

City of Norton
PLANNING COMMISSION
Tuesday, March 27, 2012

The Planning Commission of the City of Norton, Ohio, convened for a public meeting in Council Chambers at the Safety Administration Building. Chairman Spisak called the meeting to order at 6:04 p.m.

I. ATTENDANCE:

PRESENT: Mark Spisak, Ralph Dowling, Janet Jacobs, John Conklin,
and Richard Easterling

ALSO PRESENT: Russ Arters, Supt. of Bldg. & Zoning
John Moss, Director of Community Development

II. Reorganization and Election of Officers

Chairman Spisak announced that the first thing on the Agenda was Reorganization and the Election of Officers. Mr. Richard Easterling nominated Mark Spisak for Chairman; seconded by Ms. Janet Jacobs. Chairman Spisak asked if there was any discussion or any other nominations. Hearing none, the Chairman asked for a Roll Call. ROLL CALL: Mr. Easterling –Yes; Ms. Jacobs-Yes; Mr. Ralph Dowling – Yes; Mr. John Conklin – Yes; and Chairman Spisak-Yes. Mr. Spisak became the 2012 Chairman by a vote of 5 - 0.

Mr. Easterling then moved to nominate Ralph Dowling as Vice Chairman; seconded by Ms. Jacobs. Chairman Spisak asked if there was any discussion or any other nominations. Hearing none, the Chairman asked for a Roll Call. ROLL CALL: Mr. Easterling –Yes; Ms. Jacobs-Yes; Mr. Conklin – Yes; Chairman Spisak- Yes; and Mr. Dowling – Yes. Mr. Dowling became the 2012 Vice-Chairman by a vote of 5 - 0.

III. Public Hearings

None.

IV. OLD BUSINESS:

Chairman Spisak said they had no public applications that evening, so they would move on to Old Business. He asked if there was any old business. Chairman Spisak asked Mr. Russ Arters, Superintendent of Building and Zoning if there was any update from DB Hartt regarding the rezoning issues for the City; Mr. Arters said no.

V. NEW BUSINESS;

Chairman Spisak asked if there was any new business.

Chairman Spisak announced under New Business was a General Discussion for the New Entertainment Device Arcades Section 858.02 (a) License Application; Requirements. Amount of licenses. Mr. Arters explained that this was referred back to the Planning Commission from Council to review the current ordinance for possible changes to it. Mr. Arters stated they wanted either their recommendations of changing it or doing nothing and keeping it the same.

Chairman Spisak stated in reading the ordinance as written, it does not state the zoning. He asked Mr. Arters if it was in a specified zoning. Mr. Arters said it was zoned in all Business Districts and in Industrial-1 District, as long as it meets the current setbacks.

Chairman Spisak asked the other members if they had any questions for Mr. Arters, as he was going to have to depart the meeting to attend another meeting; no one had any questions. Chairman Spisak asked Mr. John Moss, Director of Community Development, if he had any comments to make since he gave the Commission members a Memo dated 3/27/12. (See attached.)

Mr. Moss stated said he would give a brief overview of what was in place and how we got there and what the potential issues would be for discussion. About a year ago, what Council adopted in comparison to what the Planning Commission recommended he did not know. He does know that the Council took into consideration in adopting the rules restricting Internet Café's based on safety for the communities. He understands with the City not having any past experience in this type of business, they considered that robberies could occur because of the cash involved, or any other negative aspect of the business. Council's concerns were for the safety and therefore as a safety factor, rules and regulations were set in place. Mr. Moss stated it has now been a year since they passed these rules and regulations, and said he didn't know of any serious complaints. He said someone drove into one, but that could have happened at any business. He also said one in a residential area has had normal complaints from the residents, as in comparison to no complaints received when other businesses were at that particular location. Mr. Moss stated that they have had no robberies and no complaints of kids going into the facilities and causing problems. Because of that, the City wondered if the Planning Commission wanted to relax some of the restrictions placed on this type of business with the Ordinances currently in place, with the eye of the public's safety being

of the utmost. He said one final note was if they wanted to amend the fee schedule currently in place.

Mr. Moss stated he would like to elaborate on the items he brought up. He said currently they have 7 locations allowed in the City and all of those are taken, with 10 businesses on a waiting list to open up at new locations. If the Commission would allow expansion from the 7, this would be good, from an Economic Development standpoint. He said of course, that would depend on how many more would be allowed, as they wouldn't want to overburden the Police Department for safety services. No numbers were proposed by the Administration, and he does not have a position on the amount. Mr. Moss stated that when the waiting list jumped from four to ten, in his opinion that is a lot of business being restricted to open.

Mr. Moss stated the second item for them to discuss was the setbacks. He quoted the amount of 1,000 feet from a school or liquor establishment currently in place. He said this would go from property to property and not from activity to activity, as that would be much farther apart. He understands the safety concern when people move from one establishment to another, but said there have been no instances of problems occurring when they go from the school or bar into an Internet café or visa versa.

The hours of operation were discussed next, with the hours of operation stated currently as 10 AM – midnight and on Sunday until 10 PM. Mr. Moss said there was an option if security is provided to the satisfaction of the Chief of Police, that security starts at 10PM and ends at 2AM. Currently the Chief has asked that they procure an off-duty Norton Police Officer for their security. This is not part of the rules, but it is what he has done, and security has worked well. Mr. Moss stated that something that could be considered is to push the hours back one hour, starting the security at 11 PM and push the end time to 3:00 AM. In his opinion, this would be more helpful to have an officer take a shift between those hours.

Mr. Moss stated that the security requirement deals with the amount of days open also. Mr. Moss said it has been suggested that they may want to change the current Friday and Saturday to include Thursday or Sunday or any other day of the week.

Mr. Moss then talked about the fees required. He said now there is a \$1,000.00 yearly registration fee and \$200.00 per machine fee for six months with these monies going in to the General Fund. He said there has been a suggestion to change the machine fee to \$250.00, but not change the yearly fee. Mr. Moss discussed the current pay-up-front fees required before the building permit etc. is issued. He said through public comment of Bob Copen at a Council Meeting, it was suggested a new business should be allowed to fix up the building, getting the proper permitting in order, and then right before they open they would pay the \$1,000 fee and the per machine fee. Mr. Moss concluded that was all of the recommendations that the Planning Commission would be asked to review at this time.

