codified Ordinances of the City of Norton, Ohio.

Mr. Markey stated that Chapter 881 is where Norton's code will be located. State legislature passed HB 5 which requires every municipality that levies an income tax to comply and must be adopted by 12-31-15 in order to standardize income tax at the municipal level. If this was not passed by that time the City cannot collect any income tax. Mr. Rodgers noted the email received from Mr. Messner relating to House Bill 5 and the loss of revenue we anticipate. Mr. Messner stated although it is hard to pinpoint, he does feel there will be less income tax collected because of this new Bill and he estimates \$100,000.00 to \$150,000.00 and that is just an estimate. Mr. Markey stated we will not know the true financial impact until 2017 after the 2016 taxes are collected; the OML and CPAs all feel there will be an impact to municipalities, however there may be a small savings to the resident. Mr. Messner stated if we lose any funds in income tax that means less revenue in the roll back funds as that is based on the total income tax collected. Ms. Whipkey asked if Mr. Messner had any ideas where this might fall. Mr. Messner explained he accumulates the collections from CCA and at the end of year he asked CCA for an estimate for year end. The rule of thumb is 11.43% as established by Mr. Moss and Mrs. Starosta, which he takes from the income tax revenue and rolls that percentage into the roll back account. Ms. Whipkey stated if we were looking at \$100,000.00 and just 10% would be about \$10,000.00. Mr. Messner stated the average collection is \$5.0 million annually so at 10% that would be about \$500,000.00 that would be moved into roll back although it would be a little more since he uses 11.43. Mr. Rodgers clarified that what we receive from CCA will be reduced because of the actions by HB 5, and Mr. Messner concurred. Mr. Rodgers questioned it affecting the roll back and stated he has to write a check to the City and the State based on the percentage of his income and this just does not make sense. Mr. Pelot agreed with Mr. Rodgers comments because if he made \$100,000.00, he would have to pay one half percent to Norton. Mr. Messner stated that there are 58 pages of detail changes and most residents will see some reduction in the taxes they are currently paying which in turn will impact the taxes the city will ultimately see. Mr. Markey stated due to all of the changes and the complexity now is why there are so many questions on this but seems there will be less taxable income. Mr. Rodgers moved to add Ord. #68-2015 to the agenda, seconded by Ms. Whipkey.

Roll Call:      Yeas: Rodgers, Whipkey, Pelot, McGlone, Pierson, Tousley  
Nays: None

Motion passed 6-0.

Mr. Rodgers noted that Council has received some information regarding the feral cats from Alley Cats Alliance and this would be discussed next week.

**COMMUNICATIONS FROM THE PUBLIC**-Agenda and Non-Agenda Items

Ms. Karen Harley, 3432 Harper Avenue, Norton, Ohio, stated that she was concerned about the feral cats and hoped the pamphlet addressed annoying animals by spaying and neutering and not destroying them. Ms. Harley asked Mr. Markey about some of the political signs; some seem negative, and she noted that some negative ones are not in private yards and there are no disclaimers listed and asked if they are legal? Mr. Markey stated he would not comment on this, and directed her concerns to the Board of Elections. Ms. Harley stated there are even some political signs on vacant lots, and asked if this was legal? Mr. Markey stated if they are in the right of way then the City could have some concerns and there are ways to address this.

Mr. Rich Bosley, 3336 Brent Lane, Norton, Ohio, stated he is on support of the City and the lease agreements for all of the sports associations. Norton Baseball is a growing sport and people are not leaving. Our membership this fall has grown and up from last several years. Mr. Bosley stated he was not aware of any bad relationships with any other associations. Mr. Bosley commented on previous statements about bad characters in Norton Baseball and this is just not the case. The people associated with Norton Baseball are all hard working and good people, and we all work to improve the fields, and he appreciates all of the work the coaches and parents do for us. Mr. Bosley encouraged anyone on Council or the residents to meet with him and see what we really do for the fields maintenance wise and financially. We do not ask the City to do anything and they would be willing to do the mowing as well. Mr. Bosley stated he was willing to work with the City in any way to make everyone happy. Mr. Tousley stated one of the concerns was about the percentage of the 400 involved were Norton residents and Mr. Bosley stated about 300-350 on average; in the fall, the number could be a little less, but the high majority was from Norton. Mrs. Carr stated when we get to the ordinances; we have amended the exhibits to these and it will be addressed. Ms. Whipkey stated as she had discussed with Mrs. Carr, she understood that the new language will address the 51% of Norton residents to get the resident discount. Mr. Rodgers asked for clarification about the 51%. Mrs. Carr explained that any time we rent a facility, we require a majority of the participants be residents to get the discounted rate and are applying the same language for the leases. Mr. Pierson asked about the time frame of five (5) or ten (10) years for the lease and asked if that was what the NBA wanted and Mr. Bosley stated it was fine, whatever the City or Council wanted, we have been doing this more than ten (10) years. Mr. Bosley stated he has never had to tell someone that they had to leave the fields or heard of it happening. Mr. Bosley added he had never heard of any issues until this past spring.

