



**NORTON CITY COUNCIL  
REGULAR COUNCIL MEETING  
MONDAY, JANUARY 28, 2013**

Roll Call: Dennis McGlone  
Charlotte Whipkey  
Scott Pelot  
Bill Mowery  
John Conklin  
Todd Bergstrom-Excused  
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 28, 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. Conklin stated he has been requested to table Ord #102-2012 and when this comes up, he will move to table this under Unfinished Business until March 25, 2013 which is the soonest that all seven (7) Council would be present. Mr. Conklin explained the reason being we need to have further discussion and a presentation from Mr. Jim Demboski, Engineer with GDP Group prior to the vote. There was discussion of other potential dates for Work Sessions and all concurred that Committee Work Session of February 19, 2012 would be best. There was also discussion to possibly hold a special Council Meeting immediately following the Work Session. Ms. Whipkey stated she would rather hold it on two separate days in case something else arises. Ms. Whipkey and Mr. Mowery both felt addressing this at a full Council meeting would be best. Mr. Ryland stated this has been around since the former Mayor to get this accomplished. Ms. Whipkey stated she wants Council and the Public to be better informed and understand what this means, rather than to rush it through just because we have been talking about for so long. Mayor Zita stated this MOU gives us permission to acquire the information so we can bring back to Council for their direction and decide later whether to make the purchase. Ms. Whipkey asked isn't there already an MOU in place and Mr. Pelot replied no, this is the MOU. Mr. Ryland stated the purpose of an MOU is that we are doing our due diligence in everything that we are looking at. Mr. Kostoff stated that document the MOU that you have had for some time has not changed. If passed by both Summit County and Norton City Council then Administrations we would proceed with moving ahead negotiate a detailed agreement for with the purchase. Mr. Kostoff stated that he stated he wanted it to have three (3) readings and concurred with Ms. Whipkey about taking time with this. Mr. Kostoff stated that Council needs to vote at some juncture either yea or nay, and let the chips fall where they may. Mr. Pelot suggested we give it the third reading as scheduled tonight and go ahead and table it after the reading.

Mr. Kostoff advised against that since Mr. Bergstrom was not present and the presentation would be done, questions would be answered to Council and the public, as well as all Council Members would be present to vote at a special meeting. Mr. Nicolard agreed with Mr. Kostoff. Mr. Nicolard stated that after the meeting on February 19, 2013 we could decide if we need to hold a Special Council Meeting or hold off until the Regular Council Meeting on March 25, 2013.

**COMMUNICATIONS FROM THE PUBLIC:**

Tom Kornas, 3771 Brookside Drive, Norton, Ohio, asked several times before for the City to release financial information like a balance sheet showing credit on one side and a debit on another side, showing all money coming in and going out on assessment projects. Mr. Kornas stated he wanted to see who is receiving the funds such as contractors, vendors, and legal fees, survey companies, and engineering firms? Mr. Pelot asked for Mr. Kornas to be specific on the projects and Mr. Kornas said for Greenwich Road. Mr. Kornas asked where is all of the money going to on all of the current sewer assessments from when it first started to date and Mr. McGlone stated that should also include Oak Street. Mr. Kornas asked is this in the General Fund or Special Fund; we just want to see an entire accounting. That should be an accounting for what has been collected from the people and what has been paid out. Ms. Whipkey clarified that in other words that would be for anyone who has been required to tie in you want to know what has been paid in and where that money went. Mr. Kornas talked about all of the internet research he has come across about grants and various endowments out there that are available and urged the Mayor to get a task force to look into this on a weekly basis. It seems like everyone is going different directions, if we do this the right way we will find the money to do this. Mrs. Starosta replied that we do keep projects in separate funds and she would have to look into this further. Mr. Nicolard stated he understood that anything that comes into the utilities fund must remain within that fund, it cannot be siphoned off into the General Fund or for purchase of police cruisers. Mrs. Starosta stated that we have two separate funds, water and a sewer fund. Ms. Whipkey asked what about the assessment and the tie in fees. Mrs. Starosta stated the monies paid for engineering, etc. come from that specific fund that we pay out of. Mr. Pelot asked if this is readily available? Mrs. Starosta replied it is not in a nicely formatted spreadsheet, it is all in different funds, like the OPWC Fund, it is not all lumped together in one fund. Ms. Whipkey suggested this could be in one packet of information, as opposed to bits and pieces. Mrs. Starosta stated this yes this could be done. Mr. Mowery asked how long this would take to get done, and Ms. Starosta replied it would take a while provided one she identifies the specific projects to get started with.