Chairman Spisak thanked Mr. Moss for his overview. Chairman Spisak asked for clarification about the \$1,000 application fee. He asked Mr. Moss if they wanted the \$1,000.00 paid at the time of the application, and then take the machine fee at a later

time, right before the establishment is opened; Mr. Moss concurred, it would make more sense.

Mr. Arters said that is how he has been handling it now, allowing them to pay the licensing fee of \$1,000.00 and then right before they open, he counts the machines and makes them pay the half year fee. Mr. Arters said the existing businesses were given 30 days for renewal at the beginning of the year. He said he shut no one down, and only had one problem with a business, but that proved to be just a misunderstanding. He takes the licensing fee in January plus half of the yearly machine fees, and then again in July he asks for the second half of the machine fees. Mr. Moss said that seemed reasonable and that the rules should be written consistent to the practice of what Mr. Arters does.

Mr. Easterling asked Mr. Arters if this was January to July and then July to January; Mr. Arters said yes. Mr. Easterling asked if there was a proration if someone started in March; Mr. Arters said they would still pay half of the fees, no proration is given. Mr. Arters said since the legislation was adopted last year around May, he waited until the last half of the year to collect from existing business; he tried to work with existing businesses.

Mr. Dowling said the Section 858.03 might need some wording changes also, because if you start in May, you would only be in operation a month and be charged a six month rate. There was more discussion as to when the year of operation began. Mr. Arters said regardless when they start the business, they would run it as a calendar year, always starting in January with the second half of fees due in July.

Mr. Dowling suggested that they take them individually, so there would be no confusion if changes were made; all agreed.

Regarding the amount of facilities, Mr. Dowling thought in the beginning it should be free enterprise with no restrictions on the amount of locations. Due to security issues, he realizes how important it is to be cautious of the number of establishments, so that the Police can service them all. Mr. Moss said that was a good point but he wanted to caution them that the rules do not state it has to be a Norton Police Department Officer. He said the Chief has made this his requirement, with the rules that state you have to have a security plan approved by the Chief. He said it has worked well with their access to cars and radios, etc. Mr. Moss said even an officer from Barberton Police Department has worked a shift. Mr. Moss said that since the rules do not state it has to be a police officer or even a police officer from Norton, the Chief would then approve other police officers from surrounding communities the access to provide proper security.

Mr. Easterling asked how a City could limit the number of any one type of business from coming in to the City. Mr. Moss explained that was true they do not have the power to regulate the business, but do have the power to promulgate limitations if it deals with the business attracting security risks relating to potential risk.

Chairman Spisak stated that the Commission recommended 5, but Council increased it to 7. Mr. Easterling commented in his opinion there should be no limitations. Mr. Arters commented that is why they sent it back to your Commission for review.

Mr. Conklin talked about sexually oriented businesses creating a negative impact on the neighborhood, and what would prevent them to make an argument about limiting the number of those in the City. There was discussion had about this point, discussing that only zoning is considered when it is a sexually oriented business. Mr. Moss said restricting the hours in that type of business would be for the health and safety of the community.

Chairman Spisak asked how it relates to the General Plan of the City and its Comprehensive Plan. His concern was with the widening of Cleveland Massillon Road and the rezoning of that corridor. If the zoning stays B-2 or B-1, there could be many spaces within that corridor that would allow for these types of business. This would allow them to move into the center of town along with all of their 7-7-7 signage. Mr. Moss said that would be the case of any business, with signs for a convenient store, drug store, ice cream store etc., he doesn't know what the limitation could be. For commercial growth in the City, Mr. Moss stated we need all kinds of business to meet that need.

Chairman Spisak said he was suggesting more of a strict zoning requirement for this type of business, like maybe B-3 District or I-1 and I-2 Districts for locations.

Mr. Conklin asked if any other community in Summit County moved in this direction. Mr. Arters said it is all under the County, but said Richmond Heights and Cuyahoga Heights each have restrictions in place. There was discussion of the fees involved with Summit County and Mr. Arters said that our fees were based along those lines of the County and those of the other two communities. There was more discussion about restrictions on the number of locations permitted.

Mr. Easterling asked if the Law Director has given his opinion in this matter. Mr. Moss stated that the Law Director was not asked for his opinion in the matter. He said the Law Director would address legal issues of the ordinance and would not determine how many the City should have; he would only write the law to implement what the City wants. Mr. Easterling stated being a lay person, he said 14th Constitutional Amendment gives equal protection to everyone and this would not be equal protection for those businesses. Mr. Moss said he agreed with that, unless it was based on some safety concern.

Chairman Spisak said he was going to open the discussion up to the public, and asked if any one in the audience wanted to speak about these issues.

Don Nicolard 2816 Brookfield Drive, Norton, Ohio 44203, said he was wearing a couple of hats, but would keep his Council hat at home. He said he was a member of NBDTF (Norton Business Development Task Force) and their group meets monthly; they are eagerly scrambling to bring new business to the City. He said they discussed Internet cafés at one of their meetings and were unsure what they were going to be like. He said they didn't know if they generate people drinking in parking lots or if they would have robberies and attract degenerates, etc., but he did vote for this on Council floor. He said

