



**NORTON CITY COUNCIL
REGULAR COUNCIL MEETING
MONDAY, FEBRUARY 25, 2013**

Roll Call: Dennis McGlone
Charlotte Whipkey
Scott Pelot
Bill Mowery
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, February 25, 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.

INTRODUCTION OF NEW LEGISLATION:

Mr. Mowery stated that unless there is an objection from Council, he proposes to address the 8 pieces of legislation for the appointments to Boards & Commissions as a group. Mr. Mowery noted that some of the members appointed would have their first meeting tomorrow evening. Mr. Mowery asked the Clerk of Council to individually read each Res. #11-2013 to #18-2013 in general summary text only.

RES #11-2013 A RESOLUTION CONFIRMING THE APPOINTMENT OF DANIEL GREYER AS A WARD 2 REPRESENTATIVE ON THE CITY OF NORTON PLANNING COMMISSION.

RES #12-2013 A RESOLUTION CONFIRMING THE RE-APPOINTMENT OF DALIA SPISAK AS A REPRESENTATIVE ON THE CITY OF NORTON HEALTH ADVISORY BOARD.

RES #13-2013 A RESOLUTION CONFIRMING THE APPOINTMENT OF ED NOBLE AS AN ALTERNATE REPRESENTATIVE ON THE CITY OF NORTON BOARD OF ZONING APPEALS.

RES #14-2013 A RESOLUTION CONFIRMING THE APPOINTMENT OF LARRY CHIAVAROLI AS A WARD 1 REPRESENTATIVE ON THE CITY OF NORTON PLANNING COMMISSION.

RES #15-2013 A RESOLUTION CONFIRMING THE APPOINTMENT OF MARTIN WEST AS A WARD 2 REPRESENTATIVE ON THE CITY OF NORTON BOARD OF ZONING APPEALS.

RES #16-2013 A RESOLUTION OF APPRECIATION FOR THE SERVICE OF DANIEL GREYER FOR HIS SERVICE AS A WARD 2 REPRESENTATIVE OF THE CITY OF NORTON BOARD OF ZONING APPEALS.

RES #17-2013 A RESOLUTION OF APPRECIATION FOR THE SERVICE OF JANET JACOBS FOR HER SERVICE AS A WARD 2 REPRESENTATIVE ON THE CITY OF NORTON PLANNING COMMISSION.

RES #18-2013 A RESOLUTION OF APPRECIATION FOR THE SERVICE OF MARTIN WEST FOR HIS SERVICE AS AN ALTERNATE REPRESENTATIVE OF THE CITY OF NORTON BOARD OF ZONING APPEALS.

Mr. Mowery moved to waive the second and third readings on Resolutions #11-2013 to #18-2013, seconded by Mr. Pelot.

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

Motion passed 7-0.

Mr. Mowery moved to adopt Resolutions #11-2013 to #18-2013, seconded by Mr. Pelot. Mr. Mowery thanked all for those that served and welcomed the new members, if you do the homework and know the issues will, you will do things the right way. Mr Nicolard also thanked those that served.

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

Motion passed 7-0.

Mayor Zita thanked those that are leaving leaving their services and congratulated those new appointments. Mayor Zita called for all new members in attendance to come forward to receive their Oaths of Office.

COMMITTEE OF THE WHOLE

There were no comments from Council at this time.

PUBLIC HEARING AT OR ABOUT 7:15 PM

Ord # 5-2013- AN ORDINANCE REZONING PROPERTY LOCATED AT 4331 CLEVELAND-MASSILLON ROAD, FROM AN R-1 DISTRICT TO A B-2 DISTRICT, AND DECLARING AN EMERGENCY.

At 7: 15 PM Mr. Nicolard temporarily adjourned the Regular Council meeting to convene this Public Hearing. Mr. Nicolard called for anyone in favor of this rezoning to come forward, adding that the applicant has the right to speak first. Mr. Fred Lindquist, 54432 Taylor Road, Norton, Ohio stated he wants to get this property zoned because it has been I-1 and he was tuned down for a B-3 in the past by Council, and now would like to request for B2 zoning.