Mr. Dennis Kornacky, 3008 Dutt Road, Norton, Ohio, spoke relating to the City of Norton being non-compliance with the EPA on their cleaning of the ditches and catch basins. Mr. Kornacky stated they have not been cleaned out for many years, and there is an accumulation of the affluent. These things cannot be passed unless these ditches are cleaned out. Even if you do put in a sewer system, the EPA is checking these ditches for bacteria. So you still won't be in compliance with the EPA. Mr. Kornacky stated that you couldn't even determine who or what is at fault. Mr. Kornacky stated last he had heard that half-percent tax credit was to go towards the sewer system, where is all of this money going since 2009. This revenue is for the next twenty-five (25) years and was supposed to pay for new sewer.

Mr. Kornacky stated that we have one ditch in his area that has not been cleaned out in over 27 years and he can actually see the affluent in it. Mr. Kornacky commented about one neighbor having to replace their septic system and the ditches are still not cleaned out. That neighbor still is not in compliance with their new system because the ditch is not cleaned out. Mr. Kornacky stated you Council members need to speak up when we are here to hear what you have to say, we cannot because you are not even looking at each other, not even speaking in these microphones.

Mrs. Audrey Kornacky, 3008 Dutt Road, Norton, Ohio stated she attended the Summit County Health Board meeting, and she asked about permits to replace septic systems and Summit County stated there would not be many permits issued. She then had asked if the people fix their failed systems with a new and improved system, and it comes out as clear as drinking water, how is this going to hurt the environment? Mrs. Kornacky noted as her husband stated that the ditches would still come up as failed even with a new system. Mrs. Kornacky discussed the referenced report of seventy (70) percent of the septic systems in Norton are failing, that's a bunch of bull and you all know it. Mrs. Kornacky stated that rather than force this, you came up with your solution from the taxpayers for a way to pay for it since 2009. Now you want to put it right back on our backs again and make us pay for it. So what are we paying this half percent for?

Mr. Frank Somodi, 2893 Kensington Drive, Norton, Ohio, discussed the water line project on Norton Avenue, and he recently learned there was a meeting held on this project. Mr. Somodi discussed an issue at his home with water being turned off and on earlier this week. Mr. Somodi stated his neighbor had contacted Barberton and Barberton said to contact the City of Norton. Mr. Somodi discussed contacting city hall and was told the work was being done by a private contractor, and they were not aware of any issues but they would get back to them however no one did. Mr. Somodi suggested the City post a sign in the area just like when fire hydrants are being flushed. This would notify the residents that the water would be shut off or pressure low on specific dates. This is an issue that he feels it needs to be addressed. Mr. McGlone stated when Mac Seal built that allotment there was a pumping station for that area. Supposedly Barberton was having numerous problems with water leaks due to the weather and it was supposed to be brought back up to normal pressure. Mr. McGlone stated that the City of Barberton had indicated this is Norton's issue not their fault when in fact that is not the case, these are Barberton water lines. Mr. Ryland concurred adding this is a separate issue from the water line replacement in the same area.

Mr. Paul Tousley, 4536 Garrett Road, Norton, stated that what the gentleman discussed before him is a common frustration when we call about a problem its always it is not our fault, call the Barberton. Mr. Tousley discussed the March 2009 reference to seventy (70) percent of the septic systems tested are failing, and since then they have admitted that they did not test a single septic system in Norton. Mr. Tousley stated that he has a letter to Mr. Pierson from the Cuyahoga County Board of Health stating that fact. If that is not the case then has anyone informed the EPA that we do not have a seventy (70) percent failure rate, but it is thirteen (13) percent (15 out of 431 outfalls have failed is what Summit County stated. ? Mr. Tousley discussed the tabling of this issue back on July 2, 2012 and promised it would not be taken off the table until a complete cost analysis was done.

Mr. Tousley urged all of Council stand up to that vote. Mr. Tousley stated he does not want to have to do this, but if all due diligence is done, and the EPA and you decide it has to be done, then you should get a cost comparison for Summit County doing it versus the City of Norton doing it. Mr. Tousley stated he would like to see all of that cost analysis and compare the two. If we have to do it, it still does not change the fact that the people cannot afford it. Mr. Tousley asked who do you work for-the EPA or the people. All of your due diligence must be done on this before moving forward with oiling this on the people. Mr. Tousley discussed the City of Akron's situation with the EPA, which is exactly like our situation. The only difference is they already have sewers so how his our magic sewer going to fix this? This seems like a trap he does not want to be a part of. The EPA is always trying to move and change the goal posts. We will be paying for this for eternity. Mr. Tousley read an article from the Wayne County-Rittman area, where residents are complaining about sewage backups and flooding their homes. Mr. Tousley stated if he ends up gets assessed \$10,000.00 to \$30,000.00 and finds his neighbors feces backing up in his basement, well then you have not seen mad. He just does not see the benefit for this.

Danny Grether, discussed the same concerns of previous speakers, and has concerns where all the money for the half- percent tax is going into. Mr. Grether stated he has seen figures of \$500,000.00 per year coming from this tax. Mr. Grether discussed the ad-hoc committee for televised meeting, and that this sewer topic is a big issue we are ever going to face, and questioned where is the ad-hoc committee for that? We need more than just few residents on this committee. We need the help to find the funding because he has been an advocate from the beginning of funding this. We need to stop trying to burn the residents, and find the funding that's out there. There is Ohio EPA money available and we need to locate that money. Mr. Grether stated in his business he likes to bench mark the business, and reach out to the shirttails to someone who has done this right already. Look at other cities like Green that has already done this, asked them how they were able to help their residents? Mr. Grether stated that although he lives in Mt. Vernon and has a \$55.00 month sewer bill, he also has family living in other areas that are faced with this sewer assessment. We have to find this funding, and we keep giving money to the government, we are owed that money back from the Federal Government, so lets go out and get it back.

Jason Sams, 3782 Long Drive, Norton, Ohio, stated that it's kind of hard to follow the previous speaker, however that same speaker also spoke about funding security in our schools but failed to talk about how to fund it. Mr. Sams stated that the answer is to educate, train and collaborate. Mr. Sams stated everyone comes here with all of your questions, yet you offer no solutions. You need to stop bringing problems to the forefront and bring a solution. These residents that come here are asking questions that as Council and the Administration, you need to give them their answers. Mr. Sams stated he also agreed we need an ad-hoc committee for the sewer issues. Mr. Sams suggested that he feels that all department heads come to Council annually and give a report about their department. Mr. Sams stated that he also wants to know where the money goes. What is so difficult about that? Mr. Sams stated it's about moving forward and being neighbors. Please answer their questions, please train and educate them and please help them, and lets move on. People come to him and ask him what is going on and all they want is to know the truth, and where are you taking us. It's always easy to talk about problems, however it is a better person to come up solutions to the problems.

Mr. Pierson discussed the comment about there being no septic systems in Norton or anywhere else being tested by the Cuyahoga County Health Department and he displayed copies of the letter and original contract with Cuyahoga County to support this fact. We no longer need to hear about the seventy-(70) percent failure rate, as this does not exist.

**CONSIDERATION OF THE MINUTES:**

Minutes of the Regular Council meeting of January 14, 2013 were approved as submitted.

Minutes of the Special Council Meeting of January 16, 2013 were approved as submitted.

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

Mayor Zita stated on Jan. 16, 2013 Mr. Spisak a Norton resident was sworn into Summit County Metroparks as a Trustee, and he also serves on our Planning Commission as the Chairman. Last week Members of the Administration, Mr. Nicolard, and himself met with a representative from Rep. Sherrod Brown's office to discuss septic system funding, obtaining our own Norton zip code and retaining the Norton Post office, and other issues. Mayor Zita stated we have future meetings with other elected officials in the coming weeks to discuss the same issues. Mayor Zita discussed a Mayors Association meeting on January 31, 2013. Mayor Zita announced a meeting on Wednesday February 6, 2013 in Columbus for the Mayors Association at Ohio Municipal League in Columbus and we will be discussing most of these same issues.

Mr. Ryland stated just prior to Council he handed all Council members a copy of his response letter to the EPA with a five (5) year time line attached to the back and as of today he has not received a reply from the EPA.

Ms. Starosta had no report.