he agreed with Mr. Easterling that it borders on being unconstitutional, and gave a personal example if his beauty shop was the only one allowed on Cleveland-Massillon Road, all others would be upset. He agreed with Mr. Dowling that our country is based on free enterprise. In Mr. Nicolard's opinion they will not get 50 of these, he said it just will not happen as there are not enough people to patronize them. He stated that he did not want to be offensive, but said we don't have to follow the leader, we could be the leader. He feels it doesn't matter what other communities have done, we could be the one to set the example. He said the City would reap the profit brought in by the fees, as they bring in a lot of money, while other cities are looking at legislation. He thinks the City ordinance is restrictive and he would definitely look seriously at the restrictions in place with the schools, the parks and the liquor establishments, as he feels one does not have to do with the other. He said where his business is located he has an Internet café within the same shopping area. He said the school is across the street and he feels that the school children get on the bus and leave; they do not hang around after school unless they have extra curricular activities. Mr. Nicolard said most of them are seen at the basketball courts, here at Columbia Woods or over at Cornerstone School, but said they are not hanging around over by the Internet café. He said the clientele at the Internet café are adult children and older. In his opinion, the ordinance needs a real refurbishing and he feels the City of Norton has a chance to be a leader in this type of legislation. Mr. Nicolard said he did not know we were up to 10 applications on the waiting list; he wished it was 10 auto factories on a waiting list. He said when we have businesses willing to come into our City and actually willing to pay the City, one can not dispute the amount of money that this type of business generates for the City. He said the NBDTF is in favor of modifying this legislation and bringing more Internet cafes into this City. He is on Council's Community Development committee for the City and they are in favor of more Internet café's for the City. He said he hopes that when the Planning Commission Members study this you will find it to be good for the City, and again he agreed with Mr. Dowling about free enterprise. In his opinion, he feels this will level off by itself. He said the City does not have to restrict the number for it will seek its own level, because there is only so much money that people are willing to gamble with at these cafes.

Mr. Easterling asked Mr. Nicolard if his group has any indication if the people that patronize this type of business, also patronize other businesses. Mr. Nicolard said he couldn't really say, but that his customers do patronize them. He said they also know where the jackpots are as they make their circle around to each one. He said personally, he has gotten some business from the Internet café's patrons. In Mr. Nicolard's opinion, he thinks they will get more business out of the internet cafés if they have more businesses for them to participate in; he said the City only offers a few places to eat and a few that they can have a drink, but those would probably do better because of the cafés.

Mr. Dowling asked Mr. Nicolard if his business or any other business has been disrupted because of their opening Internet cafés in the City, for example by the traffic or parking spaces used by the café's patrons. Mr. Nicolard said it was very rare that his business has been disrupted. He said for example on a Saturday, if they are giving away a TV as a prize, then the parking lot will be full. He said he does not go into the cafes himself, but in general there have been no problems; he again stated that he has gained clientele from their patrons.

Many members discussed that their relatives go to these Internet Cafés, and discussed that many come into the City from Wadsworth. Mr. Dowling stated along with the free enterprise idea, is that it will be just like the numerous pizza parlors the City has had at any given time, if you get 15 of these café's it will be the survival of the strongest.

Mr. Moss wanted to comment on the spin off to other businesses in the City. He said the cafés cater to their clientele because they want them to stay at their establishment. He said they give them pop and juices, donuts, pizza and chicken, that all come from local businesses within the City. He said because they feed them, they are not going out to the local restaurants themselves, but by passing by many businesses on the way to and from the cafés. The potential of them stopping by another business in the City is a positive thing.

Chairman Spisak stated that in the code, the City Administrator or his designee is the person that inspects these establishments and asked if Mr. Arters was the designee, and how that was going. Mr. Arters said he is the one that does the inspections, but has not got the time to do this, due to the man hours involved. He does check them on a regular basis when the fees are due and he stops by each establishment. Mr. Arters said the testing of the machines is within their application papers, and that he has every right to ask that a machine be re-tested if it is warranted. Chairman Spisak asked if we should have another designee assigned, even on a part time basis. Mr. Arters said it would help and in his opinion, the police could do that. Chairman Spisak stated that is why they take the fees, so that we can inspect them. Mr. Arters said he was not sure if the Police Department goes in at any time to check them, but that is something they could do to help.

Mr. Arters interjected, before he left the meeting that he needed to address the Site Plan Review application that the members were given that evening for review for the next meeting. He said it was for the old Rollarcade on Cleveland Massillon Road. Mr. Arters said it was currently zoned B-1 and they want to change the zoning to I-1, because they are a construction company. He said the property to the north is I-1 and it loops into the PPG property; he stated it was all I-1. Mr. Arters said the applicants that bought it have a current Norton business. Mr. Arters stated if the members have any questions regarding it, they should feel free to contact him at the office. (Mr. Arters left the meeting at 6:41 P.M.)

Michael Moneyppenny, 2860 Maco Drive Norton, Ohio, 44203, stepped to the podium and said he was one of the public pushing that the Internet café issue be taken off of the moratorium and eventually he became one of the machine testers. He said he has been in the business for 17 years. He agrees with Mr. Easterling, to let people have the right to open their business and the best will survive. He said he used to run a game room in the Canton Road area. He commented that all the drive -thrus and everyone won in that area, because of the game rooms. He said it is one of the busiest places boasting 11 game rooms within a 3 mile radius on Canton Road. He said when you drive by them now, there are 12 – 20 cars in the parking lots, and so they are all doing good and making money. Mr. Moneyppenny said one of the problems the City currently has, as discussed at this evenings meeting, is the 1,000 foot restriction. He stated his brother-in-law wanted to open up one last year across from Fred Martin Superstore, but he could

not because 850 feet across the swamp is park land. He stated no kid would be playing in the area because of all the electric lines that run through there. He said another complication was due to the property to property issue Mr. Moss talked about. He stated because Tomasso's Restaurant butted up against the area, which serves wine, it was another deterrent for a café to open under the ordinance restrictions. He then discussed his views on establishments that sell or serve liquor with respect to the cafés. He finished by saying if the Commission had any questions, he would help them and he volunteered his services for inspections.

Mr. Dowling said he struggled with a 1,000 feet because he thinks it is just a random number. He said just to paraphrase what Mr. Money Penny said, he asked him if the issue was that it should not join the property with a school or park etc., and asked if that was not there, would that have resolved the issue. Mr. Money Penny said property line to property line, it would not have made a difference because of the 850 foot restriction. He stated the 850 foot restriction also kept the sex shop from reopening. Mr. Dowling asked if they took the 1,000 feet restriction away, would that have allowed the business to open. Mr. Money Penny said if they took it out and/or reduced it down, there were still other restrictions that barred the business from that area. There was further discussion about 1,000 feet restriction.

Chairman Spisak thanked Mr. Money Penny, and asked if anyone else wanted to speak.