Mr. Nicolard called twice more for anyone in favor of the application to come forward. Mr. Andrew Lehner, 3853, Easton Road, Norton, Ohio stated he is for this rezoning, it's a good idea for this business use, and should not cause any problems for the residents in that area.

Mr. Nicolard called three times for anyone against the said rezoning to come forward, and no one came forward. At 7:19 PM Mr. Nicolard closed the public hearing and reconvened the Regular Council Meeting back to session.

Mr. Nicolard called upon Mr. Dan Karant, our representative from the Summit County Board of Health. Mr. Karant provided a brief statement (see attached).

COMMUNICATIONS FROM THE PUBLIC-Agenda-Non Agenda Items

Mr. Tom Kornas, 3771 Brookside Drive, Norton, Ohio commented on Mr. Karant's flowery speech. Mr. Kornas stated that the day after sewer project was tabled in July the City contacted the EPA and Summit County Health District to tell them we were not moving forward. Mr. Kornas asked why this was done? It was supposed to be tabled until a study was done on the costs. Let's come up with the cost strategies. Then last year we had an engineer talking about rates, etc. Last week we had a town meeting and all he saw were concerned faces, these residents cant sleep, they are afraid of losing their homes. Mr. Kornas stated that 70% of the septic systems are not failing. Mr. Kornas displayed a 10 pound bag of potatoes because once this goes through and we have to pay this, that is what we will be eating. Mr. Kornas suggested you donate these to a food bank or church. Mr. Kornas stated someone here is getting money from this. Mr. Kornas stated he is demanding to see those financial records of the costs of sewer projects, and under the Ohio Sunshine law he is demanding these records be released, and he has been demanding this since 2008. You may all think that we are made of money out here, well we are not, this is our money, not yours. Mr. Ryland commented on the statements about "someone" calling the EPA after the July meeting. Mr. Ryland stated that was he and he never denied that fact. Mr Ryland stated that he called the EPA because we had a \$7 million DEFA loan that was due and construction was to occur in October 2012, and so he called to cancel that loan and we told them why. Mr. Ryland stated he also contacted Summit County, and told them we could no longer we issue the band-aid fixes for the repairs to their septic systems. The Summit County Health District had been granting these fixes based on the assumption we were moving forward with sanitary sewers. Mr. Ryland stated that the Summit County Health District has a right to know our status. Mr. Ryland noted from that point going forward, these projects were cancelled. Mr. Ryland stated the Mayor and the President of Council was fully aware and was in the office when these calls went down. Mr. Ryland stated that there is nothing underhanded here about what took place or what went down. Mr. Ryland stated the only way to get true costs is to design the project, go have it approved by the EPA and then go out for bid. Once you go out for bid there are restrictions on some of the financial things you can do. We did have the engineers estimates but no one wanted to accept those figures as fact. In the past all projects costs are based on engineers estimates. Until that point we do not know the true costs on any particular project. Mr. Ryland stated that there are many, requirements and steps that must be properly followed by law, such as certified letters of assessments, establishing an Equalization Board, etc. Mr. Kornas inquired about the Greenwich Road assessments. Mr. Ryland noted that the Greenwich Road sewer line was part of the Fire Station project and those residents did receive proper notification and were given ample time to object and that all of that information is on file with the Clerk of Council as theses documents are a public record. This is all of a legal process we as a City have to follow with the Ohio Revised Code.

Mr. Kornas argued that the EPA's claim that seventy (70%) percent of the septic systems are failing is not right. Mr. Ryland corrected Mr. Kornas it, was the Cuyahoga County Health Department that made the statement, not the EPA and was clearly stated in the violation letter from the EPA on March 23, 2009. That is where the seventy (70) percent figure came from. Mr. Kornas also suggested that the 2.5% sewer rate increase from Barberton just came out of thin air. Mr. Ryland also refuted this comment, that figure of 2.5 % is a projected cost increase was approved by the Barberton City Council as the annual sewer rate increase.

