



**COMMITTEE WORK SESSION
JUNE 20, 2016**

Committee Members Present: Rick Rodgers
Dennis McGlone
Joe Kernan
Dennis Pierson
Paul Tousley
Scott Pelot-Excused
Charlotte Whipkey

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

The Committee Work Session convened on Monday, June 20, 2016 at 7:04 PM, in the Council Chambers of the Safety Administration Building. The meeting was called to order by Charlotte Whipkey, President of Council. Following a salute to the flag and the Pledge of Allegiance, there was a moment of silent prayer. Mr. Messner will not be joining us this evening.

General Topics of Discussion:

Proposed Charter Changes

Ms. Whipkey noted that she put this under Committee of the Whole, and asked Mr. Kernan to head up this discussion since he is an attorney. Mr. Kernan noted that we have three members of the Charter Review Commission are present tonight. Mr. Kernan noted that some changes are clarification and scrivener type of changes. Mr. Markey stated under the Charter he has the authority to make those types of changes like from cities to municipalities or adding something that references another code section and would not need submitted on the ballot. Mr. Markey stated that adding that anything substantive as a technical change would need to be addressed. Mr. Markey noted that Sections 2.02 to 2.04 all are required to go to the voters. 2.03 Vacations of the Mayor: Mr. Mullens, as former Chair of the CRC, stated the CRC took this out because a vacation does not fall into the category and is a normal absence. Mr. Markey added he felt it was for clarification for when a Mayor worked outside of the City the duties could still be fulfilled. Mr. Kernan stated he believed this may have originated from when he was Mayor and was living outside the city temporarily and moved back in. Mr. Mullens agreed and this is why we felt it needs changed.

Mr. McGlone asked what the process is for all of these proposed changes? Mr. Markey stated that these will all be separate pieces of legislation for each significant change and would need a two thirds vote of Council to go on the ballot. Mr. Kernan stated that we can approve some of these or all of them, and we can submit some this year and some next year and so on. Mr. Markey concurred and stated it was at Council's discretion. There was discussion as to the items that can change the meaning of the Charter and some that are just clarifying the Charter throughout. Mr. Tousley noted in Section 2.02 he did not see it the way the Commission might have where it states "The Mayor shall continuously and physically reside within the Municipality." Due to the period at then end of the sentence he felt this means it's a new statement that "*The Mayor is expected to be a visible presence in the Municipality*". Mr. Tousley stated this is a reasonable request of our Mayor and felt Mayor Zita does a fine job with that. If John Doe decides to run for Mayor this is telling him what is expected. Mr. Pierson noted this is really open to interpretation. Mr. Markey stated vacations or not the Mayor is expected to be a visible presence in the City; we are not concerned about vacation or no vacations; he or she is expected to be visible. 2.04 Vacancy- Mr. Markey stated the way its written is not clear on the succession process and adds the Vice President as the Mayor's successor if the President declines the position. Mr. Mullens noted this also takes away the time constraints in the appointment. 2.09 Compensation: Mr. Kernan stated this would change next January, Mayors salary could be increased to \$20,000.00 and there after Council would have discretion on future increases by a 2/3 vote, and will annually review the salary of the Mayor. This gives the power back to the Council after that initial increase to \$20,000.00. Mr. Tousley stated he has concerns with taking it out of the people's hand. Mr. Tousley stated he might be in favor of a mid-term or something the electorate could vote on because the Mayor is their employee. Ms. Whipkey stated she agreed with Mr. Tousley and felt the people should have a say so as opposed to putting this in Councils hands. Mr. Kernan asked what was the discussion to the raise to revert to Council to set after the \$20,000.00 to begin with? Mr. Pierson stated the Mayor's position is part-time/honorary, and we do have a full time Administrator. He doesn't see compensating someone for that. Mr. Pierson stated that he would not be supporting this; if the position was full time he might support it then. Mr. Markey stated he recalled the discussion was that there has not been a salary adjustment since the last adjustment in 2007 and some people felt that unless Council had their hands in this it would never be adjusted. Ms. Whipkey stated that the adjustment in 2007 only reset the amount back to what it had been prior to the increase by Council; the amount had not been changed for an unknown number of years and she was curious as to when the amount had actually been changed. Mr. Kernan asked what is the current salary of the Mayor and Mrs. Richards replied its \$11,250.00, Council President is \$8,500.00 and all other members are at \$7,500.00. Mr. Rodgers stated that originally raises did not take effect mid term so why change it now? Mr. Markey stated he was asked legally of mid term raises can be done and he felt that if this were to be a Charter change it's legally permissible to do and the fact that the Mayor would not be voting on this. However, the Council increases would be different and we will get to this one later on. Mr. Rodgers stated he is not comfortable with this for several reasons. It's rumored that we will have a school levy on the ballot in November.