Mr. Dan Newman, 3172 S. Cleve-Mass. Road, Norton, Ohio, stated the biggest issue he had was the money spent on the fields in the past and who is doing this? Mrs. Carr stated she had provided this information to Council in the past packet and could provide that to Mr. Newman. Mr. Newman stated last fall his son's team Wolf Creek Warriors had paid \$25.00 per use to play and paid over \$300.00 for the season. Mr. Newman questioned if the City had received the money and Mrs. Carr stated it had. This spring they found out the fields were heavily booked already. There has to be a value to the NBA because our team had paid something. Mr. Newman stated that should be considered a deduction for that specific year. If it's a Norton team they should be able to play for free. You have already established a fee of \$25.00 a pop because we paid that fee. Let's not confuse the time spent for game prep as being counted as maintenance. Volunteering is worthless because it's something you do for yourself, there is no monetary value; it's like deducting his labor for improving his own house, it cannot be done.

What were the 2015 maintenance costs? We were down there a lot and did not see a lot going on; bring out the past years receipts. As an afterthought, this all started because we wanted to share and the answer to that is you can't use the fields as it's taken, in addition to giving it to them for ten (10) years. The fields are being given to the same people that said the fields are taken and we do not have time for you. It seems like someone is reaching for something that did not need to be. Mr. Newman stated that this exclusionary issue since this spring; give them one (1) year not ten (10) and give Mr. Rummer the scheduling rights so the same thing that started this does not happen again.

Mr. Jeff Rummer, 3276 Whipple Drive, Norton, Ohio, stated he has friends on both sides and there was a problem with them getting some game time and Mrs. Carr worked hard to see that we could do that. Mr. Rummer stated he has to work out a schedule by March of the year and he was not able to do that this past spring as we did not have any times when the field would be available to us. We were able to do it in the fall and had Fridays carved out for us and got to play; we did pay our \$25.00 per use, played our games and it all worked out quite well. As far as the other issues, he has not thought about the other issues and it was not on his radar. Mr. Rodgers stated he understands the lease issues and the ten (10) year is something that just came up this year. Mr. Rodgers asked if the three (3) of them would all be willing to get together and work out your details and solve this privately. Mrs. Carr stated since she is the main one in negotiation of this and we did what you are asking. We have met with them and we have brought Mr. Newman in to come in several times and address his issues, we cannot bring every parent and address their issues. Mr. Rodgers stated he did not ask for every parent from every team to be brought in, but he had heard this issue on several occasions. Mr. Rodgers stated on issues like this if you can come together and get it right and not come before Council and air their concerns. We need to solve this without all of these comments, it's like the third or fourth time we have discussed this. Mr. Bosley stated this is really a non issue as they work with everyone and we spend over \$3,000.00 a year in just dirt alone, if it rains hard we have to replace it. The biggest thing for is the manpower and you really don't want to have the employees doing this. Ms. Whipkey asked Mr. Rummer if Mr. Newman was part of his team, and Mr. Rummer stated yes he was but no longer. Ms. Whipkey asked if there weren't other days available for other teams if the fields were open. Mrs. Carr stated they had set one day aside for other teams and as Mr. Bosley mentioned if they had open times they always opened the fields up to whomever. Mrs. Carr stated if Mr. Newman has a team that wants to use these fields this same agreement is what we would use for his team or any others. These three teams were the ones using these fields since the 1980's and that is why we started with them. We wanted this set up so everyone is under the same rules. If Council does not like this you have the right to set the fees and change it; this is only a proposal. Ms. Whipkey stated this was all brought forward because we had nothing in writing at all. We addressed this and all of the team's issues including a reasonable rental rate and most of you seem to be happy with that. We do not need to be sitting here changing this every other week because someone has come up with an idea or we will never get this passed. Mr. McGlone stated we need to see more than just Mr. Newman here complaining, he cannot see the argument going any farther. Mr. Newman stated every single day of every month NBA had the fields on their schedule occupied and every day he would go to the fields and they are nothing but empty. Now you are giving that same organization the same right for ten (10) years. Mr. McGlone stated he took offense with Mr. Newman's comment that no one wants to play for Norton and believed it was a false statement.

Mr. Newman stated to paint the entire team with this same brush was not fair and he apologized to the organization, Norton residents and Council. Mr. Tousley asked to have discussion on this next week.

Mr. William Paluch, 3740 Shellhart Road, Norton, Ohio, stated he has asked Mrs. Carr to send him information relating to Mr. Ryland's severance pay and asked how Council voted on a severance package because that is important. Mr. Paluch indicated that Mr. Ryland was employed from the City from 2007 to 2013 and that our tax payer dollars paid to fly him from Port Charlotte, Florida in addition to a \$100.00 per hour for consulting. Mr. Paluch stated he was still trying to get this administration to tell him if Mr. Ryland got a severance package and what it contained. Mrs. Carr stated she has been with working with Mrs. Richards and others and just today she received the final documents to complete this from Mrs. Richards. She will be reviewing all of this and will reply to Mr. Paluch's request tomorrow, and would be willing to copy Council on that same. Mrs. Carr stated she had already supplied Mr. Paluch the information on what Mr. Ryland was paid and Mr. Paluch concurred. Mr. Paluch persisted with asking about a severance package and Mrs. Carr replied it was called a payout and he had already been given that information and she believed it was \$1,006.00. Mr. Rodgers clarified that sometime a severance package is confused with a payout to a municipal employee and they are entitled to receive it when you resign or retire. Mrs. Carr stated Mr. Ryland was entitled to outstanding vacation time only and did not qualify for any accrued sick or comp time as will be clearly spelled out in the documents prepared. Ms. Whipkey stated there were some items that were refused to Mr. Ryland and Mrs. Carr stated she would supply that information.