Mr. Kostoff commented on Council's request for a legal opinion on the new Charter Section 3.20 for Televised Meetings. Mr. Kostoff made a brief report and advised Council that this is their decision on the comments. Mr. Kostoff stated it is your purview to decide on how to implement the peoples' will and to allocate whatever resources or funds you decide. Mr. Kostoff read three (3) separate requirements of Charter Section of 3.20 as follows: 1). All Council meetings, work sessions and workshops must be televised live in their entirety, without censorship and/or editing; 2). All televised broadcasts must further be offered twice weekly for repeat airings that are accessible to the public; and 3). Copies of each recorded meeting must be made available upon request, at minimum cost, or at no cost if the citizen supplies their own suitable medium for recording. Mr. Kostoff continued reading that the Charter does not mandate that any of the Council meetings must be aired or broadcasted on any particular medium. Moreover, the term "televised" is not defined in Section 3.20 of the Charter or the City of Norton Codified Ordinances. Given this lack of definition, therefore the City has broad discretion to determine the method for complying with the Charter Amendment and may adopt any number of broadcast mediums so long as the broadcast of Council meetings is "live" and unedited, and re-aired twice weekly (repeated "live" and unedited, and re-aired twice weekly). This could include broadcasting the meetings on Time Warner Cable, broadcasting on another television provider, live streaming over the Internet, or any other method reasonably intended to comply with the Charter Amendment. Whatever

method the City Council and/or the Administration determine to implement, it should be noted that Section 3.20 does not require that the City of Norton to broadcast its meetings on Time Warner Cable, nor does it require that the broadcast medium be capable of reaching 100% of the citizens of the City.. My last line I want you all to remember is: instead, any broadcast medium must be reasonably calculated to ensure “public accessibility” to broadcast and any re-broadcasts of the meeting. The City has the discretion to determine the method for ensuring that the broadcast is publicly accessible. Upon finishing reading, Mr. Kostoff stated that those are the three (3) requirements of this Charter Amendment provision requires, and at the end of the day it is entrusted upon you to determine any medium(s) to comply and come up with the necessary funds.

**PUBLIC HEARINGS:**

None

**INTRODUCTION OF NEW LEGISLATION:**

None

**INTRODUCTION OF PRIOR LEGISLATION:**

**ORD #99-2012**

Mr. Pelot offered Ord. #99-2012 for its third 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.

Mr. Pelot moved to adopt Ord. #99-2012, seconded by Mr. Nicolard. Mr. Pelot stated this is a boilerplate piece of legislation and we pass this each year. Mr. Kostoff added this is a compliance with the State Auditors.

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

Motion passed 6-0.

**ORD #102-2012**

Mr. Conklin moved to table Ord. #102-2012 until the March 25, 2013 Council meeting, seconded by Mr. McGlone Tabled earlier under Committee of the Whole until March 25, 2013 prior to holding the third reading. There was discussion on holding a Special Council meeting for March 4, 2013 immediately following the Work Session. Mr. Conklin and McGlone removed original motions. Mr. Kostoff stated we would do best to place a certain date and give flexibility, and then hold a Special Council Meeting to remove it; it would need to be listed on the Special Council Meeting agenda. Mr. Conklin made a new motion to table till March 4, 2013, seconded by Mr. McGlone.

Roll Call: Yeas: Conklin, McGlone, Pelot, Nicolard  
Nays: Whipkey, Mowery.

Motion passed 4-2.

**ORD #1-2013**

Mr. Mowery offered Ord. #1-2013 for its second 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.

Second reading only. Mr. Ryland clarified that this project is for the resurfacing on I-76 and not bridge repairs as was stated in the last meeting.

**ORD #4-2013**

Mr. Mowery offered Ord. #4-2013 for its second 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 AND RELATED COSTS; AND DECLARING AN EMERGENCY.

Second Reading only.

**UNFINISHED BUSINESS**

Mr. Nicolard opened the floor for Council, since there is a time frame that is likely not met but have tried to meet, to discuss televised meetings. Mr. Nicolard discussed the legal opinion and agreed with Mr. Kostoff that live streaming would fulfill this requirement, and we could instruct Administration to move forward tonight by a motion. Ms. Whipkey stated that she received a call recently from a lady named Rose, representing a Mr. Joe Perkins who runs public TV for Youngstown, and other stations as well as free web sites. Mr. Perkins just contacted her today and somewhere along the line Council nor the Communications Committee members never received this same information. Ms. Whipkey stated it is quite possible that this could be done on the Internet for free, as opposed to contracting for someone else for live streaming. Ms. Mikki Baker, Communications Committee Member, stated the way it works is by the amount of hours you upload, an indefinite amount of hours that would be \$500.00 a month, and \$400.00 for the lowest. There is a cost of about \$1200.00 for initial start up fee. Mr. Mowery discussed the estimated fees for Time Warner at \$40,000.00. Ms. Baker concurred it was a one shot thing, but Time Warner price includes buying all of the equipment, and if it breaks you need to replace it and it can be expensive. Mr. Mowery stated that the Committee basically had to decide on using the TV, Internet or both as a medium. Mr. Nicolard stated it seems we may have already missed the deadline and we will get more bang for our buck with live streaming and the Committee came back with a tied 2-2 vote. Mr. Nicolard stated he agrees with Ms. Baker that television would become obsolete. Mr. Nicolard stated he would like to put this to rest tonight and get moving on this. Mr. Pelot asked about the length of contract and Ms. Baker stated the contract could be 1-2 or more years, it is negotiable.

Mr. Pelot stated we need to give the Administration a direction here, we are not selecting a provider now. Mr. Conklin wanted to move for live streaming, and once we have that established we can evaluate it as to the quality of service the residents are getting. Mr. McGlone stated he agreed with Mr. Conklin and that more residents might be dropping out since Time Warner Cable raising their rates once again. Mr. Mowery stated that right now 47% have Time Warner Mr. Mowery stated that if live streaming does not work we can drop either one at any time. Mr. Mowery stated he would prefer to go with both just for now to see how it works. It may be \$40,000.00 well spent to let the citizens know what is going on in Council Chambers. Mayor Zita reminded everyone that if we go ahead and buy the equipment, if we decide to drop it later we still would own the equipment. Mr. Nicolard asked about the propriety of the Administration being allowed to vote as well, since are all on the hook for this, to which Ms. Whipkey objected. Mr. Nicolard pointed out that the legislation has already been approved and we are only trying to fulfill the means of the legislation. Mr. Pelot stated that if we just direct the Administration which way to go, we don't have to decide go this way or the other, then can decide which way is most cost effective for the people. Mr. Pelot noted that whatever provider is decided it is not provided for in the Budget. Ms. Whipkey noted we would not be entering into a contract here. Mr. Nicolard stated if we direct to go live streaming here the Administration would go with the least expensive route. Mr. Pelot stated this is not budgeted so at some point this would have to come back to Council to approve and Mrs. Starosta concurred that it would come back at some point, but not necessarily before she entered into a contract. Ms. Starosta indicated she could begin paying with another budget source because of the time frame and would come back to Council to amend the budget. Mr. Conklin moved to authorize Administration to proceed with the live streaming option, seconded by Mr. Conklin. Ms. Whipkey stated that she is going along with this to meet the peoples will, it's not exactly what they wanted but it is a start. Mr. Mowery concurred, and we could always go the other way also.

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

Motion 6-0.

### **UNFINISHED BUSINESS**

Ms. Whipkey reported the Norton Health Advisory board had a meeting ON January 17, 2013 and a resolution was passed by most of the Board to support moving forward with sewers. Their next meeting is February 28, 2013 and she understood that Mayor Zita Mayor would be present to give some direction. Mr. Mowery stated the Summit County Health District meeting last week went well and most realized the meeting was to listen and ask questions, however he did not feel that they accomplished a whole lot. Mr. Mowery commented about on resident that stated he felt the City is steering toward sewers and the people are steering in another direction, its up to you to make that work. Mayor Zita stated he would be presenting a resident to appoint to the Planning Commissions vacancy next week, and hopes to have the support from Council.

**PUBLIC SERVICE ANNOUNCEMENTS**

Mayor Zita made several announcements, (see attached).

**NEW BUSINESS**

Executive Session-Pending or Imminent Litigation (O.R.C. § 121.22) (G) (3) and Section 3.12 of the City of Norton Charter.

At 8:22 PM Mr. Nicolard moved to adjourn the Regular Council meeting to enter into Executive Session for the reasons of pending or imminent litigation as provided in O.R.C. § 121.22 (G) (3) & Section 3.12 of the City of Norton Charter, motion seconded by Mr. Pelot.

Mr. Nicolard invited Mayor Zita, Mr. Kostoff, Mr. Ryland, and Mrs. Starosta to attend and asked the remaining attendees to exit the Council Chambers. Mr. Nicolard noted that Council would reconvene the Regular Council meeting when finished with Executive Session, no action on legislation would be required.

Council returned from Executive Session at 9:11 PM and Mr. Nicolard reconvened the Regular Council Meeting back into session only for the purpose to adjourn the meeting.

**ADJOURN:**

There being no other business to come before the Regular Council Meeting, the meeting was adjourned at 9:11 PM.

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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 February 11, 2013.

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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.