Ms. Robin Kerns, 3732 Golfcourse Drive, Norton, Ohio, stated she does not feel we need sewers, and her septic system seems to be operating fine. Why do we have to pay for these sewers when you have an income tax that we still have to pay for sewers? Ms. Kerns asked how many on Council would have to see their yards torn up because of the new sewers. Ms. Kerns asked why Mayor is not required to connect? Mayor Zita stated when the time comes he would connect as required. Ms. Kerns stated that she does not feel Mr. Ryland has the concerns for the citizens because he will be moving to Florida in the near future. Mr. Ryland stated he is following the laws passed in 1972 called the Clean Water Act and the change made in 2007, as you hired him to the position to do; he is upholding the Federal law.

Ms. Audrey Kornacky, 3008 Dutt Road, Norton, Ohio, stated we citizens would like to know if the new sewer lines go in, will the EPA still be checking the ditches and the catch basins? Its been stated that it is not a mandatory thing for the sewers to go in. Ms. Kornacky stated it all comes down to the fact that the ditches have not been cleaned. We know there is some animal feces in these ditches. Ms. Kornacky stated there are a while lot of the residents that could get a simple fix. We all know this and you need to stop trying to pull the wool over our eyes. Ms. Kornacky stated that we feel like you are not really giving us a choice, and you are not even considering that at all. Ms. Kornacky asked when are we going to look at that part of it? Mr. Ryland stated the County does the checking on the ditches, and he understands they only check on flowing water not stagnant. If you really want an answer to that you need to contact the County. The fix and repair has already been looked into many times and the issue is that most lots are not big enough to contain the water. Mr. Ryland stated that if you could confine it to your lot size then you may be able to do a repair, if not it is considered an illicit discharge. Ms. Kornacky stated there a re half a dozen allotments in Norton, which is where all of the problems are coming from, and Mr. Ryland concurred. Ms. Kornacky asked if sewers have to be done why can't we do something about the tax funding be set up for those that are not in allotments now and put in the pump stations and leave the rest of the residents out of this? Mr. Ryland replied its just not that easy and he wished it were.

Dennis Kornacky, 3008 Dutt Road, Norton, Ohio, stated he was here to complement the gentlemen and ladies that do try and speak into the speakers because some of you cannot be heard. Mr. Kornacky stated that the City of Norton is in violation for not cleaning out the catch basins within the City.

Karen Harley, 3432 Harper Avenue, Norton, Ohio, stated she may make some enemies here tonight, and is not crazy about paying for the sewers either. Mrs. Harley stated that it is illegal for anyone that is discharging into the ditches because of the Clean Water Act in 1972, and it is not their (Council/Administrations) fault, it is the law. However, we do need to find ways to help the residents afford this.

If you state that you want to draw businesses here in Norton, its taken you how long to get the Cleveland-Massillon Road rezoning? You cannot even manage to make a decision for one little building. Why would anyone want to come into Norton with business when they face opposition in Administration? Mrs. Harley discussed a comment before from a speaker about communication, well that needs to come from both ends. Ms. Harley stated that several years ago she tried to open a dog grooming business, and was denied because it would cause too much traffic. Really on Harper Avenue? It's not the sewers that keep them out, it's the stonewalling they get from Administration. You really need to take a look at how you are reacting to businesses.