## **CONSIDERATION OF MINUTES**

Consideration of the September 14, 2015 Regular Council Meeting-approved as submitted

Consideration of the September 21, 2015 Committee Work Session-*Deferred*

Consideration of the September 28, 2015 Regular Council Meeting-*Deferred*

Consideration of the October 5, 2015 Committee Work Session-*Deferred*

Consideration of the October 5, 2015 Special Council Meeting-approved as submitted

## **REPORTS FROM OFFICERS, BOARDS AND COMMISSIONS**

### **PUBLIC HEARINGS-None**

## **INTRODUCTION OF NEW LEGISLATION**

### **RES #64-2015**

Mr. Pelot offered Res. #64-2015 for its first reading and asked the Clerk to read it:

A RESOLUTION ALLOWING THE MAYOR TO APPLY FOR FEDERAL SURFACE TRANSPORTATION PROGRAM (STP) FUNDS PROGRAMMED BY THE AKRON METROPOLITAN AREA TRANSPORTATION STUDY (AMATS) TO IMPROVE CLEVELAND MASSILLON ROAD FROM WEBER DRIVE TO NORTH OF SHANNON AVENUE AND DECLARING AN EMERGENCY.

First reading only.

**RES #65-2015**

Mr. Pelot offered Res. #65-2015 for its first reading and asked the clerk to read it:

A RESOLUTION ALLOWING THE MAYOR TO APPLY FOR FEDERAL SURFACE TRANSPORTATION PROGRAM (STP) FUNDS PROGRAMMED BY THE AKRON METROPOLITAN AREA TRANSPORTATION STUDY (AMATS) TO IMPROVE SOUTH MEDINA LINE ROAD FROM EASTERN ROAD TO GREENWICH ROAD AND DECLARING AN EMERGENCY.

First reading only.

**RES #66-2015**

Mr. Rodgers offered Res #66-2015 for its first reading and asked the Clerk to read it:

A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE SUMMIT COUNTY BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE SUMMIT COUNTY FISCAL OFFICER, AND DECLARING AN EMERGENCY.

First reading only.

\*\*Added during Committee of the Whole:

**RES #59-2015**

Mr. Pierson offered Res. #59-2015 for its first reading and asked the Clerk to read it:

A RESOLUTION RESCINDING RESOLUTION NO. 6-2015 PASSED FEBRUARY 23, 2015 BY THIS COUNCIL; AND DECLARING AN EMERGENCY.

First reading only.

**RES #60-2015**

Mr. Pierson offered Res. #60-2015 for its first reading and asked the Clerk to read it:

A RESOLUTION RESCINDING RESOLUTION NO. 7-2015 PASSED FEBRUARY 23, 2015 BY THIS COUNCIL; AND DECLARING AN EMERGENCY.

First reading only.

**RES #61-2015**

Mr. Pierson offered Res. #61-2015 for its first reading and asked the Clerk to read it:

A RESOLUTION DECLARING IT NECESSARY TO IMPROVE ALBERTA DRIVE, BROOKSIDE COURT, BROOKSIDE DRIVE, CLUBVIEW DRIVE, CROYDON ROAD, EASTON ROAD, EVERETT DRIVE, GREENWICH ROAD, HIGGINS DRIVE, LITTLE BOULEVARD, NASH BOULEVARD, RANGELY ROAD, SHELLHART ROAD, VALLEY DRIVE, WEYRICK DRIVE AND WOODDALE DRIVE BETWEEN CERTAIN TERMINI, BY CONSTRUCTING AND INSTALLING GRAVITY SANITARY SEWER LINES,

TOGETHER WITH NECESSARY APPURTENANCES THERETO, COMPRISING THE NASH HEIGHTS GRAVITY SANITARY SEWER SYSTEM IMPROVEMENTS FOR THE EAST PHASE I, THE PUMP STATION PHASE II AND THE WEST PHASE III; AND DECLARING AN EMERGENCY.

First reading only.

**RES #62-2015**

Mr. Pierson offered Res. #62-2015 for its first reading and asked the Clerk to read it:

A RESOLUTION DECLARING IT NECESSARY TO IMPROVE ALBERTA DRIVE, BROOKSIDE COURT, BROOKSIDE DRIVE, CLUBVIEW DRIVE, CROYDON ROAD, EASTON ROAD, EVERETT DRIVE, GREENWICH ROAD, HIGGINS DRIVE, LITTLE BOULEVARD, NASH BOULEVARD, RANGELY ROAD, SHELLHART ROAD, VALLEY DRIVE, WEYRICK DRIVE AND WOODDALE DRIVE BETWEEN CERTAIN TERMINI, BY CONSTRUCTING AND INSTALLING VACUUM SANITARY SEWER LINES, TOGETHER WITH NECESSARY APPURTENANCES THERETO, COMPRISING THE NASH HEIGHTS VACUUM SANITARY SEWER SYSTEM IMPROVEMENTS FOR THE EAST PHASE II, THE VACUUM STATION PHASE II AND THE WEST PHASE III; AND DECLARING AN EMERGENCY.