The residents have an opinion about spending money in this community and he felt it looked improper. Mr. Pierson stated you have to justify the compensation; you have to show some value in it, to show the people you have improved this community. It's not done in private industry that way and he also felt that the Council member's salary should be reduced. Mr. Tousley stated he understands that Council should have involvement here because you don't want these salaries to sit unlooked at for 1-15 years before an increase and it makes sense that every 4 years put this before Council, and still wants the vote of the people on that. Mr. Tousley stated with having Council involvement in mid term also takes away the accusation of politics of this and Mr. Markey noted this could also be considered as salary review. Mr. Kernan asked about the time line to submit these changes to the Board of Election and Mr. Markey stated that we had determined there is between 120 and 60 days for Council could still act on these after recess. Ms. Whipkey asked to have this clarified as to the dates and the time lime. 3.06 Vacancy: Mr. Kernan stated that this would change the way vacancies are filled and to Council appoints someone but they must run to keep that seat at the next election and it does not cost us any money to protect that seat unless it's a certain amount of time and then they fill out the term. Mr. Rodgers stated this just further divides the City. Before we were elected a seat was filled on this Council to someone that even though the people vocalized their concerns and that person was still appointed. From that the Charter provision was changed and put into place and now we are dealing with special elections, but wasn't sure we should change it. Mr. Rodgers discussed the costs involved for special elections however he sees so much money wasted in this City. To keep that in the peoples hands he would be in favor of spending the money. Mr. Mullens stated this still keeps it in the City's hands because it's only a temporary appointment. Mr. Rodgers stated that this Council can function with 6 members or even 5. Mr. Kernan expressed concerns with the past vacancy of Ward 2 because this seat sat empty for 5-6 months. Yes the Council can function with less but those people in Ward 2 had no representation which is unacceptable. If the people don't like who Council appointed they can vote them out as Council members have been voted out in the past. Mr. McGlone stated we delayed a lot of legislation with this last vacancy because we had many 3-3 ties and votes failed prolonging issues. Mr. Pierson stated you have Council members At Large that represent the entire city and he doesn't believe anyone sitting on Council wouldn't represent someone outside of their ward; he understands the cost savings, but past history proves that important legislation comes up and if someone was not wanted in the seat by the people they could be put in a position rather fragrantly to pass legislation. Mr. Pierson noted that there has only been 1 Councilmember that resigned since he has gotten involved in any of this. Mr. Kernan stated if we are that concerned with the voters having their say we should just send all of these to the voters as they are now and let them decide. Ms. Whipkey stated that there were actually 2 that resigned in the last 4-5 years. Ms. Whipkey stated she understands wanting to get rid of the special elections, however she doesn't like that it should be filled for the remainder of the term. Regardless of what that term is that at the next general election or the primary the people should have a vote. Mr. Kernan stated he believed this is what the proposed amendment means.

Ms. Whipkey went on to state she did not believe there should be an empty seat for an extended time as did have; with 5 members you can function, but with an even number we just don't function very well and it's too easy for a tie vote. Mr. Tousley stated that he liked the idea of a vote to occur at a more significant election as it would have more voter turnout. Mr. Markey stated that another reason for this language is if approved we could then dictate to the Board of Elections because the way it is written now we cannot dictate when that election should occur. Whether you do a temporary appointment or not if our Charter tells them (the Board of Elections) they have to do it then they will have to do it. Mr. Tousley asked Mr. Kernan about his original proposal he submitted to the Commission and how this final one differs. Mr. Kernan stated that what he submitted was not as extensive but this captures his intent and his main issue was not to have a special election. Mr. Rodgers stated that several of this Council currently including the President was actively involved in passing the change for the special elections. Ms. Whipkey stated that was correct. Mr. Rodgers stated that lets face it we have a divided community and that was the reason this was passed and it will happen no matter what side you're on, the one with the votes at that time will put somebody in place that will favor their agenda. That is why we went to the special election in order to keep that in place. Ultimately the voters will decide this, but that was the reason it was originally passed and he sees no reason to change it. Mr. Rodgers asked the cost of the last special election and Mrs. Richards noted it was upward of \$13,000.00 plus, and Mr. Rodgers added in the next few weeks we are looking at spending nearly \$16,000.00 again in wasteful spending that we don't need to. We spent \$174,000.00 on a sewer study that we didn't follow through on. We also spent money settling a law suit that he felt never should have come about. Mr. Kernan asked Mr. Markey about a requirement that when a person resigns could there be a mechanism to automatically hold a special election if one is already scheduled by the Board of Elections. Mr. Kernan stated he sees two problems here; one is the length of time it took Council do set the date for the last special election and the other is the amount of money it cost. Mr. Markey stated yes the Board does set special election dates ahead of time for local issues, but it would not help much with the cost factor. Mr. Markey proposed an amendment could state that you hold a special election within 60 days of passage of your ordinance, but you have to have the specification in your Charter. Ms. Whipkey stated she would like to see some language that the BOE has to hold a special election within 60 days or something, so they cannot ignore this. Mr. Kernan asked to have specific language prepared to trigger a special without having to fill that vacancy so we can compare this with the Commissions recommendation. Section 3.08-Compenstion for Council, \$12,000.00 for the members and President at \$14,000.00 beginning January 1st, 2017. Mr. Kernan stated the language says it cannot take effect mid term and Mr. Markey concurred this is an ethical requirement and believed it was a State law. Mr. Pierson asked where did these figures come from and Mr. Mullens stated it was just a recommendation. Mr. Pierson asked a recommendation from whom? Mr. Markey stated this came from discussion about the thresholds for PERS. Mr. Markey stated to accrue health care credit you have to have a \$1,000.00 per month salary and one of the benefits as a public official is to also have the health care package. Mr. Tousley stated with the proposed salary increases we are looking at \$41,000 so where is this money coming from or where are we going to make cuts.