Mr. Paul Tousley, 4536 Garrett Drive, Norton, Ohio, stated he disagreed with Ms. Harley's comments. Mr. Tousley stated the first law of this country is called "WE THE PEOPLE" and we are getting screwed all the way from the top down. Mr. Tousley stated that no one is opposed to having a nice city, and he read the development plans from 2006 and they even wanted a nice bike path. But if you don't have any residents living here what good is that? Mr. Tousley stated all he heard from the engineer presentation last week is revenue, revenue, revenue. I feel that your view is let's see how we can build this machine of the City. My view is how can we take care of the citizens and then take care of the City. Mr. Tousley stated he is hearing from some residents along Greenwich Road that are faced with an \$800.00 or \$900.00 tax increase this year. Mr. Tousley stated that he couldn't afford all of the extra taxes coming to the citizens including the two-percent tax increase by the Federal Government. Mr. Tousley stated in Cincinnati the EPA required they must do E-Check, well Cincinnati told them no way-we're not doing it, and guess what they don't have E-Check today. Mr. Tousley discussed the seventy (70) percent figure out there and the County says its more like fifteen (15) percent. Mr. Tousley stated several months back he suggested the City go back to the EPA with the numbers from Summit County and asked if any has bothered to do that? Mr. Tousley discussed Mr. Ryland's statement that we cannot give you the cost until after we do the project. Mr. Ryland stated that is not what he said. What he said was that we do not have a final cost on our projects until the project has been bid and accepted by this Council. Mr. Tousley asked how can you ask me to say go ahead when we have no idea how much it's going to cost me? Mr. Ryland replied that we do have an idea, it is called the engineers estimate and we have that number today. Until it is all broken done in detail, he does not know the exact cost per home. Mr. Ryland noted that it's the final cost we do not have until the job is fully completed and all bills are in. Mr. Tousley stated that last July that cost estimate was around \$12,000.00 and now its more like \$18,000.00 to \$19,000.00. Mr. Ryland disagreed, there have been no assessments issued by this City and there has never been an \$18,000.0 assessment sent out to anyone for any project. Mr. Ryland suggested Mr. Tousley come in and look over the records of what has been sent out.

Mrs. Pat Reese, 4052 Wadsworth Road, Norton, Ohio, discussed her reasons the sewer project should not be implemented. Ms. Reese stated she is concerned with the costs, out of pocket expenses, tap in fees and surcharges, increases in utility bills and a monthly sixty-one cents per frontage foot maintenance fee. Ms. Reese stated she objects to the potential purchase of the Summit County sewer lines, these are old lines, and they are going to fail sooner than later whose repair will fall to the citizens. Ms. Reese stated the citizens have advised you previously that there is funding available out there. Mr. Nicolard explained the reason we are considering the purchase of the Summit County sewer lines. If we purchase the lines, we one the \$8 million dollar project, if we don't purchase the current lines, they (Summit County) will set all of the rates, fees, etc. as we have to turn over the lines after completion to the County.

If we own the lines we will then control our own destiny. Ms. Reese questioned how is it that you feel that Norton can do this better than the City of Green who has been with Summit County. We cannot even maintain our roads, so how can you tell us we can do sewers. Ms. Reese stated that in 2012 the road money was not used because the costs were too high, what will those costs be in 2013? Mr. Ryland stated that \$430,000.00 would be available for the Road Program for 2013 which was left over from 2012. Ms. Reese stated that there is no new money for 2013, and Mr. Ryland and Ms. Whipkey both concurred. Ms. Reese stated now you see why the residents are upset. Let's be a little bit more up front because we don't know your budget, but we know our budgets. Mrs. Reese that that earlier Ms. Kerns had mentioned the tax credit from 2009; that money should be somewhere. Mrs. Reese stated you need to understand the ramifications to the young and old residents.

CONSIDERATION OF MINUTES:

Committee Work Session of February 19, 2013, continued to March 11, 2013.
Council Meeting of February 19, 2013, approved as submitted.

REPORTS FROM OFFICERS, BOARDS AND COMMISSIONS

Mayor Zita asked Ms. Spisak to stand and be recognized for her re-appointment to the Norton Health Advisory Board.

INTRODUCTION OF NEW LEGISLATION CONTINUED:

ORD #8-2013

Mr. Pelot offered Ord. #8-2013 for its first reading and asked the Clerk to read it:

AN ORDINANCE RATIFYING AND ESTABLISHING A UNIFORM ALLOWANCE FOR PART-TIME PATROLMEN OF THE DIVISION OF POLICE AND AUTHORIZING THE PAYMENT OF UNIFORM ALLOWANCES; AND DECLARING AN EMERGENCY.

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

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

Motion passed 7-0

Mr. Pelot moved to adopt Ord. #8-2013, seconded by Mr. Nicolard.