First reading only.

Ms. Whipkey asked about Resolutions #61-2015 and #62-2015 and noted that Resolutions #59 and #69 both have Exhibits C in respect for \$5,000.00 and \$8,000. Res. #61-2015 and #62-2015 also have the Exhibit C which both exclude the fringe area and that brings the homes to tie in down to 287, would that be correct. Mr. Markey concurred there were 287 benefit units and added that at least one property had multiple benefits so there could be a few less than 287. Ms. Whipkey asked how one could have multiple benefits as she thought that had been taken care of before and Mr. Pierson answered it was due to how the house was built in the fringe area on Higgins. Ms. Whipkey stated the updated assessments are now at \$15,819.00 for vacuum and \$19,329.00 for gravity with the new Resolutions of #61-2015 and #62-2015. Ms. Whipkey stated her point is the surcharge is being tied up in a lawsuit and we cannot use that. Mr. Markey stated the surcharge fund is set up in the sewer fund and you cannot use it for private laterals going down the street. Ms. Whipkey inquired if it could be used if we re-wrote the ordinance and Mr. Markey answered he could not be certain it could be used even then due to State law. Ms. Whipkey stated so we are looking at roll back money and with the new impacts of HB 5 we are potentially looking at less money in the roll back. Mr. Rodgers clarified that this Council has never intended to use the rollback money for these sewers; it was never in discussion and a lot of people in the community believe we were going to use that and that is the wrong information. Ms. Whipkey inquired as to what money was to be used and Mr. Rodgers responded we had not decided. Mrs. Carr stated in the red, white, and blue page questions and answers it was one of the questions she had asked as surcharge could not be used and she believed this Council had agreed to use the roll back monies as that was the only source. Mr. Rodgers stated he did not recall that and we as Council have never discussed that and some in this community have told residents their rollback moneys would be paying for this.

Ms. Whipkey stated she did not believe we had an actual vote but she believed it had been discussed. Mr. Pierson remembered it had been discussed because the past Councils that voted it into place the monies were ear tagged for specific uses. Ms. Whipkey stated we also need to start talking about the thirty (30) year bond and the twenty (20) year for vacuum and the rollback was always discussed to pay for the pump stations as was the rollback money being used to offset the deficit for the sewers. Mr. Rodgers stated he personally called AirVac and was initially angered with them attempting to sell us a system with less than thirty (30) year life span and not comparable to gravity. That started another question from Mr. Bernstein and he indicated that he had answered a question without having all of the facts which was in an email that AirVac shared with him. Mr. Rodgers stated he had spoken to Mr. Bernstein about 4 PM this afternoon. Essentially the City of Norton has not filed the necessary papers to make such a determination nor the requirements in order to get a loan. Mrs. Carr stated we have continued to apply for WPCLF loans, and she has never spoken with Mr. Bernstein, she only spoke to Mr. Halterman who may have forwarded her concern to Mr. Bernstein who in turn did reply to the City of Norton. Mr. Rodgers stated that Mr. Bernstein indicated to him that most communities file a Community Facilities Plan that contains an alternative analysis, gravity versus low pressure vacuum, and includes the present worth analysis so the most cost effective alternative is identified. Then a detailed design is completed, reviewed, and based on the completed documents a community applies for funding. Mrs. Carr stated we have done that and all other requirements, and noted that the EPA has given us special permission to bid out both systems. Mr. Rodgers asked if we have followed any of these procedures to date? Mrs. Carr answered that we have and the WPCLF loan funding ability had changed over a year ago in terms of the thirty (30) year loan or financing. Mrs. Carr added the funding is actually not called a loan; it is called an extended term financing. One of the items we are concerned about is our application is a renewal. When we originally applied we had only applied for the gravity system and goes back before her time here. Mrs. Carr stated this goes back to the letter that this Council had criticized her for last year for resubmitting those projects without City Council's permission. Mrs. Carr stated that letter is what keeps on track for potential loan funding or financing when a project becomes available. Mr. Rodgers stated his initial question still was not answered and this is was there a facilities plan, or any of the items mentioned in Mr. Bernstein's email? Mr. Markey stated the new drawings have not been submitted to the EPA. There will be new drawings submitted with the permit to install that they have to review and approve before they award the loan. Mr. Markey stated that is the procedure we all discussed in a conference call meeting with the EPA. Mr. Markey stated this is the procedure we discussed, the procedure we are following. The vacuum station design which is being completed so the facilities plan, the drawings, still need submitted to the EPA. Mr. Rodgers stated that this Administration through that email has told Council and the people that a thirty (30) year financing is not available for vacuum; when in fact if very well may be available. Mrs. Carr and Mr. Markey disagreed. Mrs. Carr stated that is not what we have been told and Mr. Markey concurred. Mr. Markey stated that they wanted the City to submit plans, a cost analysis that shows life cycle to show that if you want to use a different alternative, which is vacuum, that it has been considered, been studied and are making a choice based on that information. It has nothing to do with the eligibility of the asset to be financed, which they have answered. Mr. Rodgers stated that when we discussed the email Administration showed us you told us that the vacuum system would not qualify for the 30 year funding and all agreed. Mr. Rodgers went on to say yet they are saying they don't know if it will qualify and Mrs. Carr pointed out that Mr. Bernstein told him that.

Mr. Rodgers stated we need to get our ducks in a row and we all need to be on the same page with full information disclosed. Mr. Markey stated that DEFA, the entity that awards the loan, has indicated the vacuum system is not available for a thirty (30) year loan and Mr. Rodgers disagreed. Mr. Markey responded that he was not wrong and Mrs. Carr suggested a conference call as what Mr. Rodgers was stating was not what the City had been told. Ms. Whipkey asked if the new plans that we all received today are what would be submitted to the EPA and Mr. Markey stated yes. Mr. Markey stated that in addition they would be submitted with the facilities plan, the projected maintenance costs, etc. Mrs. Carr read a portion of the email from Mr. Bernstein's stating a vacuum system would be eligible for a twenty (20) year loan, but a gravity system would be eligible for a thirty (30) year extended term financing. Mr. Rodgers read another portion another email from Mr. Bernstein (see attached) surmising it was a hypothetical question given by us and we received a hypothetical answer that was presented to Council as gospel. Mr. Markey asked Mr. Rodgers if Mr. Bernstein indicated that the thirty (30) year loan was possible and Mr. Rodgers answered yes. When Mr. Markey asked if Mr. Rodgers had that in writing and Mr. Rodgers stated that was for when the review was done as the procedure has not been put in place. Mrs. Carr asked if Council has the WERF study that was provided to all of us by the EPA and Mr. Rodgers replied yes, and that study was written by someone on AirVac prior to being hired by AirVac; the same engineer that spoke to Mr. Bernstein. That's our duty to go the extra step, and Mrs. Carr stated she would like to have the same information from Mr. Bernstein and that's not fair. Mr. Markey stated he would be happy to sit down and email Mr. Bernstein with all of Council's concerns, asking the specific question, and would copy all of Council on it; if he came back and said the 30 years was available, perfect. Mr. Rodgers told Mr. Markey not to put words in his mouth; that Mr. Bernstein had said once the facilities plan and all documentation was filed, they would make a determination. Mr. McGlone stated that did not make sense and Mr. Rodgers passed the email he was reading from to Ms. Whipkey. Mrs. Carr stated in the original application for the extended year life financing had no box available to check off for a thirty (30) year loan; Mr. Halterman was aware Norton was interested in the 30 year extended life financing for whatever was eligible and it was in our file. Mr. White noted this is a nomination form and not an application. Ms. Whipkey asked for a copy of the full email that Mr. Rodgers had received to be submitted to all of Council and the Administration. Upon disclosure of the full email, so we are all on the same page, then have Mr. Markey to follow up with the email to Mr. Bernstein that is copied to all of us. Mr. Markey stated in the WERF study related to a ten (10) to fifteen (15) life cycle years for the Vacuum station itself. Most of the system is because of the lines and pits and their lifespan was more like seven (7) to ten (10) and was a much shorter life. He believed what the EPA is looking at is the vacuum station is more like fifteen (15) to twenty-five (25). Mr. Rodgers stated the vacuum station useful life relates to the controls and pumps but also applies to gravity and we need to get more details. Mr. Messner reminded Mr. Rodgers about an article in the Beacon Journal about Akron's thirty (30) year bond and he had replied in an email to Mr. Rodgers concerns. In an addition to this there was the August 24, 2015 memo from Mrs. Carr which included the updated time line, and the WERF study. We had all of the details and Council has these documents where it was all detailed, and you were all made aware of this. Mr. Rodgers asked Mr. Messner what was his point? Mr. Messner stated as a point of clarification all of you are aware of this because you have this information.

Ms. Whipkey stated what she believes Mr. Messner is trying to say is you already asked the question and the answer was provided to all of us and it was stated that we cannot get a thirty (30) year loan for the vacuum system from the people that has the money and your guy is saying we can. Mr. McGlone asked how many more questions do you need to ask when you have that kind of detailed material which was provided to us? Mr. Rodgers stated we may still be able to get the thirty (30) year loan for vacuum to help the people, would you be interested in that? Mr. McGlone responded if we can, but questioned based on what? Mr. Rodgers stated he just spoke with the gentleman at 4:00 PM this afternoon, and Mr. McGlone took issues with not informing all of Council of this new information. Mr. Pelot suggested having the individual coming before Council. Ms. Whipkey stated what she wanted to know is where are we going to get all of the money to pay for this? Ms. Whipkey stated that everyone needs to be reminded that wherever this money is coming from whether its rollback, surcharge money, etc; she wants money left to reimburse all of the residents along Oak and Greenwich Road that got stuck with higher assessments. We also need to make sure that wherever these monies are coming from there should also be funds available to give to the rest of the citizens when they are faced with a new sewer project down the road. Whatever we are doing, if we cannot fund all of this then we need to rethink everything and how we are going to do these assessments. Mr. Rodgers stated we could not be Santa Claus and asked what about the people who were assessed for new waterlines? Ms. Whipkey stated that if you go back and look at those waterlines, those assessments are nothing compared to the sewer assessments. Some have been higher for their water assessments because those residents came to the City and petitioned to have a waterline. If you go back in time and look at past City waterline projects; those assessments are more like \$2,000.00 to \$3,000.00. Mr. Rodgers stated that Ms. Whipkey had no idea what she was talking about; residents on Long Drive were \$10,000.00 to \$15,000.00. Ms. Whipkey stated they did get a grant for fifty (50) percent. Mr. Markey asked Mr. Rodgers to supply him with all of the emails and once he gets this information he will prepare the email to the EPA and copy all of Council on that. Mr. Pierson asked about the bonds for the Greenwich Road which were written by Roetzel & Andress; and he questioned if the thirty (30) years loan available back then or is this something totally new? Mr. Markey stated bonds are different than the OWDA loan program. This thirty (30) year loan is a new program through OWDA. Mr. Pierson noted that particular project was for twenty (20) years and Mr. Markey concurred.

#### **ORD #68-2015**

Mr. Rodgers offered Ord. #68-2015 for its first reading and asked the Clerk to read it:

#### **AN ORDINANCE TO ADD CHAPTER 881 (MUNICIPAL INCOME TAX) TO THE CODIFIED ORDINANCES OF THE CITY OF NORTON, OHIO.**

First reading only.

#### **INTRODUCTION OF PRIOR LEGISLATION**

#### **ORD #53-2015**

Ms. Whipkey offered Ord. #53-2015 for it's second reading and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING THE ADMINISTRATIVE OFFICER TO EXECUTE AND DELIVER A LEASE AGREEMENT WITH NORTON BASEBALL ASSOCIATION, INC.

Ms. Whipkey discussed adding into the Exhibit A the association needs to have 51% of the players to be in Norton in order to get the discounted lease of \$1.00 for the fields. Mrs. Carr stated in page #2 of #5 we took out Columbia Woods field for the one day availability, and left that more generic; we added language in yellow relating to same language in other agreements with the Community Center for the majority of participants being citizens; page #5 addresses the concerns with Mr. Pierson relating to the insurance issues. Ms. Whipkey stated the amendments would be applied for the next reading on all three related ordinances.

Second reading only.

**ORD #54-2015**

Ms. Whipkey offered Ord. #54-2015 for its second reading and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING THE ADMINISTRATIVE OFFICER TO EXECUTE AND DELIVER A LEASE AGREEMENT WITH NORTON YOUTH FOOTBALL ASSOCIATION, INC.

Second reading only.

**ORD #55-2015**

Ms. Whipkey offered Ord. #55-2015 for its second reading and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING THE ADMINISTRATIVE OFFICER TO EXECUTE AND DELIVER A LEASE AGREEMENT WITH NORTON SOCCER ASSOCIATION, INC.

Second reading only.

**ORD #56-2015**

Mr. Rodgers offered Ord. #56-2015 for its second reading and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING THE ADMINISTRATIVE OFFICER TO EXECUTE AND DELIVER AN INTERGOVERNMENTAL AGREEMENT FOR ANIMAL CONTROL SERVICES WITH THE COUNTY OF SUMMIT, OHIO.

Second reading only.

**ORD #63-2015**

Ms. Whipkey stated this is for the air conditioning and heating at the community center and that the cost is around \$28,000.00 and we do have some grant money to help pay for this. We have to have this adopted and the work must be completed by December 31, 2015 in order to get the grant money, and she would like to waive the third reading and vote on this. Ms. Whipkey offered Ord. #63-2015 for its second reading and asked the Clerk to read it.

AN ORDINANCE ACCEPTING THE BID OF S.A. COMUNALE, INC., TO COMPLETE CERTAIN HVAC IMPROVEMENTS AT THE COMMUNITY CENTER, AND DECLARING AN EMERGENCY.

Ms. Whipkey moved to waive the third reading, seconded by Mr. Pelot. Ms. Whipkey stated we had a total of \$45,000.00 for grant money for a total of three projects; this one is for the HVAC, and we had three (3) bids that were put out. There was also one for the roof which was larger than the estimates and one for the handicapped doors. We did not receive any bids for the doors and now both have to rebid. Ms. Whipkey stated that when these bids go out and come back to Council we will have to act quickly so do not expect these to go all three readings because we are quickly running out of time. Mr. Pierson questioned the only one for bidding on the HVAC was Comunale when we have such a large amount of contractors in Summit, Stark and Cuyahoga counties. Mrs. Carr stated of the two other companies we had talked to, we were confident they would submit their bids because they were local; however they did not. Mrs. Carr stated the requirement is a performance bond and a bid bond which is the only one they have to put up first. If they win the bid, then they must put up the performance bond. They also have to pay the required Davis-Beacon wages; it's a large project which requires a lot of paperwork to be completed which could be too much for them. Mr. Rodgers stated he was told there was a cash deposit required and Mrs. Carr denied that, there was only a bond from a bank, and would be happy to show the bid. Mrs. Carr stated that in addition we made phone calls to all of the local bidders to make sure they were aware of these projects. In addition it was posted to our website and advertised in the Akron Beacon Journal, as well as the local building associations being contacted. Mr. Messner stated after the contractor submits his final bill we have thirty (30) days to pay and once the invoice comes in he turns that over right away to the County and we will be reimbursed by the County rather quickly. Mr. Messner stated we had a pre-bid meeting this morning at 9:00 AM; only one bid for the roofing was submitted and we had several for the front doors. Mr. Pierson asked about the square footage of the community center and Mr. Messner stated he was not sure. Mr. Pierson noted for this second time around we are only advertising in the Norton Post and Mr. Messner concurred, we were trying for a faster turnaround time. Mr. Messner stated perhaps once they saw the entire packet and all of the paperwork involved that may have turned some of them off. Mrs. Carr stated the bid opening is October 20, 2015 and if the contractors are not at this required pre-bid meeting you cannot submit your bid by the deadline of October 20, 2015; which is a HUD requirement. Mr. Messner stated hopefully they both come back and he would intend to have a Board of Control immediately after receiving them. There was discussion relating to the roofing bids and Mr. Messner indicated he really wanted to get this done before the end of November due to the winter season approaching. Mr. Pierson asked about the specks for the roofing shingle materials and Mr. Messner stated he was not sure, he believed they were for CertainTeed brand shingles.

Roll Call:      Yeas: Whipkey, Pelot, McGlone, Pierson, Tousley, Rodgers  
                    Nays: None

Motion passed 6-0.

Ms. Whipkey moved to adopt Ord. #63-2015, seconded by Mr. Pelot.

Roll Call:      Yeas: Whipkey, Pelot, McGlone, Pierson, Tousley, Rodgers  
Nays: None

Motion passed 6-0. Mr. Pelot asked how soon can this get started and Mrs. Carr stated now that Council has passed this she can get this moving rather quickly. They have sixty (60) days to complete this and are very eager to get this going. The can start within twenty (20) days and complete within the sixty (60) days, but they are ready and anxious to go.

## **UNFINISHED BUSINESS**

None

## **NEW BUSINESS**

Mr. Tousley stated it was brought to his attention several weeks ago that our Law Director may have a conflict of interest with the creation of the MOU with Barberton because our Law Firm represents Summit County and Barberton as well. According to the Model Rules of Professional Conduct Section 1.7(a) which states: *“each affected client has to give informed consent confirmed in writing”*. Mr. Tousley asked who if anyone gave consent for this work to be done? Mr. Markey stated he has that memo for him tonight and that it's not appropriate to talk about this on the floor of Council. Mr. Tousley asked why it's not appropriate and Mr. Markey replied because its attorney client privilege communications and not appropriate. Mr. Markey stated the Mayor gives consent and this is not a Council decision to make. Mr. Pierson stated he believes that a vote should force this situation. Mr. Tousley stated that this Council is called on to make sound and informed decisions, which is impossible if we are blindfolded and none of us knew about this conflict. We are talking about a \$30 million dollar issue here in that MOU and this shows poor judgment by our Mayor to not include Council on this. People's lives are going to change because of how we vote on this. Mr. Tousley stated that when he ran for office he vowed to hold this or any Administration accountable. He feels that it's his duty to hold you accountable; it may be the Mayors decision, however it shows poor judgment for such a large and powerful agreement do be done where there is a conflict of interest. Mr. Tousley stated he feels violated and that the Norton residents have also been violated. We are asked to make life changing decisions on these issues with this kind of information withheld from Council. Mrs. Carr clarified that there was no conflict until there was a potential for litigation is that correct and Mr. Markey explained the potential for litigation came about when we had two (2) members asking for certain research do be done on pursing legal remedies. At that time this caused a potential conflict which he disclosed and stated he could not represent the City on such research, which is exactly what he did. Mr. Pelot state that nothing was changed in the information shared with all of us all along and Mr. Markey concurred. Mr. Pierson stated that all of the same parties were involved in everything and Mr. Markey concurred. Mr. Pierson questioned if this is not a conflict then, and Mr. Markey replied yes, but it can be waived. It's the litigation conflict that cannot be waived and is another reason why this is not appropriate to talk about now. Mr. Markey stated that a legal conflict can occur when an attorney represents another entity or entities at the same time. Roetzel and Andress represent both Summit County and Barberton and this is no secret. When we begin a negotiation he has the obligation to inform the City that a potential conflict exists and it has to be waived before he can begin representation on the City's behalf. Mr. Tousley asked shouldn't all seven (7) of us know that there was a potential conflict in front of us, and that a written consent was done in order for this to occur.

Mr. Markey asked if he was accusing him of something and stated that it may have been poor communication and he would be happy to share those waivers with Council. Mrs. Carr stated there were waivers going back several years. Mr. Pierson stated with this new Council and it should apply to any newly elected officials as well the waivers should have been re-confirmed. Ms. Whipkey stated that she thought these waivers may have went back as far as 2011 and if all of the entities involved agreed it was all right to move ahead. Mr. Markey stated if there is litigation between these parties relating to the MOU his law firm would not represent anybody. It can be waived by the ethical standpoint; when the eminent domain research was asked on, he could not do it. Mr. Tousley asked Mayor Zita if he was OK with this Council not knowing of a waiver being signed, and Mayor Zita stated it was not a conflict until we went into executive session. Mr. Markey stated the potential conflict in no way is an inability to protect the City of Norton. Mr. Markey noted that this Council passed the MOU with a 7-0 vote and if there was a concern raised, he would have been the one to raise the issue. Mr. Markey stated none of the concerns were raised at the time and if there were concerns he would have been the one to raise the issue because you are his client. Mr. Markey stated he understands your concerns but this in no way impairs his ability to represent the City. Ms. Whipkey stated that although she can agree with Mr. Tousley's point on being advised of this; it's now a moot point, as it changes nothing today. Ms. Whipkey moved to cease and desist this conversation now; it needs to be continued in an executive session, before we cross a line that we cannot come back from, seconded by Mr. Pelot.

Roll Call:      Yeas: Whipkey, Pelot, McGlone  
                    Nays: Pierson, Tousley, Rodgers.

Motion failed 3-3.

Mr. Pelot stated in defense of Mr. Markey and his firm they have fought for and worked very hard for this MOU; Mr. Rodgers you sat in on those meetings and you know everything that was done and Mr. Markey would not have changed anything. Mr. Rodgers stated that repeatedly he asked that west of St. Rt. 21 be taken out of this and it was never really put in that as a concrete issue. Mr. Markey stated Council voted on the MOU and if Council wanted that taken out definitively then you should have changed that with specific language. Mr. Rodgers stated all along we were told we could address that in the agreement. Mr. Markey stated that he said it was something that could be negotiated in the final agreement and that is stated in the Memorandum of Understanding. Ms. Whipkey stated we don't have a final agreement because this was never negotiated, and all of the issues Mr. Rodgers keeps raising would have been addressed then in the proposal with Barberton. Mr. Markey stated there were a lot of open issues in the MOU that was agreed would have been detailed out as we reached negotiations later on between Norton and Barberton; the area west of 21 was one of them. Mr. Rodgers stated that all three (3) of the entities were involved in the MOU, it was nothing Norton proposed to Barberton. Mr. Tousley stated nothing he stated is a personal hit on anyone and that he has to go with his conscience and that's how he feels. Mr. Markey stated that he believes he has acted ethically under his rules and he has represented the City of Norton well. If we can communicate better moving forward then we can do that. Mr. Pelot asked the Administration if they can look into a potential traffic light at the Fire Station that turns red in an emergency to warn motorists and so the fire trucks and emergency vehicles have the right of way.

Mr. Rodgers stated in Akron we did have them, but we eventually took them away because we came to rely too heavily on them and people end up not stopping for them after a while. Mr. Tousley discussed a stop sign at the corner of Woodlawn and Richland. Mrs. Carr stated that a stop sign does require a full traffic study and that some cities have been sued because of stop signs being installed illegally, so we need to be very careful on that and she and Mr. White can look into that. Mr. Rodgers asked if the rest of Council was receiving any emails on the Speedway as he had received some and Mr. McGlone stated he had received one.

Mr. Tousley moved to open the floor for more public comments that had not signed up, seconded by Mr. Rodgers.

Roll Call:      Yeas: Tousley, Rodgers, Pelot, McGlone, Pierson, Whipkey  
Nays: None

Motion passed 6-0.

Jack Gainer, 3920 Wadsworth Road, Norton, Ohio, asked about the MOU and if we are continuing to negotiate this or is it a dead issue? Mr. Gainer stated that at one point Mr. Rodgers has stated we need to have our own sewer department, which he was against before. Are we really doing this? Are we as a City going to install the sewers by ourselves? Mr. Rodgers stated he did not say he wanted our own sewer department. What he said was if we have to we will build Nash Heights out and send it to Barberton like we have done in the past; it has nothing to do with having our own sewer department. We will have to contract out for this which is what we would have done in the beginning. Mr. Gainer stated that Summit County & Barberton is completing an agreement where Barberton will now own Summit County's lines. Mr. Rodgers stated under the JEDD we can send them our sewerage indefinitely, they have to accept the sewer flow that we send them. Mr. Gainer asked if the billing for the new sewer residents in Nash Heights will be coming out of Barberton? Mr. Rodgers stated this is all in process and we don't know how we are going to deal with this. We don't have all of the answers tonight and he presumed we will be talking in the future with Barberton and Summit County.

## **PUBLIC SERVICE ANNOUNCEMENTS**

Mayor Zita read several announcements (see attached)

## **PUBLIC UPDATES**

### **ADJOURN**

There being no other business to come before the Regular Council Meeting, the meeting was adjourned at 9:00 PM.

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Rick Rodgers, 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 October 26, 2015.

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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\*\***

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