Mr. McGlone pointed out the people would be deciding by voting on it and Ms. Whipkey added that the people themselves could put it on the ballot by petition if they chose to do so. Mr. Tousley stated he does not like Council having the power to give themselves raises without the vote of the people and Ms. Whipkey agreed. Mr. Rodgers stated these are part time positions and he feels he is a public servant that he felt he put in as many hours as anyone on Council and he did not run for the money. Wages have been stagnant for years, and he is opposed to giving ourselves a raise which is essentially what we would be doing here. Section 3.10-3.12 and Mr. Kernan questioned if 3.12 should go to the voters and Mr. Markey stated he would need to take time to look at this further and decide as it refers to State Code. There were questions in the past about holding executive sessions at a special council meeting. Mr. Tousley asked what is the reason to take out all of the 6-7 reasons as currently listed. Mr. Markey stated that it's incomplete now because there is been an addition since the last time and its easier to just take out all of the possibilities and refer to ORC 121 as or Charter does not reflect those and to list them requires changes when there are new reasons. Whipkey suggested we could list all reasons in our Council Rules so people would not have to look up the Code. Mr. Kernan stated the idea was to clear up any questions and whatever is provided for in the State Code is covered. Charter. 3.19 Public Notices: Mrs. Richards indicated that she currently posts the packets in 6 locations now and most of what she does post doesn't last all week and that she cannot control this once they are posted. Mr. Larry Perkins, 3844 Neitz Drive, Norton, Ohio, stated there used to be a barber shop in the Loyal Oak area where he used to read them all of the time. Mr. Tousley asked how will the language read with the proposed changes when they get to the ballot? Mr. Markey answered the proposed changes would read "the proposed change shall be..." The preferred way is to put in the new language only and not to include the strike out language. . Mr. Markey stated we could ask them to show the changes, but they may refuse. Ms. Whipkey pointed out the Library is not open on Sundays. Mr. Tousley stated he felt most residents don't have a clue what the Charter states, so they really don't know what they are voting on. Mr. Kernan stated if a resident is involved in their community they should look up the Charter and other documents on the city's website. Mr. Kernan stated he would like to see the changes in the ballot language but the Board of Elections may or may not do it this way. Ms. Whipkey questioned where it states the Clerk of Council shall post on the web site and she is not the one to post this information. Mrs. Richards stated that when the Council packets go out each Friday, Mrs. Ann Campbell takes the agendas from there and posts them to the website. Mrs. Richards explained that Mrs. Ann Campbell is the webmaster and handles all of the Council postings, including the approved minutes. Ms. Whipkey questioned if the language was putting the responsibility on the Clerk and Mr. Kernan stated it should be okay as long as the Clerk was directing it to be posted. Mr. Markey stated he believed State law would put it on the Clerk whether she actually did it or just directed it done on her behalf. Mr. Rodgers asked if we couldn't just automatically post it electronically. Mr. Markey noted that the City of Toledo uses a google site, Barberton uses box.com. Mr. Markey noted in the future there could be other programs that allow the Clerk to drop all public information in a file program such as these. Mrs. Carr noted that our web page design is a very old program that needs to be updated, and cautioned stating who is responsible for the postings. 3.20 Televised Meetings;

Mr. Mullens stated our main reason was that the meetings should not stop due to technical difficulties. Mr. Tousley stated his only concern is there is no reference to the term video and Mr. Mullens stated that is why we stated by any means. Mr. Mullens stated that perhaps we should add a reference to visual. Mr. Markey noted the Ohio Constitutional law requires the ordinance filing time of 120-60 days so sometime in September you need any amendments filed at the Board of Elections. Mr. Kernan thanked all of the members of the Charter Review Commission for their work.

Barberton Sewer Agreement

Mr. Tousley deferred this to Mr. Markey for the details. Mr. Markey noted after several months of negotiations between the two cities. We have determined that pertinent issues were Barberton would become our sewer provider; and in the prior agreement there were caps in how much waste they would accept and this is now removed. Mr. Markey stated they would now have ownership of the lines and they would accept the waste. Mr. Markey stated that we have negotiated a rate in there that is equal to the existing rate that the Norton residents are paying. There is the ideas of abandonment of the package plants, and is all incorporated within the agreements. Mr. Markey stated that what has changed from the original MOU is the concept of subsidizing the assessments of Nash Heights which is now gone and they would pay the normal rates. In place of this we have negotiated the tap in fee. We had originally talked about was a \$3,000.00 tap in fee and this is now going to be reduced to \$1600.00 which is the normal Barberton rate. For any mandated tap in fee Barberton would cut their fee and that would be \$800.00. Mr. Markey stated the tap in fee is what Barberton calls a system development charge and is whatever Barberton charges their residents would also be charged to Norton residents. Ms. Whipkey asked if the \$800 fee is if they connect within the first year? And Mrs. Carr replied its 50% within the first year for any mandated residential project. Mrs. Carr concurred noting this is spelled out on page #7 that any mandated project the fee would be cut in half incase that would change in the future. Ms. Whipkey asked for clarification on the term of mandated and that would be something like a neighborhood like Nash Heights, not something like for a smaller project. Mr. Markey stated that would be for any newly constructed sewer line before that would come into play. Mr. Rodgers asked then Norton would not be getting the tap in fees and Mr. Markey concurred, adding that the idea behind this is right now Norton has a surcharge fee of 27.5% and a tap in fee. If Council chooses with approving of this agreement you would repeal Norton's surcharge and tap in fee. It would only then be collected in Barberton and 50% would go to Barberton. Ms. Whipkey clarified that what we call a tap in, or tie in fee it is now being titled a system development charge and Mr. Markey concurred. Mr. Pierson asked about the 50% going back to Barberton was talked about being ear tagged to this community for future development. Mrs. Carr stated that language is under their system development charge on page #7 under 6-A. Mr. Tousley asked about the Fund 127 which can only be used for upgrades and asked what would now happen to this fund? Mr. Markey stated the City can continue to use this fund and spend as accordingly. Mr. Markey noted you could use that fund to pay the City of Barberton if you were to participate in various projects. Mr. Tousley asked the balance and Mr. Markey stated that its upwards of \$1 million dollars, and Mr. Tousley stated he just didn't want to have that account stuck.