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

Motion passed 7-0

ORD #9-2013

Mr. Pelot offered Ord. #9-2013 for its first reading and asked the Clerk to read it:

AN ORDINANCE TO AMEND SECTION 660.03 OF THE CODIFIED ORDINANCES OF THE CITY OF NORTON, OHIO; AND DECLARING AN EMERGENCY.

First reading only.

RES #10-2013

Mr. McGlone offered Res. #10-2013 for its first reading and asked the Clerk to read it:

A RESOLUTION TO APPROVE THE PLACEMENT OF FARMLAND LOCATED AT 3330 REIMER ROAD IN AN AGRICULTURAL DISTRICT.

First reading only, a Public Hearing will occur on March 11, 2013.

INTRODUCTION OF PRIOR LEGISLATION

ORD #5-2013

Mr. McGlone offered Ord. #5-2013 for its second reading and asked the Clerk to read it:

AN ORDINANCE REZONING PROPERTY LOCATED AT 4331 CLEVELAND-MASSILLON ROAD, FROM AN R-1 DISTRICT TO A B-2 DISTRICT, AND DECLARING AN EMERGENCY.

Mr. McGlone moved to suspend the third reading since we had not objections from the residents, seconded by Mr. Bergstrom. Mr. Mowery stated he was not sure all residents on Trotter were made aware of this meeting and would rather see this go three readings. Mr. Mowery asked Mr. Ryland if this business is currently in operation or has it been halted since our last meeting? Mr. Ryland indicated its currently being used for storage and parking their trucks. Mr. Ryland stated that this week the sign was removed as you directed him to address last week. Mr. Ryland stated it was not properly zoned as a B2 at this point. Mr. Bergstrom asked if letters were mailed out to the residents, and Mrs. Richards noted letters were mailed to the required property owners and the Planning Commission also had a public meeting on this as well.

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

Motion passed 6-1.

Mr. McGlone moved to adopt Ord. #5-2013, seconded by Mr. McGlone.

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

Motion passed 6-1.

ORD #6-2013

Mr. Pelot offered Ord. #6-2013 for its second reading and asked the Clerk to read it:

THE ORDINANCE TO AMEND THE APPROPRIATIONS FOR THE CURRENT EXPENSES OF THE CITY OF NORTON FOR THE FISCAL YEAR ENDING DECEMBER 31, 2013 AND DECLARING AN EMERGENCY.

Second reading only. Mrs. Starosta asked for the suspension of the thirds reading and adoption as she requested in her original memo as this was omitted on the agenda. Mr. Pelot asked for clarification. Mrs. Starosta explained this is for small budgetary changes, for web casting of council meetings, police department vehicle purchase, the Fire/EMS Department needs to replace a truck and to clean up a formula error in Fund 108 and 109. Mr. Pelot asked if the Police Dept. request is for a automobile and Mrs. Starosta replied, yes it is for a cruiser.

Mr. Pelot moved to waive the third reading as Mrs. Starosta has requested, seconded by Mr. McGlone.

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

Motion passed 7-0.

Mr. Pelot moved to adopt Ord. #6-2013, seconded by Mr. McGlone.

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

Motion passed 7-0.

ORD #7-2013

Mr. Bergstrom offered Ord. #7-2013 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. Bergstrom stated this project is for the mowing of I-76 for the 2013 season.

UNFINISHED BUSINESS:

Mr. Nicolard asked Council members to firm up date for Annual Workshop of Monday, April 29, 2013 at 6:00 PM. Mr. Nicolard stated we would need some items for discussion and a mediator. Mr. Nicolard noted he has selected a speaker from the Ohio Municipal League to present on the differences from a Charter City, a Statutory City and a Township so that everyone is aware of the different constraints of each designation. This representative would need about ½ hour for his presentation. Mr. McGlone was discussing Mrs. Reese's, comments about all of the assessment costs, and asked Mr. Ryland if we cant compose some rough figures on what the residents on Oak Street and Greenwich Road paid. Mr. Ryland stated that would not be difficult as the assessment costs are a public record, and we have a posting for the tie in fees. Mr. Bergstrom stated that he believed the engineer can average in a specific size of line to the home, and this way the residents would have a simple equation to follow.

Mr. