



**NORTON CITY COUNCIL  
REGULAR COUNCIL MEETING  
MONDAY, JANUARY 14, 2013**

Roll Call: Dennis McGlone  
Charlotte Whipkey  
Scott Pelot  
Bill Mowery-Excused  
John Conklin  
Todd Bergstrom  
Don Nicolard

Also Present:  
Mayor Mike Zita  
Rick Ryland  
Laura Starosta  
Pete Kostoff  
Karla Richards  
Ann Campbell

The Regular Council Meeting convened on Monday, January 14, 2013 at 7:00 PM, in the Council Chambers of the Safety Administration Building. The meeting was called to order by Don Nicolard, President of Council, followed by the Pledge of Allegiance and a moment of silent reflection.

**COMMITTEE OF THE WHOLE:**

Mr. Nicolard asked for the Communications Committee Chairman to give their report. Mr. Gainer stated all members with the exception of Mr. Mowery have signed the written letter of recommendations because he was excused. Mr. Gainer indicated that Ms. Whipkey spoke with Mr. Mowery and he was in agreement with this recommendation. Mr. Gainer indicated that not all members could agree on the final outcome of their research. Mr. Gainer read the attached letter (see attached). Mr. Gainer referenced Ohio Revised Code Section 1332.3 as it relates to a video service provider fee audit and recommends the City look into this as possible action. Mr. Gainer stated that these are only suggestions that might help pay for the cost. Mr. Gainer thanked Mr. Ryland and assistance of the staff at City hall. Mr. Gainer noted the letters from Ms. Mikki Baker & Mrs. Harley (see attached). Mr. Gainer noted that Ms. Baker has researched her stand on this issue in detail. Mr. Gainer also referenced a letter from Attorney Fannin, who developed the language for the Charter Amendment, (see attached). Mr. Gainer stated this should be broadcast live over Time Warner Cable and pays that fee up for our PEG Channel in order to keep our channel, and in addition if we have the funding to also do the live web link. This way you are serving most of the residents and would elevate the requests for copies of meetings. Mr. Gainer stated he believes we never really used the PEG channel properly when we had this before. It's our channel and we could put whatever we want as long as it is a public service. Mr. Gainer discussed the Parks and Cemetery Board Resolution and the Mayor voicing their opposition to spending funds from the Cable Franchise Fees. Mr. Gainer stated that he felt the funds should come from its source, the franchise fees we already collect. Mr. Gainer noted the Time Warner Cable idea is a one-time fee, and the web cast would be a monthly expense.

Ms. Mikki Baker stated that she has already distributed her documents to all via email earlier. Ms. Baker stated she is confident this would be done on the web and wants to make

it as cost effective as possible. Ms. Baker stated that one price quote had estimated indefinite broadband with at the most of \$400 a month. Ms. Baker stated this was the best she could do and of course it is up for legal review and approval. That monthly fee is based on the amount of usage on the broadband width. Ms. Whipkey stated that we were unable to recommend with one solid solution. Ms. Whipkey stated she felt the televised meetings are more in line with the spirit of the Charter Amendment. It would be great if we could have both and agrees with Mr. Gainer on the proper use of our PEG Channel. Mr. Nicolard thanked all of the Committee Members for their very hard work on such a short time.

**COMMUNICATIONS FROM THE PUBLIC:**

Mr. Paul Tousley, 4536 Garrett Drive, Norton, Ohio, spoke about the EPA letter as discussed last week. Mr. Tousley discussed a letter from 2009 that stated there were options of repair and replace and now you are stating that sewer is the only option. That's a real disservice to the citizens. Mr. Tousley discussed the statement last week that the City contacted the EPA and Summit County Health immediately after that July 2, 2012 meeting. Mr. Tousley asked does the City work for them or the citizens? Mr. Tousley stated what you could have told the EPA is that we have a plan for repair and replace. Mr. Tousley stated that we have over \$500,000.00 in the sewer and water fund, which could be used to help the citizens with financial difficulty, since this came from the citizens in the first place. Mr. Tousley stated that the City has not been forthright with the citizens. Mr. Tousley suggested putting all of this on City letterhead advising the elected officials in that State and Washington to our situation. Mr. Tousley discussed the 2% tax hike the elected officials in Washington just placed on every working American. Mr. Tousley discussed Ohio Revised Code Section 729.49, which states that a City can raise the rates whenever they feel like it.

Mr. Steve Fannin, 2811 Shellhart Road, Norton, Ohio, stated he intentionally stayed out of the public eye while the Charter Amendments were pending out there. Mr. Fannin echoed Mr. Tousley in a broader sense, with the disseminating of information and continued approach of sewer projects. We want action with fiscal responsibility in spending, not to put a price individually on our public discourse. Mr. Fannin stated that the Citizens4Norton was designed to provide educational materials to the local public and to encourage participation in local government. Mr. Tousley stated that what he intended to do and what citizens asked him to was to make the meetings available to the public, and when he wrote this that was his intention for this to be on TV. When it comes to the sewer issue we want you to advocate on our behalf. We don't want Council and Administration to go behind our backs and then to come to us and tell us where they will or will not spend money. We want an Administration to engage with the public. We will work tirelessly to change every single word of that Charter to ensure that the peoples agenda is put forward the people's interest. Its not that we always feel you are working against us, it's that we feel you are not working for us.

Mr. Danny Grether, 2831 Brookfield Drive, Norton, Ohio, spoke relating to the recent tragedies in at the Sandyhook Elementary School. Mr. Grether wished to thank our Police Chief Hete, his officers, Mayor Zita and Mr. Ryland for all that they have done to make our schools safe. Mr. Grether stated it's important to recognize the delicate relationship between

the city representatives and school administration. For the most part Norton has done a pretty good job with that, but would like to step that up somewhat. Mr. Grether asked Council to keep an open mind in looking forward with all of our schools and see that we can have an on duty officer at all of our schools at all times.

**CONSIDERATION OF THE MINUTES:**

Minutes of the Regular Council Meeting of December 10, 2012 were approved as submitted.  
Minutes of the Organizational Meeting of January 2, 2013 were approved as submitted.  
Minutes of the Committee Work Session of January 7, 2013 were approved as submitted.

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

Mayor Zita, Mr. Ryland, Ms. Starosta had no reports. Mr. Kostoff noted he has listened to the reports from the Communication Committee and asked Council for their direction. Mr. Nicolard asked for a legal opinion relating to the definition of televised and webcast. Mr. Kostoff stated he would review this Charter Amendment in order to get a grasp of what the public intended here. Mr. Kostoff went on to stated it was not his intention to take away Council's responsibility in determining what would be the proper course at implementing it. Mr. Kostoff indicated he would look at both suggestions, in addition to the comments from Mr. Fannin. Mr. Kostoff stated this would all have been easier if the language would have clearly stated Cable TV, but it did not. However he did not and he would try and deduce whether both vehicles would meet the televised language and if so, he would send it back to Council to decide. Mr. Kostoff stated that cost is not his concern, it is how do we comply with the people's will. Mr. Kostoff noted that not everyone would be happy with the final decision. Mr. Nicolard expressed his concern with the time element to get this implemented, and that whatever your opinion is that will be the law. Mr. Kostoff indicated his opinion would be forthcoming with the top priority, and once Council receives that they can direct him as far as legislation is required.

**PUBLIC HEARINGS:**

None

**INTRODUCTION OF NEW LEGISLATION:**

**ORD #1-2013**

Mr. Bergstrom offered Ord. #1-2013 for its first reading and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING THE MAYOR OR HIS DESIGNEE TO ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION AND DECLARING AN EMERGENCY.

First reading only. Mr. Bergstrom stated this is for I-76 work at no cost to the City of Norton.

**ORD #2-2013**

Mr. Pelot offered Ord. #2-2013 for its first reading and asked the Clerk to read it:

AN ORDINANCE APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES; APPROVING, ADOPTING AND ENACTING NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES; REPEALING ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH; AND DECLARING AN EMERGENCY.

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

Roll Call: Yeas: Pelot, Conklin, McGlone, Whipkey, Bergstrom, Nicolard  
Nays: None

Motion passed 6-0.

Mr. Pelot moved to adopt Ord. #2-2013, seconded by Mr. Conklin. M. Pelot stated this is for what was adopted all last year

Roll Call: Yeas: Pelot, Conklin, McGlone, Whipkey, Bergstrom, Nicolard  
Nays: None

Motion passed 6-0.

**ORD #3-2013**

Mr. Pelot offered Ord. #3-2013 for its first reading and asked the Clerk to read it:

AN ORDINANCE TO ESTABLISH CHARTER ONE BANK, FIRST MERIT BANK, HUNTINGTON NATIONAL BANK, J. P. MORGAN CHASE BANK, AND NORTH AKRON SAVINGS BANK AS DEPOSITORIES FOR CITY FUNDS FOR THE TERM BEGINNING MARCH 24, 2011 AND ENDING MARCH 23, 2016, AND TO DECLARE AN EMERGENCY.

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

Roll Call: Yeas: Pelot, Conklin, McGlone, Whipkey, Bergstrom, Nicolard  
Nays: None

Motion passed 6-0.

Mr. Pelot moved to adopt Ord. #3-2013, seconded by Mr. Conklin.

Roll Call: Yeas: Pelot, Conklin, McGlone, Whipkey, Bergstrom, Nicolard  
Nays: None

Motion passed 6-0.

**ORD #4-2013**

Mr. Bergstrom offered Ord. #4-2013 for its first reading and asked the Clerk to read it:

AN ORDINANCE TO AUTHORIZE THE MAYOR AND/OR ADMINISTRATIVE OFFICER TO ENTER A COST SHARING AGREEMENT WITH THE CITY OF NEW FRANKLIN FOR THE RESURFACING OF PORTION OF CLEVELAND-MASSILLON ROAD AN RELATED COSTS; AND DECLARING AN EMERGENCY.

First Reading only. Mayor Zita called attention to Ord. #1-2013 and that Mr. Bergstroms ealier comments about bridges needs to be clarified before moving on as that legislation is not for bridges. Mr. Nicolard read aloud the legislation prepared and Mr. Kostoff discussed the documentation received from ODOT and that the project number that was discussed at the Committee meeting was correct. Mr. Ryland concurred that it was properly discussed as the right project last week.

**INTRODUCTION OF PRIOR LEGISLATION**

**ORD #99-2012**

Mr. Pelot offered Ord. #99-2012 for its second reading and asked the Clerk to read it:

AN ORDINANCE TO AUTHORIZE NOMINAL EXPENDITURES FOR REFRESHMENTS OR MEALS TO BE SERVED AT VARIOUS EVENTS, AND DECLARING AN EMERGENCY.

Second reading only.

**ORD #102-2012**

Mr. Conklin offered Ord. #102-2012 for its second reading and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AND DELIVER A MEMORANDUM OF UNDERSTANDING WITH SUMMIT COUNTY FOR THE PURCHASE OF THE NORTON SEWER SYSTEM, AND DECLARING AN EMERGENCY.

Second reading only.

**UNFINISHED BUSINESS**

Mr. Bergstrom stated that today he, Mr. Ryland, Mrs. Starosta and Mr. McGlone meet with the EPA representatives Phil Rhodes, Jennifer Bend, Molly Drinkuth and Dave Stoll. Mr. Bergstrom gave a brief overview of their discussions to get a better understanding of some of the options available when it comes to considerations of sewers or septic systems and failed systems. We wanted to hear it directly from the EPA. We discussed what the MS4 permit is, and their restrictions relating to that. An MS4 Permit is basically a tool for policing and a regulating mechanism. This also relates to removal of illicit discharge. Mr. Bergstrom stated our options for failed septic systems were discussed and when you get into an area where lots are small there are only a couple options for discharging systems. Mr.

Bergstrom stated that replacing a current septic system does require an MS4 and this permit is only good for 5 years and you would have to reapply. Mr. Bergstrom asked about multiple people requesting such permits when there are about 200 homes in Nash Heights, there would be very few being issued an MS4 permit and eventually the answer would be no to those such permits when a concentrated number of requests are submitted. Another item mentioned was the cost associated with the cost to get an MS4 permit. They will require a special aerator or blower system with \$30.00 extra in electric a month. Also there is a possible \$300.00 fee per year for inspection, sampling and the overall budget would be \$1,000.00 per year for all of the extra expenses. It was also discussed that the City has been working with the EPA for years to create our own plan, instead of the EPA telling us this is what will be done and when. We have been doing our due diligence here in trying to work with the EPA and trying to look for options in how to deal with this. The more he hears directly from the EPA the more he realizes there are really no other options than sanitary sewer. When you state replace, that does not mean that you can replace it with what you had previously. His understanding was that we have to take care of the illicit discharges and to present a plan of how we would do it, although it can be stretched out for years. Mr. McGlone stated that Mr. Rhodes was our MS4 agent, and Molly Drinkuth will now be his replacement. Mr. McGlone stated that Mr. Rhodes did state there was no fix and the MS4 permits are about \$8,000.00 to \$9,000.00 and add another \$1,000.00 for 5 years and that there is no guarantee you will get your permit renewed next time and may be required to tie into sewer. Mr. McGlone expressed the hardships and affordability on the citizens and the EPA stated they understand it but you are still breaking the law. Mr. McGlone stated this is the first time to know and hear that it's not the City pushing this it's the EPA. There is nothing that this Council can do. Mr. McGlone inquired about grants and he was told there were none to be had outside of the 2% -3% loans. Mr. McGlone stated the EPA wants a twenty (20) year plan and they are pressing us on this. Mr. McGlone stated he concurred with Mr. Bergstrom's comments and that we were both surprised with what we learned.

Ms. Patricia Reese, 4052 Wadsworth Road, Norton, Ohio, asked if there are 255 homes in Nash Heights, then how many have failed septic systems? Ms. Reese discussed the landfill on St. Rt. 261 and that Mr. Conklin had already brought this up several weeks ago, and questioned if the EPA is even concerned about this? Mr. Nicolard pointed out that it was likely a mute point as to whether the systems were failed or not, as they still have an illicit discharge and have to be fixed.

Ms. Reese asked how does a homeowner know if they have a problem? Mr. Bergstrom stated they would know because they have to have a permit for their system and if they don't have a valid permit, then they have an illicit discharge. Mr. Bergstrom indicated that some property owners have been given temporary permits in order to sell their homes. Ms. Reese discussed the permit process for an on-lot system and Mr. Ryland stated if it the owner has the land and wants an on-lot system the County is the one that would issue the permit, not the City. Ms. Reese discussed a recent health board meeting where she asked the representative from the County how many systems are failed, and he really did not have the answer. Ms. Reese stated how could you know if system is failed? Mr. McGlone stated that the Summit County Health District knows what systems are illicit and they inform the EPA.

Mr. Emil Teichman, a Norton resident, discussed his situation on the corner lot that had one tank and one leach bed. Summit County came out and we put in a second tank and a new leach bed. There is a large holding tank and a pipe comes out and pumps out into the street. Mr. Teichman stated he has done everything he was supposed to do and they say you could drink the discharge, so now what? Mr. Bergstrom stated that your system is still and illicit discharge. Mr. Bergstrom stated that you were allowed your temporary fix because at the time we had a plan to bring in sewers. Mr. Bergstrom stated we are dealing with two (2) agencies here, and it is confusing to deal with tow of them. Mr. McGlone stated what he understands is the County does the inspections and if there is a problem then the County notifies the EPA about it. There was discussion on financing options and Mr. Bergstrom stated one option discussed was either zero or no interest loans. Mr. Teichman suggested we prolong this as long as we can. Mr. Bergstrom stated that the way to prolong the plan is with a twenty (20) year plan. Mr. Nicolard stated we really cannot answer your question here, you should attend the January 22, 2013 Summit County Dep. of Health meeting at the Norton High School.

Greg Smith, discussed the meeting on January 22, 2013 and as a concerned Norton citizen he personally contacted the following: Senators Brown, Portman, Renacci, LaRose. State Representative-Slaby, Summit County Executive-Russ Pry, Summit County Council President-Jerry Freeman, Summit County Council Vice President-Paula Prentice, Summit County Council At Large and Norton resident-Tim Crawford, other Summit County Council members: Sandra Kurt, Eileen Shaprio, and Bill Roemer. Mr. Smith stated he hoped they all attend this meeting or send their representatives on their behalf. Mr. Smith indicated that tomorrow he will contact the EPA Director and the Governor's Office to invite them to attend as well. We need their help because it's obvious the City can't deal with this on their own.

### **NEW BUSINESS**

None

### **PUBLIC SERVICE ANNOUNCEMENTS**

Mayor Zita gave several PSA's, (see attached) Mr. Nicolard announced a Special Council Meeting this Wednesday January 16, 2013 at 7:00 PM. We will have an Executive Session to discuss pending or imminent litigation and we will return to the Special Meeting to address new business and then adjourn. Mr. Nicolard reminded everyone that our next Committee meeting would be on Wednesday, January 23, 2013 so that everyone could attend the Summit County Health District meeting on Tuesday evening.

**ADJOURN**

There being no other business to come before the Regular Council Meeting, the meeting was adjourned at 8:17 PM.

---

Don Nicolard, President of Council

I, Karla Richards, CMC-Clerk of Council for the City of Norton, do hereby certify that the foregoing minutes were approved at a Regular Council Meeting held on January 28, 2013.

---

Karla Richards, CMC-Clerk of Council

**\*\*NOTE: THESE MINUTES ARE NOT VERBATIM\*\***

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

+