Mr. Moss said he wanted to speak on the other side for a moment. He said there is an unknown factor of can the City handle and maintain the safety we are used to in the City, if there are 50 businesses like this open up. He doesn't know the answer, but they can promulgate the rules. In his opinion, putting a number on it would be hard to determine and talked at length about the safety forces involved. In conclusion, Mr. Moss said he is not saying to lift all of the rules but rather relax some of them, since in the past year everything has seemed to be ok.

Chairman Spisak asked if there have been any instances in the last year, where there have been written charges brought to the City in complaint. Chairman Spisak reminded those at the meeting that there is a system in place for a complainant to file in writing to the City Administrator and then a final Board (not theirs) that would review it also, if need be. Mr. Moss said there has been none and said yes there is a process in place if they do have a complaint; he said it is not really a safety issue.

Mr. Nicolard said he received one e-mail complaint from a resident that they will no longer give him match-play money because he won too much, but that was the only complaint he had.

Mr. Easterling made the comment that he doesn't go to these places, and he knows no one that goes to these businesses. He asked in general, why were they were almost demeaning the clientele of these establishments, people that they don't even know.

There was further discussion about this and Mr. Dowling said that they were not defining a class of people, but it was defining more a level of enjoyment some have over others, as most he see are the older generation. Mr. Dowling said as some people like sports, some like sailing, while others like to go on cruises, and still others go to Las Vegas to

gamble. He said in some instances in Las Vegas, if someone is winning big they may be asked to leave and are not allowed in back into that casino by the owner. He said these are normally winners of larger pots of money, in comparison to the small amount the machines in Norton would bring in; Mr. Moneypenny agreed from his seat in the audience.

Mr. Dowling said he was struggling between allowing 7 and 10, or just allowing it to be free enterprise with no limited number of establishments. He now agrees with Mr. Moss as to having a number more like 15 rather than an unlimited amount. He made comments about the business on Cleveland Massillon beside Nichols Cleaners, having been a pizza restaurant, then mexican restaurant, then back to pizza etc. He commented that was a good example of people spending 6 months in an establishment and then leaving; it doesn't look good. He said you want to be able to grow and sustain a business.

Mr. Conklin asked if they raised the limit to 20, does the City know where they could put that many. Mr. Moss said he doesn't know if you could find that many landlords. Mr. Moss directed some questions to Mr. Moneypenny, but Chairman Spisak said he would have to come to the podium to answer them, not answer from the audience gallery. There was more discussion about 500 feet and the 1,000 feet limitations in the code regarding liquor and/or establishments by schools, public parks and playgrounds. Mr. Moneypenny said in his opinion, with the regulations they currently have on the books there is no where to have another game room business in the City, except the building beside Milich's Restaurant (an old drive-thru business). He said that if the gas station nearby is open and sells liquor, then that would not be a viable location either. Mr. Moneypenny said if you would come down another 500 feet in limitations, you might be able to pick up 7 or 8. Mr. Moneypenny said you would have to take all zoning off to allow 20 in the City. Mr. Moss commented he didn't even know if they had 20 vacant places for them. There was more discussion about different areas in the City for these businesses, like Barber Road, but Mr. Moss advised there were only talking about rental buildings. Mr. Moss has had some that want to actually buy their business spaces. He said if that were the case it would be a permanent business, which would be great for the City. Mr. Moss said they are dealing with an unknown factor with the demand of building availability, whether renting, leasing to purchase or building a new building.

Mr. Easterling favors no limits, because he thinks it sends a message to the entire business community within the City and outside the City, that the City wants to do business. He said it would relay that the City would welcome them and give them the opportunity to compete.

Chairman Spisak stated that this industry is new, and it was brand new last year when it came before the Commission to put regulations into place. He knows they may be on the stringent side, but in his opinion he is hesitant to just drop everything. He said he doesn't know if the foot requirement or setback is something that is necessary. Chairman Spisak said they are trying to keep an image for the City with some type of structure, so that is an inviting community. He wonders if they could regulate this by zoning, but added it may get a little more restrictive that way. In his opinion, they need to have a more picturesque scene as you drive into the City, rather than seeing arcades along the corridor. He said the City has hired D B Hartt to help them with their usage

and the restructure of the zoning map, so they are caught in between this flux at this time.

Mr. Easterling asked if they were going forward with it, and Chairman Spisak said yes. He said the interviewing was done, and the City is waiting for DB Hartt to compile the information and make their suggestions. In Chairman Spisak's opinion, they do have areas in the City that could work for these types of businesses, based on them being in a B-3 zoning and Industrial. He said that zoning would keep them mostly out of the center of the City, which would afford more of a streetscape to happen as Cleveland-Massillon Road widens, even though there are a few B-3 spot zonings. Chairman Spisak said if they allowed it in a B-2 zoning district, after the widening of the Cleveland Massillon corridor, one of those houses could become a parlor, He is afraid without some thought, it could become a strip of these businesses and feels the City should promote a better image.

There was further discussion about the zoning in the current gaming locations concluding most are in a B-3 and Industrial zoning use now. Mr. Easterling suggested that Mr. Moss had 5 considerations in his memo and they should take them each separately to consider; all agreed.

Mr. Easterling moved to recommend a change to Section 858.02 (a) License application; Requirements to be "no "limitation on the number of units allowed in the City. Chairman Spisak asked for a second; there was none. Hearing no second, the motion died.

Mr. Easterling moved again, but changed his motion to recommend a change to Section 858.02 (a) License application; requirements to be "no more than twenty-five"; seconded by Mr. Dowling by a Recommendation of Support through PC Resolution 3-2012. ROLL CALL: Mr. Easterling –Yes; Mr. Dowling – Yes; Ms. Jacobs-Yes; Mr. Conklin – No; and Chairman Spisak-No. The motion carried 3-2; motion approved.

There was a discussion as to how the recommendations will be sent to Council on these items. It was decided to vote on each item separately, therefore having separate Resolutions instead of combining them all onto one resolution. This was felt to be a better means and less confusing for Council. The recording Secretary asked that they reference the Code Section they are referring to when they vote by resolution.

Mr. Moss stated he hasn't had a lot of experience with the Commission and didn't know how it worked. He wondered whether or not if after the Commission has made clear what they want, to have the Law Director look it over and draft it into real language with real references. It would then be brought back to the Commission at another meeting with real language instead of the concepts to reconsider and adopt. Mr. Moss commented that would be so they don't do anything wrong in the drafting. Chairman Spisak said they are only an advisory board sending resolutions to Council. Council, through the Law Director, will be the one to put it into the legal language for an ordinance. Mr. Moss said he understood.

Discussion was had on setbacks. There was discussion with Mr. Moss about the language they need to use when referring to liquor establishments.

Ms Jacobs moved to recommend that they wait until they hear back from D.B. Hartt. She said the City is paying for their expertise to work on that corridor, and she feels they need to wait rather than rush through these motions. She asked if there was a hurry to get this done, saying if they are hiring DB Hartt to look at the City why would they hurry to do this. Mr. Moss said he did not know the connection and did not know how to speak to that, only that when he brought it to Council he did not ask that question. He said when he brought it to Council's attention, he knew that it had been about a year since its inception and it wasn't quite the risk that was posed. He said it wasn't driven by a particular need or a particular change, but rather change was in order and they should consider it. Mr. Moss said he was not aware of a time limit.

Mr. Easterling said there was only one item that dealt with zoning and that was the 1,000 feet. His suggestion was leave to that one and go on with the others. The Commission had discussion with Mr. Moss about Mr. Moneypenny's earlier comment about lifting the 1,000 foot limitation or else there would be no properties available for any other game rooms.

Chairman Spisak said there was a pending motion on the floor from Ms. Jacobs and **Chairman Spisak seconded the motion.** Mr. Easterling asked what the motion was. Chairman Spisak said **Ms. Jacobs moved to recommend tabling this until they have feedback from DB Hartt on the zoning study.** Mr. Easterling asked what that would do to the first approved motion of the evening, would that be tabled as well. The Chairman said it would have to be withdrawn.

The Chairman asked if there was any further discussion. Mr. Conklin said that if the Commission did not move forward on this and give their input, he felt that Council would not wait for the DB Hartt study. Mr. Dowling commented that they have waited one year for DB Hartt and they are just now addressing it. He said it may take another year, and he also feels that it is too much time to wait for a workable solution or plan.

Don Nicolard, talking as President of Council, was recognized by the Chairman to speak. He said after listening to their conversation, he was afraid that the Commission will go along with what the leaders of the City have been doing for the last 40 years, and that is wait. He said that is why Cleveland-Massillon Road has not been widened and that is why there are no new businesses coming in to the City, because we are always waiting for something. He said he was not knocking what Ms. Jacobs was saying, but just stated that 23 years ago when he was on Council, they had the money to widen Cleveland Massillon Road with state grants, the easements and the engineering study done. He said at that time, one day the Mayor and City Administrator decided they did not want to widen it only to tear it up six months later to put in sewer and water lines, so it was never widened. He concluded that they have not put in too many sewer and water lines since then, and at 4:00PM every day you can not move in traffic because it is so congested. Mr. Nicolard agrees with Mr. Conklin in that Council will not wait. He feels they will move forward on this, but they would appreciate the Commission's recommendations and their input. From his standpoint with Economical development in this City, they have individuals standing there with \$1,000 bills asking if they can do

business in the City; he can not turn his back on that. He commented we have waited, and waited and waited, and said the more we wait the less gets done. He said it was possible that in a year or two none of the entertainment device businesses will be in existence. Mr. Nicolard stated due to the five licensed casinos going in around the state; the state will make it difficult for them to stay in existence. He said in his opinion, the City has a window of opportunity to make money and help the Finance Department take in more revenue without hurting anyone in the process. In conclusion he said he would appreciate some sort of action by the Commission, just to get the ball moving.

The Chairman said Ms. Jacobs motion to recommend tabling this until they have feedback from DB Hartt on the zoning study was still on the floor, and asked for any further discussion. Hearing none, he asked for a roll call. ROLL CALL: Ms. Jacobs-Yes; Chairman Spisak-Yes; Mr. Easterling –No; Mr. Dowling – No; and Mr. Conklin – No; The vote on the motion was 2-3; the motion was not approved.

Mr. Moss discussed his views about the setbacks, and he said he felt there probably should be none. After listening to the discussion by the Commission, he said maybe a suggestion is to make a stipulation that they can not share a property line or not be allowed to walk from one property to another except crossing over the street, or have a concrete wall barrier.

Mr. Dowling discussed the term of "immediately adjacent" with other members and Mr. Moss. They discussed locations around the Loyal Oak area in comparison to the public park and what would and would not work with a 500 feet limitation. Mr. Conklin commented on the differences in interpretation of what they put in place. Mr. Moss clarified there were no specifics to measure from and that is why the laws are not specific, giving more leeway for interpretation. Mr. Moss said that so far it had not been an issue.

There was discussion about the terminology of liquor establishment. Mr. Moss said the code makes it clear that it references a pub/bar/lounge type business and not a business like Acme that sells liquor that is not to be consumed on their premises. Chairman Spisak asked if a person was allowed to bring an alcoholic beverage in to one of these establishments. Mr. Moss said no, there is no food or liquor allowed to be brought in by patrons; the establishments do not sell liquor.

There was discussion about the terminology of immediately adjacent to or property abutting or that shares a property line, with a 500 foot requirement.

Mr. Dowling moved to recommend a change to Section 858.05 (a) Entertainment Device Arcades- Location requirements to state:

No license shall be granted to an entertainment device arcade that will conduct its business at a location that is immediately adjacent to a school, public library, public playground, or any liquor establishment that serves alcohol for consumption on the premises.

John Moss interjected, and asked if defining "immediately adjacent" meant as being the two things discussed earlier, as both sharing a common property line and that a person can walk from one to the other without the need to cross other properties or right-of-ways; Mr. Dowling agreed.

Prior to a second, Mr. Conklin asked for clarification of this proposal: if he had a liquor establishment, an empty lot and a gaming room side by side, would that be permissible, even if the lot was 20 feet wide; all agreed it would be permissible. Mr. Conklin said because of that, he would not support the motion and suggested that they change it or re-word it on the liquor side; he felt it needed to be separate. Mr. Moss and all the members understood his meaning. Mr. Moss used an example of where one would allow it with the 500 feet restriction and the other would not allow one at the center of town with two shopping strips, Acme, Circle K and The Pub.

Mr. Conklin used another example from the past with The Nest on Wadsworth Road and its alcohol license being pulled. Mr. Conklin said its owner then tried to buy a liquor license for the next door building he purchased, to open a liquor establishment next to his non-alcoholic business. He said a person could then walk from one to another. Mr. Nicolard agreed saying that was the case, and the residents of that precinct dried the precinct up so it became a non-issue. Mr. Conklin said that was his thought process in this matter.

Mr. Nicolard discussed further about an owner of one of these establishments who spoke at one of their work sessions, and was questioned if the hours needed to be extended. That owner did not want the hours extended, and began to say that longer hours would be a problem to him. He relayed that the owner said anything after midnight was a problem for him, because the clientele that comes in have normally been drinking, they are sick and make a mess; the owner doesn't want them in there. Mr. Nicolard said he thinks they are looking at these businesses differently than they really are. He doesn't feel someone is going to open a bar to make money and then open an Internet café beside it to take away from the money he is making at the bar. Mr. Moss said not all share the same ideas about the hours, but in that instance they would be self-regulating.

Mr. Easterling suggested if Mr. Conklin was concerned about a 20 foot lot, why not make it 100 foot. A question was raised that if they change the 1,000 feet to 150, would that make more properties available; Chairman Spisak said that would be hard to say. Chairman Spisak said they are all on board with a restriction with the proximity to the schools, and public parks or playgrounds and libraries, but they are stumbling regarding a place that serves liquor.

More discussion was had about the footage from liquor establishments, with the suggestion of 200 feet.

Mr. Dowling withdrew his motion on the floor.

Mr. Dowling then moved to recommend modifying Section 858.05 (a) Entertainment Device Arcades- Location requirements deleting the sentence with the 1,000 foot restriction and adding the 200 feet restriction to state:

No license shall be granted to an entertainment device arcade that will conduct its business at a location *immediately adjacent to a school, park, public playground or public library, and immediately adjacent shall mean both a shared property line not crossing other properties or public right-of-way. Business shall not be conducted within two hundred feet of an establishment that has been issued a liquor permit by the State of Ohio to serve alcohol for consumption on the premises without having to cross a public right-of-way;*

seconded by Mr. Easterling by a Recommendation of Support through PC Resolution 4-2012. ROLL CALL: Mr. Dowling – Yes; Mr. Easterling –Yes; Ms. Jacobs-Yes; Mr. Conklin – Yes; and Chairman Spisak-Yes. The motion carried 5-0 to approve.

Next, Chairman Spisak said they would address the hours of operation.

Mr. Conklin suggested that they should regulate it with the same hours as bars. Mr. Dowling asked if there was a desire to change the hours, since the hours were already changed at Council level. Mr. Moss explained that this request was in regards to security measures, and it was driven by practicality. He said if they expand the number of facilities, and those facilities opt to stay open during the security hours, they will need more officers for security under the current plan the Chief of Police has in place. He said changing the hours would allow for more officers to serve as security because right now only 1st shift officers can work this, whether they want to or not. He said the 2nd and 3rd shift officers can not participate because they have to be “off-duty” to serve as security due to the span of time being that it starts before 2nd shift ends and ends before 3rd shift starts. He said this was just a tweak suggestion of the starting hours, to maybe be 11PM instead of 10 PM. Mr. Moss said with that change, then a 1st and 2nd shift officer, besides other officers that aren't working that day, could work the security. Mr. Dowling said he was in agreement to change the security from 10 PM to 2 AM to 11PM to 2 AM.

Mr. Moss said each business could opt if they want to stay open with the security in place or not. He feels having an officer there during the evening hours is a deterrent for theft there or for any other business nearby, like convenient stores. He said even though they have not had any occurrences, it is a positive side to this.

Mr. Moss also asked the members if they were open to the idea of having a security option for more nights out of the week. Mr. Dowling said his opinion was the same as it was for opening more facilities, it will set it's own limits based on it 's own business. He said he could support any night, depending on the quantity of activity coming in to those businesses.

Mr. Moss said currently the law states if they operate passed midnight, they are obligated to have security, bringing them in at 10 PM. He stated tonight it has been discussed to change that time to 11PM, which reduces the hours of security, staying open until 2PM. Mr. Moss said under current rules for Monday – Saturday they can stay

open until midnight without security or stay open until 2 AM with security. He said Sunday, they have to close at 10 PM, regardless.

There was discussion about Sunday hours, with most commenting that the 1 PM to 10 PM was fine; the Commission decided they would leave the hours as they are for Sunday.

Mr. Easterling asked for clarification that they were changing the starting hours Monday through Saturday for security purposes only, from 10 PM to 11PM; they all agreed.

**Chairman Spisak moved to recommend editing Section 858.06(b)
ENTERTAINMENT DEVICE ARCADES - HOURS OF OPERATION to read:**

Notwithstanding anything to the contrary in subsection (a) above, an operator shall be permitted to operate its entertainment device arcade Friday through Saturday from 10:00 a.m. to 2:00 a.m. of the following day provided the operator provides security at the entertainment device arcade from 11:00 p.m. to 2:00 a.m. of the following day in accordance with a security plan approved by the Chief of Police (or his designee). All security plans shall be submitted by the operator to the Chief of Police in writing and all approvals of security plans by the Chief of Police (or his designee) shall be in writing.

seconded by Ms. Jacobs by a Recommendation of Support through PC Resolution 5-2012. ROLL CALL: Chairman Spisak – Yes; Ms. Jacobs-Yes; Mr. Dowling – Yes; Mr. Easterling –Yes; and Mr. Conklin – Yes. The motion carried 5-0 to approve.

Chairman Spisak proceeded to the license fees charged section of the code, Section 858.03 (a). He asked if they wanted to have a discussion on the current fees of \$1,000 per year per registration and \$200 per machine; he said they were only talking about a dollar amount change in this section.

Mr. Dowling asked what a normal amount of machines per facility was. Mr. Money penny responded from the audience saying about 40 and up.

Mr. Easterling asked if these fees were based on costs involved in regulations rather than just a tax. Mr. Moss said there are some expenses necessary, like inspections done by police and/or the building department, but he did not have any costs analysis to give to the members that evening. He said that it is a registration fee, and because it is an industry that is regulated they have to send people in for inspections.

Mr. Nicolard interjected that in his personal opinion the fees are just fine, even if they end up with 20 – 25 establishments.

Mr. Easterling asked if other businesses in town were asked to pay a registration fee, as he feels it is unfair that these types of businesses are singled out to do so. He also asked what were the average fees collected. Mr. Moss responded around \$7,000.00, but machines are paid for twice a year. Discussion was had that other businesses are not City regulated and required to pay a fee to the City. Mr. Moss stated other instances in which the City collects fees, such as gas fees at a gas station, but that this type was

State regulated. He said hotels and cable bills have City fees in which no services are rendered by the City to the establishment, but the fees are assessed and collected for the City. Mr. Moss said these are two instances where taxes are paid directly to the City by a business, but they are usually passed on to the clientele to recoup the outlay.

More discussion was had about this item. At the end of the discussion, the fees were found to be similar to those charged by Summit County, so the Commission decided to take no action on changing the fees in Section 858.03.

The Chairman asked the Commission if they want to change the zoning requirement for these establishments. His suggestion was to have them all zoned in a B-3 District instead of any B district, as it is currently. Mr. Conklin asked for an explanation. Chairman Spisak said he fears seeing them in the center of town, all opening up beside one another, down the corridor, which would ruin the streetscape of the City. Mr. Conklin agreed with him, and said his concern was that if more and more appear within the City, it would deter other businesses from doing business in the City. Mr. Conklin said this would especially happen, if a gaming business is willing to pay a higher rent, just to have their business here. More discussion was had,

Mr. Nicolard addressed the Commission again and said he was looking at this as driving up the income for the City. He feels there is a small window of opportunity due to the pending House Bill 386 in the State General Assembly. He said that could limit the number of game rooms in each County by the number of residents, and limit the amount of games per room, among other limitations. Mr. Nicolard said he would appreciate some sort of action from the Commission.

Chairman Spisak said he wanted to restrict the areas in the City that these businesses are allowed, saying in his opinion they should be restricted to B-3, and I-1 and I-2 districts.

Chairman Spisak moved to recommend adding to CHAPTER 858.05 ENTERTAINMENT DEVICE ARCADES –LOCATION to read:

(c) No entertainment device arcade may conduct business on a property zoned other than B-3, I-1 or I-2.

seconded by Mr. Conklin by a Recommendation of Support through PC Resolution 6-2012.

Mr. Easterling asked for discussion. He asked if this was designed to take out the center of town for these businesses. Mr. Dowling said in his opinion this is a long-term fix and he feels they should let DB Hartt, down the road, tweak it or make their comments.

With no further discussion and having a second on the floor the Chairman asked for a roll call. ROLL CALL: Chairman Spisak – Yes; Mr. Conklin – Yes; Ms. Jacobs-Yes; Mr. Dowling – No; and Mr. Easterling –Yes. The motion carried 4-1 to approve.

Mr. Moss thanked the Commission members on behalf of the Administration for the late night and persevering through to the end on the subject matter. He said he realized the Commission meetings are not normally this lengthy. Mr. Nicolard thanked them also.

The secretary advised the members that the rest of the packet for the upcoming rezoning filing (R1-2012) to be heard at the next meeting, would be e-mailed to them; the site maps handed out tonight were too large to e-mail.

IV. CONSIDERATION OF MINUTES:

None.

V. ADJOURNMENT:

With no further business before the Commission, Chairman Spisak announced the next scheduled meeting would be April 10, 2012, and adjourned the meeting at 8:34PM



Planning Commission Chair/
Vice-Chair



Planning Commission Vice-Chair/
Member

12/18/12
Date

**PLANNING COMMISSION
AUDIENCE ATTENDANCE RECORD**

The following individuals were present and wished to speak at the Meeting of the Planning Commission held on **Tuesday, March 27, 2012.**

PLEASE PRINT:

NAME:

STREET ADDRESS (NO P.O. BOX):

CITY & ZIP CODE:

<u>Don Nico/PRO</u>	<u>2816 BROOKFIELD DR</u>	<u>NORTON 44203</u>
<u>Michael Monaghan</u>	<u>2800 MAO</u>	<u>NORTON 44203</u>

Signed: _____

Interim Stenographer

A SIGNED ORIGINAL OF THIS DOCUMENTATION SHALL BE FILED WITH THE CLERK OF COUNCIL.



Mayor Mike Zita

CITY OF NORTON

John P. Moss, Finance Director

MEMO

To: Norton Planning Commission
From: John Moss, Director of Finance
Date: March 27, 2012
Re: Internet Cafés

About one year the City of Norton has provided for the regulation of Internet Cafés and has promulgated regulations to preserve the safety of the patrons and the community. At this time we have a positive track record suggesting the reconsideration of the regulations. Also, we have a list of businesspersons interested in opening new Cafés.

It is not the intention of the Administration to argue that all restrictions should be lifted, but rather that consideration should be given to a relaxation of those regulations due to the experiences to date and the demand. Discussion of change is suggested on the following aspects:

- Number of authorized locations
- Setbacks
- Hours of operation
- Security Requirements
- Fees charged

Currently there are seven (7) authorized locations and all of them have been full. Also, at the time this was placed on the Agenda, there were four (4) requests pending for additional locations. There are now six (6) applications and another application is pending. No other locations can be approved due to the existing limit. It seems wise to consider expanding the number of authorized locations.

Setbacks have been established of 1,000 feet from a Liquor establishment, a park and a school. No new locations were established within this distance, but existing locations were within this distance. No instances occurred at any of the locations. It may be wise to lessen the distance requirement and/or the places to be setback from.

Hours of operation are limited. Hours without security are 10 am to midnight every day except Sunday, which goes until 10pm. If security is provided starting at 10 pm, to the satisfaction of the Police Chief, then the hours go to 2am. The Chief has been requiring

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the Café's to employ a Norton Police officer. This could be pushed back an hour. First, there are people that are in the Café's at 2am when they close who presumably would be there a little longer if the Café remained open longer. Also bars close between 2:15 and 2:30, so a person leaving at 2 am is more likely to encounter traffic from bars closing than a person leaving at 3 am. Lastly, by pushing the 10 hour back to 11, more Norton City Officers are available to work security at Cafes.

More days could be allowed for later hours with security. There is no indication that allowing the Cafes to stay open later hours with a Policeman on the premises for more days of the week would be a risk to the public safety.

Lastly, we could reconsider the fees, now set at a lump sum of \$1,000.00 per year plus \$200.00 per machine per half. The amount of \$250 per machine per half has been mentioned.

Thank you,

John Moss
Finance Director

**RESOLUTION OF SUPPORT
PLANNING COMMISSION**

March 27, 2012

PC RESOLUTION NO.: 3 -2012

**RE: CHAPTER 858.02(a) ENTERTAINMENT DEVICE ARCADES -
LICENSE APPLICATION; REQUIREMENTS**

The Planning Commission does hereby make the following recommendations of support to change the Norton Codified Chapter above to read as follows:

"...The City shall issue no more than twenty-five licenses at any one time. If, at any time, the City has issued twenty-five licenses under this chapter, the City Administrator shall create and maintain a waiting list for applications desiring to apply for a license. ..."

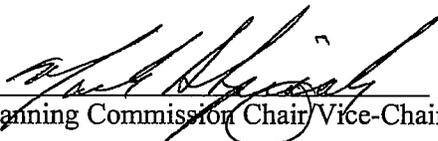
Vote on Motion to Support: FOR 3 AGAINST 2 ABSTAIN 0

Therefore PC Resolution of Support No. 3-2012 has been:

APPROVED X DENIED TABLED

This resolution shall be sent to:

Administration for it's action or for X it's information, and
Council for X it's action or for it's information.



Planning Commission Chair/Vice-Chair



Planning Commission Vice-Chair/Member

3/27/12
Date

**RESOLUTION OF SUPPORT
PLANNING COMMISSION**

MARCH 27, 2012

PC RESOLUTION NO.: 4-2012

**RE: CHAPTER 858.05(a) ENTERTAINMENT DEVICE ARCADES -
LOCATION.**

The Planning Commission does hereby make the following recommendation of support to change the Limitation of Location in the Norton Codified Code Chapter above to read as follows:

No license shall be granted to an entertainment device arcade that will conduct its business at a location immediately adjacent to a school, park, public playground or public library, and immediately adjacent shall mean both a shared property line not crossing other properties or public right-of-way. Business shall not be conducted within two hundred feet of an establishment that has been issued a liquor permit by the State of Ohio to serve alcohol for consumption on the premises without having to cross a public right-of-way.

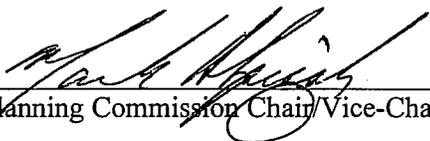
Vote on Motion to Support: FOR 5 AGAINST 0 ABSTAIN 0

Therefore PC Resolution of Support No. 4-2012 has been:

APPROVED X DENIED TABLED

This resolution shall be sent to:

Administration for it's action or for X it's information, and
Council for X it's action or for it's information.



Planning Commission Chair/Vice-Chair



Planning Commission Vice-Chair/Member

3/27/12
Date

**RESOLUTION OF SUPPORT
PLANNING COMMISSION**

MARCH 27, 2012

PC RESOLUTION NO.: 5-2012

**RE: CHAPTER 858.06(b) ENTERTAINMENT DEVICE ARCADES -
HOURS OF OPERATION.**

The Planning Commission does hereby make the following recommendation of support to change the Norton Codified Chapter above to read as follows:

Notwithstanding anything to the contrary in subsection (a) above, an operator shall be permitted to operate its entertainment device arcade Friday through Saturday from 10:00 a.m. to 2:00 a.m. of the following day provided the operator provides security at the entertainment device arcade from 11:00 p.m. to 2:00 a.m. of the following day in accordance with a security plan approved by the Chief of Police (or his designee). All security plans shall be submitted by the operator to the Chief of Police in writing and all approvals of security plans by the Chief of Police (or his designee) shall be in writing.

Vote on Motion to Support: FOR 4 AGAINST 1 ABSTAIN 0

Therefore PC Resolution of Support No. 5-2012 has been:

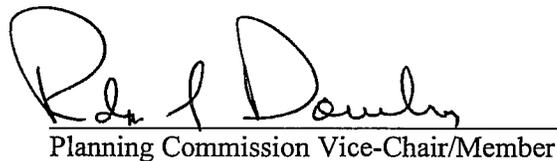
APPROVED X DENIED TABLED

This resolution shall be sent to:

Administration for it's action or for X it's information, and
Council for X it's action or for it's information.



Planning Commission Chair/Vice-Chair



Planning Commission Vice-Chair/Member

3/27/12
Date

**RESOLUTION OF SUPPORT
PLANNING COMMISSION**

MARCH 27, 2012

PC RESOLUTION NO.: 6-2012

**RE: CHAPTER 858.05 ENTERTAINMENT DEVICE ARCADES -
LOCATION.**

The Planning Commission does hereby make the following recommendation of support to add to the Norton Codified Chapter above to read as follows:

(c) No entertainment device arcade may conduct business on a property zoned other than B-3, I-1 or I-2.

Vote on Motion to Support: FOR 4 AGAINST 1 ABSTAIN 0

Therefore PC Resolution of Support No. 6-2012 has been:

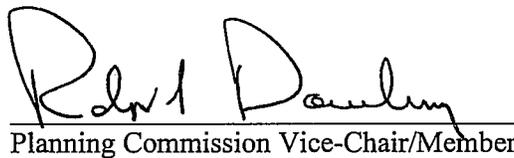
APPROVED X DENIED _____ TABLED _____

This resolution shall be sent to:

Administration for ___ it's action or for X it's information, and
Council for X it's action or for ___ it's information.



Planning Commission Chair/Vice-Chair



Planning Commission Vice-Chair/Member

3/27/12

Date