Mr. Pierson asked about the Fund 127 account and did we ever ascertain if we can as a city borrow against this fund? Mr. Markey stated yes you can, but the issue still remains on how do you repay yourself. Mr. Pierson asked can we siphon off the interest earned and Mr. Markey cautioned using the term siphoned off and the interest stayed within the account itself. Mr. Markey clarified that the City of Norton would not lose the ability to spend that money. Mr. Tousley asked for clarification on the term of the agreement because there are several different dates in it. Mr. Markey stated that the agreement is initially a 30 year term, automatically extends for another 30 years unless either party terminates and that happens twice so ultimately it's a 90 year agreement if no one decides to terminate it. Mr. Tousley asked about the specifications to terminate and Mr. Markey stated at the end of the 30 years either party can send letters indicating they are done or both could sign an agreement to end it at any time, but the opt out clause is at the 30 year mark. Mr. Rodgers asked what happens to the surcharge fees, are those monies going to be used for development like the old agreement stated? Mr. Markey stated that they will be going to the City of Barberton to operate the sewer system. It will not be going towards future development. Mrs. Carr noted that on page #9 there is language there that we have joint planning sessions. For future reference there is a requirement to meet annually to submit future capital improvements plans as we both are under NEFCO. We will have to submit to them our future planning and that is still safeguarded in this agreement. Mr. Rodgers asked if you must or shall submit future plans? Mrs. Carr replied that it's shall and in terms of NEFCO as things are developed they do ask periodically what our future plans are. Mr. Rodgers stated that originally the County was interested in helping the City of Norton in economic development, and he was in favor of this and most would agree this is what the City of Norton needs. However he is not in favor of boosting the customer base of Barberton's sewer plant by going into our residential areas. Mr. Rodgers stated that as far as our future planning of residential areas we should make that clear in our language. Mrs. Carr stated that, as indicated in discussions, Barberton is very much in agreement that they would rather see sewers developed in commercial areas, especially in the JEDD areas because it would benefit both of us. Mrs. Carr stated that developing sewers in residential areas does not help the city tax wise. Mr. Markey stated that he recalls this is a benefit to the City of Norton and does not affect the JEDD. Mr. Rodgers asked if the JEDD map will be increased and Mr. Markey replied no, this agreement would not impact the JEDD map. Mr. Tousley asked what if we saw that somewhere else in the City we saw the best place for that is beneficial to Barberton where there is a JEDD? Mr. Markey stated Barberton does not have the funding to expand and they already have spending planned elsewhere such as the package plant. Barberton thinks that all of this money is going to be tied up with projects that are already on their plate, so they need the City of Norton to participate financially. Barberton cannot do this by themselves and they cannot levy assessments by themselves. If you don't agree they will not develop it unless Barberton wants to pay for it themselves. Mr. Rodgers stated it's not in the best interest of Norton for another city to run and fund a line in our community, even if they pay for it; it should be agreed upon by both Cities. Mr. Pierson started the verbiage is used several times Joint and he presumed this all means joint control and joint planning on both parts is as equal partners. Mr. Markey stated it's for joint planning and the City of Norton would have to participate.

Mr. Rodgers stated what this Council and the people need to keep in mind is the rules coming from the Health Department and the EPA that state anytime a sewer line is run through our City; it will impact any of us that have septic systems due to the proximity of the lines. This should be our decision, not the City of Barberton. Mrs. Carr stated she would like to have as much discussion on this tonight and she would like to see this passed before Council recess although she is not saying it has to be. We need to be diligent to work through any issues we might have sooner than later. Mr. Rodgers asked about the package plant and Markey stated those residents will have an increased rate either flat or metered rate and will continue to pay that same rate to repay the loans to abandon the package plants. Mrs. Carr stated that fee is \$5.00 and is less than the DOES rate so they have a savings, but are still paying a little higher than the Barberton customers are paying. Mr. Pierson asked if Barberton asked this Council to consider raising this fee in the future, it could be done, correct? Mr. Markey stated that Barberton has already set this fee as they felt would be sufficient to repay the loan. Mr. Pierson stated he doesn't want to see any resident in Norton get stuck with additional fees to abandon those package plants. Mrs. Carr stated that Barberton cannot raise rates in Norton without doing the same rate for their own residents as well. Mr. Pierson argued that Barberton cannot raise rates within the jurisdiction of Norton; they have no sovereignty in this City. Mr. Markey stated that the sewer agreement states the rates are like kind. Mr. Pierson stated that we have 4 package plants that they will have to run trunk lines to and he does not want to see that financial impact placed on these residents, we didn't buy these plants. Barberton bought that infrastructure, they own it and they will have to be responsible for it. Mr. Pierson wants the package plant residents protected in the future so no future councils can change those rates. Mr. Markey stated the agreement reads that these rates are set for an increased rate (page #6 Item 5-B) for those package plant customers and the only way their rates would increase is if everybody else's rates are increased. Mr. Pierson stated he still does not think this is fair, it's Barberton's plants, they own them. Mr. Rodgers stated these residents should have been charged the flat rate since Barberton purchased the package plants that other customers are paying and a metered rate that other customers are paying. They should not have been charging what the County was charging under our JEDD agreement, correct? Mr. Markey stated he understands Mr. Rodgers would like it to say the rate for the package plant customers will only pay the 50% above Barberton customers. However, the way the JEDD reads is those 50% customers discharge directly into the waste water treatment plant and right now those package plant customers are not directly discharging into the lines. Mr. Rodgers stated we need to straighten this out and he understands that some on Council did not like the former agreement because of the 1400 new customers, which he believes will still be coming into this just by the wording of it all. We need to get the language straight to get language that prohibits them from running lines in our City without a mutual agreement or plan, they will gain customer base in the residential areas. We received more from Barberton in the past deal that we didn't act on than the deal we are getting now. The people in Nash Heights are paying an \$11,200.00 assessment for gravity which was \$8,000.00 back then. They were helping to pay the loans with the surcharges although the tie-in fees were higher.

Mr. Rodgers stated we were put into a box with Barberton when they bought the package plants, and that was their intent, to put us in a corner where we didn't have the ability to negotiate. We have to recognize this now because this is a 90 year deal and we have to get this right. Mrs. Carr stated we did not expect any decisions tonight; we need to have your input so we can get answers to your questions and come back to you. Ms. Whipkey suggested if anyone has suggestions, questions or comments to please email all of us so we can be ready for more discussion. Mr. Rodgers asked about the Barberton Road Debt Services where Barberton will pay is \$75,000.00. Mr. Markey stated the City has an obligation through 2020 to pay \$75,000.00 a year for debt service. The Barber Road trunk line will be turned over to Barberton in this agreement, and they will take up the remainder of payments. Their only request was for the City of Norton to have that trunk line cleaned before they take it over. Ms. Whipkey noted the cost for cleaning the line is around \$40,000.00 and Mr. Markey noted the City can use the Fund 128 account to pay for that because it's considered as maintenance. Mr. Jim Lino, 5058 Grove Ave, Norton, Ohio stated that at one time Barberton shut off water to Norton and when a business wanted in they could get in and there was a JEDD agreement. Who will benefit here? Ms. Whipkey stated the JEDD agreement has a dedicated area now and this is not going to expand. If a new business comes into that designated area, they would be under the JEDD agreement and contribute taxes to both Cities.

Mr. Rodgers noted in unfinished business we were going to discuss Silver Springs and now that several residents present, he moved to allow for discussion now, seconded by Ms. Whipkey.

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

Motion passed 6-0.

Mrs. Carr discussed the recent power point presentation on the Silver Springs Road repairs. Mrs. Carr indicated the reason for the presentation was due to discussion with the residents and some on Council and the water coming from the west side. We wanted to see alternative plans and we asked to look at all possibilities. When we hired GPD for this project we only wanted to get the scope on the public right of way because that is our obligation. There are some concerns with the private driveway so there are some issues there as well. Some may seem farfetched in your minds and others more feasible. We also wanted to see what has happened to the retention pond that was once there and the affect in the past regarding that pond. Mrs. Carr stated she is not prepared to get into the detailed discussions as we had the engineers present at that time to address any concerns, but could have them return if necessary. One of the proposals we are possibly thinking about is in the public area to get a turn around in some location. Mrs. Carr stated there may be some miscommunication because she got several calls to day from some residents about the turn around being in their yard.

The only turn around we are showing now in Option #2 and most of this stays within the public right of way area with the exception that there is a small piece that goes into the Jones property. We have had discussion with the Jones and again nothing has been agreed upon, however this is a possibility. Option #3 goes back to the original thought if we could help to reconstruct the private driveway easement, which where we kind of get stuck. Mrs. Carr stated she has no issues either way what is done but cautioned Council that whatever decision is made on the private driveway issue is potentially setting a new standard. Mrs. Carr stated upon looking at the deeds, the owner of the private driveway easement has an obligation to grant access and a maintenance obligation to the homeowners that live on the other side of the driveway, and Mr. Markey concurred. Mrs. Carr stated this private easement is not our obligation. If we want to get something done this year, we could go out for a public bid for what we originally planned to do as the public road stabilization with an alternate bid including an expedited schedule, which would cost more money. The second option is to include the private drive area to see what it would cost; we really need to keep this separate until a decision. The final option to the bid is to address the retention pond that was once there and has been filled in over time. Mrs. Carr noted that she does not expect this to fix everything, however there is evidence showing this did slow down the water, especially on the west side. Mrs. Carr noted with the recent rains last week she did get a call from a resident and she had asked how the flooding from the west was and was told it's not an issue. Mrs. Carr noted in the GPD presentation they show you have to get to a certain level storm of over 25 years for that water to impact the area. Mrs. Carr stated that residential code requires to build for a 10 year storm, and she felt it should really be more like 25 years because in reality you will have flooding in a 10 year storm. Mrs. Carr stated in looking to the public side of things, the bigger issue is the water coming from Wadsworth Road, which the resident stated water was coming down the road last week, and secondly is the ground water issue. You have to put in some under drains or you will not be fixing the problem. The bulk of the work will be the stabilization and the underground water are the two most expensive issues to deal with. This is essential according to the engineers. We need to finalize the designs to get ready for the bid process. Mrs. Carr stated she has asked GPD to provide a proposal for the inspection side of the project because you need to have the same company involved as it's the next step in the process. Our main obligation is the public right of way in addition to the right of way issue. Mr. Pierson questioned the difference in the numbers from the presentation to tonight and Mrs. Carr noted there is no difference from the presentation and they had rounded the numbers off, and maybe this is the difference. Mrs. Carr added we have not even discussed the people downstream and upsizing their culverts. The engineers think some retention would be the best option and Mr. Pierson questioned the shale issue as part of the problem as well. Mr. Kernan stated that the private portion is a private drive and it's not a private road and Mrs. Carr concurred. Carr noted that in the beginning everyone referred to that as a private road until we looked this up and found it's not even a road it's a private driveway. Mr. Markey stated in the deed it is a shared driveway easement and there is an obligation by the property owner to provide access and maintain the driveway. Mr. Kernan stated legally that one property owner is legally required to maintain that, and Mr. Markey concurred.

Mrs. Carr noted the Suttons and the Croghan's are here and are two of the homeowners that need access to their property. Mrs. Carr stated that maybe we opened up a can of worms in discussing the private drive issue. Mr. Rodgers stated the City has a moral obligation to address the private driveway. We have been plowing and salting this area the last 40 years, garbage trucks come down, everything that all other city residents enjoy cross over that private driveway. And now that this area needs a \$100,000.00 fix the residents are required to pay this and he thinks this is wrong. Mrs. Carr noted the mail truck, garbage trucks stop prior to that private driveway, and she was criticized because she said we should not be doing that. Mrs. Carr stated that she was shocked to see that our salt trucks went back there and had that conversation with Mr. Sutton. Because of the situation we are currently in and because it was done in the past we agreed to help them through this winter. Mr. Kernan stated that just because the City salted the area does not make the City liable to fix it. Mr. Rodgers stated Mr. Kernan did not understand as they had to go back there just to turn around. Mr. Cory Sutton, 2685 Silver Springs Drive, Norton, Ohio, invited all of Council to come back here to see this area, it's quite unique. They don't salt our road because they want to it's because of the way they have to turn around, it's not a liability issue. The problem is the water that is coming down that needs to be corrected. Mrs. Croghan, 2699 Silver Springs Drive, Norton, Ohio, stated that our garbage came to the front of the house until the road started crumbling, and we have a long walk to get to the mail. It's a long drive and they have always considered this a road because it's so long. To take our garbage out there is such a hardship. Mrs. Croghan stated due to the water issues she is concerned there may be a sink hole there. Mr. Tousley stated he has been back there but it's so confusing to him he would like to meet with someone to go back there. Mr. Sutton and Mrs. Croghan stated that they would try to be home. Mrs. Croghan stated that her husband had a mowing accident last week and is in the hospital and she may not be available. Mr. Rodgers suggested doing a field trip this Saturday, however no one could make this. Mrs. Carr stated she has all of their contact information to pass along to Council. Ms. Whipkey asked if the hill area he was mowing was theirs? Mrs. Croghan stated that all but 4 feet of which that is the City's and they didn't even know that till recently; it's too much for him and others to do, they could not do it and the City needed to come out and do it. Mrs. Carr pointed out that is one reason they looked at doing a cul-de-sac as the area is a natural waterway for drainage. Mrs. Croghan stated its 35 acres of drainage coming onto them. Mr. Rodgers stated that everyone is missing the point; we don't address the water runoff problems when issuing permits, not just in Norton, but everywhere. It used to be farmland. This is a community problem and we are talking about 40 feet here and legally it is the homeowner's responsibility. How would you like to be told as a homeowner you have to spend this money? Mrs. Carr stated she does not disagree here and it's the fault our forefathers that should have planned better before allowing those 4 homes to be built there in the first place without addressing the issues and now we need to address it the best way we can. Mrs. Carr stated she is trying to be sympathetic and she does feel for these residents and we need to do this right. She is looking at remedying the problem within the constraints we have and Council can change that. Ms. Whipkey asked why did anyone give them the easement to begin with and Mr. Rodgers answered there was no other way to get to the property.

Mr. Kernan added he would guess the original property owner probably owned all the land and split the lots off and gave an easement for access and is why it is in his deed that he has to take care of the driveway. When he did that years ago, or the original owner did, somebody gained that benefit back then. There are legalities involved, but we have to know what we are doing as we could be setting precedent and unforeseen consequences which we do not want. Mr. Rodgers stated he had asked Mr. Reynolds how many private roads we have in Norton and he was told we have about 15, now this issue is not even a private road it is a driveway. Mrs. Croghan offered it used to be all family on the properties. Mr. Rodgers stated granted they benefitted from the salt truck coming down there, but there wasn't any other way for the truck to go. Mrs. Croghan stated that when it snows it was inaccessible and sometimes they needed to have it plowed by hand. Ms. Whipkey stated she was confused with that statement as on one hand it was said because the salt trucks salted it is why we have the problem and now it sounds like if they did not come down you could not get out. Mrs. Croghan stated they did not necessarily salt; they came down and plowed so they could turn around and go out as there were times they did not dump anything. Mr. Sutton stated there is nothing to compare it to and you just needed to come see it; with the construction coming, all the heavy equipment would disturb the soil and was a concern of theirs as well. Mr. Tousley asked about the water evaluation that GPD did with the road and Mrs. Carr replied they did a water evaluation but we asked them go further to look at the water coming from the west Mr. Tousley asked if the water problems are all mitigated then maybe the roadway issue is not necessary? Mrs. Carr stated that because you have the ground water problems that need to be addressed so the easy answer is yes. Mrs. Carr stated as soon as she gets the secondary information from GPD she will get this to everyone in addition to the contact for Mr. Sutton and Mrs. Croghan.

Review of Chapter 618.05

Mr. Rodgers asked about the details that Mr. Kernan had inquired about. Mr. Kernan stated that he had asked Mr. Markey to pull the statues that are in your packet and you have the House Bill 60 Act which is 27 pages long. Mr. Markey stated you also have the existing ordinance as he has not prepared any new legislation at this point. Mr. Kernan stated that his focus is people can be charged either under the State code or the municipal code for various violations and most of the time you want these two to mirror each other. If someone is charged under the ORC and found guilty the City gets less in the fine money collected. If the legislation matched the Act then we could recover more funds. Mr. McGlone stated that in our code it's more of a misdemeanor and the new Act is a felony now. Mayor Kernan stated that only some portions fall in the felony category. There was discussion for Mr. Markey to prepare a draft that would combine these two and Mr. Markey stated that he would work on this for a future Work Session.

Park Rules & Fee

Mrs. Carr-discussed here memo that she sent earlier to all of Council received (see attached). Overall we are tightening up the fees and regulations. We have increased the fees slightly and compared what other communities. We also looked at an option to rent by the hour for shorter events like baby showers.

Mrs. Carr stated that in her memo is what the public would see and if you like these changes then Mr. Markey would put them to legislation. Mrs. Carr stated the non-profits would pay a \$100 fee each January and if there is a problem then we would charge them \$25.00. We also looked at gazebo rental fees at \$10 for something short like a wedding and picture takings. There was discussion about dogs in the park, and that's still permitted but they must be leashed or under control and picked up after and that's by an executive order and it's not even codified. Mrs. Carr noted that if there is a special event the City can restrict all dogs during such events. Mr. Rodgers suggested for the \$10 for the use of the gazebos we should give them a \$10.00 gift card to encourage them to come to our City. Mrs. Carr also suggested we install a placard showing this area is a reserved event for the family of so and so from the hours of 6-8 PM. This is something that we are not asking for action this evening, we wanted to inform all of you on them as the Board made these recommendations on May 18, 2016.

Unfinished

Mr. Pierson had asked Mr. Markey if it is feasible for outside vendors, tree trimmers, etc, that they should be required to post a bond until their work is completed and is satisfactory, then it would be returned. Mr. Pierson stated he doesn't want to see various contractors coming in to the City, making a mess and then going about their merry way. Mr. Markey noted he would work on something. Mr. Rodgers noted a lot of the newer trash bins are still sitting out on the roadway and asked is there a communication problem. Mrs. Carr stated she doesn't think it's a communication issued, more that some residents are confused on what to do in the transition. Mrs. Carr noted we have sent out a press release, we posted this on the message board at the center of town. The residents will use their Kimble containers until the last week in June. Kimble will get those containers with this last pick up. You can start to use the Republic containers now; however they will not be picked up until the first week in July. Mr. Kernan asked about putting out the recycle bin for Republic now and Mrs. Carr concurred. Mrs. Carr stated if you did not call to make your selection you will automatically be assigned to the unlimited service. We will probably see some real issues when they get their first bill and realize what service they have. Ms. Whipkey noted that Mr. Perkins had about the recycle schedule and Mrs. Carr stated all will be every week, including the soft products recycling. Mr. Pierson noted he had a resident complaint that the deliver persons were very rude and belligerent when the resident asked to have them dropped off at the garage. Mrs. Carr asked for the address and she would address this.

New Business:

Mr. Pierson asked about the holiday pay issue and if we are negotiating with Mr. Ryland on the dollar amounts? Mr. Markey noted that we have reached out to him on that. Mr. Pierson asked who authorized you to do so? Mr. Markey stated he believed this was a directive from Council. Mr. Pierson said he must have missed that night and asked who on Council authorized that? Ms. Whipkey stated that she specifically asked to negotiate the proposed refund. Mr. Pierson asked prior to this did Mr. Ryland or his attorney send any email inquiring about that and Mr. Markey replied no. Mr. Pierson said so, we have reached out to him and Mr. Markey stated that is what he was told to do.

Mrs. Carr thanked all of those involved in this years Adopt-A-Spot program from the spot workers, caretakers and our sponsors. They have done a phenomenal job with their spots and we are so pleased to see how this is going, and is a beautification to the City.

Topics for the next Work Session:

Mr. Rodger requested discussion on the Trinity Lutheran Church's offer for the City to purchase the cemetery in Loyal Oak. Mr. Rodgers stated he wants to discuss this next Monday under Committee of the Whole on Monday. Mrs. Carr noted she had just sent out an email earlier this evening to Council with the details on the Parks Board's recommendations earlier (see attached). Mrs. Carr stated that basically the Parks Board did review this and provided a resolution.

Summit Kids Month, Mayor Zita stated this is usually done as a resolution from the Mayors office.

Public Comments:

Marissa Lutz, 314 Mt. Pleasant Road, Clinton, Ohio, stated that we property owners on Barber Road. When you switched from sweepstakes to games of skill there was a discrepancy where our application was lost and not found until it was too late. We lost our license for 3 years now and are on the waiting list. The 3 licenses that were up were held up for more than 2 years. Ms. Lutz stated that she has talked with the City Attorney and the way the ordinance is written did not have a specific amount of time listed for issuing the licenses. We have lost a lot of money because of this and so has the City. We have a total of 60 machines at \$60K a year that was simply not being generated and was lost while we waited for someone to build their facility. Ms. Lutz asked Council to add 2 more license to your 7 existing ones, We already have the building, we have an occupancy permit for the building, we have been Fire Marshall cleared. We have spent 2 years with our lawyer and your lawyer on this issue. Mr. Rodgers asked where this building or plaza that was built and Ms. Lutz replied it's on Wadsworth Road. Mr. Rodgers clarified that they had those licenses, and Ms. Lutz replied yes and they sat on them for 2 years. Mr. Rodgers asked if they had the licenses prior to the construction and Ms. Lutz replied no, they paid the \$1,000.00 to get the license issued to them, and they had no machines because they were not open. We are talking about half a million dollars that the City was losing out on over the last few years, while we were waiting. We could have opened up right away and would have been paying every 6 months on all 60 machines. These people may have the license but they never put them into use. Now they are open but you have lost out on all of that revenue. Mr. Rodgers asked how come this has never been brought up before and asked how many licenses holders do we have? Mrs. Richards replied the previous Council set a limit to 7 and that was by ordinance. Mr. Rodgers asked why didn't Council hear about this before? Ms. Whipkey stated because Ms. Lutz had not brought this to Council before now. She did approach her and she did attempt to intervene at the time. They were one of the first original businesses on Barber Road and unfortunately they got flooded out 3 years ago. Then there was a hospital stay and by the time they could get back into their building the license they had was given up to the other company.

When Ms. Lutz contacted her today, she suggested she bring her issues to Council as a whole to see if we would consider opening up more licenses. Ms. Lutz explained the issues with Mr. Arters-Former Zoning Inspector and the lost application, and before January 1st, we turned in a new application due to the change in the sweepstakes. We have made several calls in to Mr. Arters, and did not get anywhere so then we contacted our lawyer. Mr. Markey and my Attorney did review this and we were pretty much told there was nothing we could do. The way the ordinance is written there is nothing telling the license holder when they must become active as an opened and operating business. So therefore they could pay for the license but never use it. At this rate we will never be up on the waiting list for a new license, unless city Council adds more to operate. Mr. Kernan asked if the licenses are active and in use now and Ms. Lutz replied yes. Ms. Whipkey stated in all fairness she did attend the Planning Commission meetings, where the new business owners were told once those licensees were issued they could go ahead and build their building. It would have been very difficult to have told them sorry but we have someone that could open up today. Ms. Whipkey noted there is already 1 person ahead of Ms. Lutz on the waiting list. Ms. Whipkey stated that even if we open up to 2 that might not be enough for Ms. Lutz if there is more than one license requested by the person ahead of Ms. Lutz. Mr. Markey stated there is no such thing as a renewal process. The old licenses became illegal under Ohio law and new applications were required to be submitted and it was a first come first serve basis. Mrs. Carr stated that since Mr. Arters left she has turned this whole process over to Mr. Messner and he had quite a clean up to work with and she is very proud of the work he has done on this and is confident all is now in order. Ms. Whipkey noted that before the newer members on Council were seated, it was discussed in the past that if the applications fees for a license was not filed when it was due then too bad. Mr. Pierson stated that he recalled is that they were not being done in any timely manner at the time; it was more like whenever the former zoning person got around to it. Mr. Rodgers took issue that Mr. Markey did not inform Council if there was a problem and we need to know about this? Mr. Markey asked what exactly was it that I was supposed to make you aware of? Mr. Rodgers answered that we have a problem in this City and we need to be made aware of it. We have a problem in the City that we are spending legal fees on; then something should have been done. Mr. Markey stated that legally there is nothing that could have been done. If Council wants to amend the legislation with this request, then you can do this. Mr. McGlone stated that probably Mr. Markey was just following what the ordinance stated as there are only 7. Mr. Rodgers stated if a business owner of 3 years is denied a license that she previously held for 3 years, that's an issue. Mr. Markey stated that is not quite the facts of this situation. Mr. Markey explained that Ms. Lutz's mother was sick and hospitalized and the application was not submitted. The way the ordinance is written the application process is on a first come first serve basis. There was no concept of renewals; there were 7 new licenses that were issued. Mr. Markey noted that all of the prior licenses were illegal and no longer valid and that is the difference. There was no switch over, one system became illegal and a new system of licenses is required. Mr. Pierson asked in the past was there a process to date or time stamp each receipt or application and Mr. Markey stated that was one of the problems, we had no time stamp on them. Ms. Lutz stated it was her word against Mr. Arters' and that's what this all comes down to.

Ms. Whipkey stated we also looked to see if they had paid for the application process. Ms. Whipkey stated the question comes down to is we are stuck at this number 7 allowed and if we want to increase it and it was 2012 or 2013 when Mr. Nicolard had tried to increase it to 10, and that did not go anywhere. Mr. Rodgers suggested we increase this to 9. Mr. Markey noted they are second on the waiting list so if you open it up to 9 they would be able to get a new license. Mr. Kernan asked why it was set at the magic number of 7 in the past? Mr. McGlone stated it was because we did not want to see a whole bunch of them in the City. Ms. Whipkey asked if we have any other situations even similar to Ms. Lutz's issue and Mr. Markey replied not that he is aware of any. Mr. Pierson asked if the people that are on this waiting list have receipts? Mrs. Carr stated that if they applied for a license from when Ron took over yes, but she could not speak to that before. Mr. Markey stated if we had this record we would not even be discussing this now. Ms. Whipkey stated she does not believe there is a charge just to be on the waiting list, they don't pay until they file their application for a license. Mrs. Carr stated she could not say if that's the process or not but Mr. Messner can address this. Mr. Rodgers stated if we are to issue a license at a specific location there should be an inspection at the building, and Mrs. Carr stated we do inspect them. Mr. Rodgers asked **how** did we issue licenses then to a building that was not even up yet? Mr. Markey stated it's being certified to operate and the final inspection takes place when the building is complete. Mr. Rodgers still argued the point we should not be issuing licenses where no building exists. Mr. Markey stated that answer to this is you need to clean up the ordinance. Mr. Rodgers agreed and we need to help these people out and the one ahead of them, even if it's a temporary thing to make an exception. Mr. Kernan stated we don't need to make exception we just need make an increase to 9. Mr. Rodgers agreed and once you have the 9 temporarily you can go back to the original 7 as they go out of business. Mr. Pierson asked since Mr. Messner is in charge of this and he came in to get on this waiting list, is he provided any kind of receipt to prove what order he is in and Mrs. Carr replied yes this is now our standard operating procedure. Mrs. Carr stated that since these have to do with monies and financial accountability this should be addressed by Mr. Messner. Mr. Rodgers asked the Clerk whose committee should this fall to and she indicated she would have to pull the last legislation and concur and would also pull up the minutes relating to how Council decided on the number of 7. Mr. Rodgers wanted to address this next Monday at the Council meeting. Ms. Whipkey noted when the number of 7 was discussed a lot of those business owners came to all of the meetings and there was a lot of push and shove on this issue because they are already in business and they did not want more coming in. Mayor Zita commented that back then our past Chief of Police felt the number of 7 was an amount that could be reasonably controlled by our safety forces should there be any incidents. Mr. Pierson asked don't we require an officer to be there and paid over time? Ms. Whipkey replied yes after midnight. Mr. Pierson questioned how many of the current license owners are actually Norton residents and no one had that answer. Mr. McGlone stated for the next discussion we need to have our Chief involved and we need to discuss this in more detail. Mr. Kernan moved to place this on the next Work Session for further discussion; there was no second or a roll call afterwards.

Public Updates:

There were no updates.

Adjourn

There being no other business to come before the Committee Work Session, the meeting was adjourned at 9:53 PM.

Charlotte Whipkey, President of Council

NOTE: THESE MINUTES ARE NOT VERBATIM

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

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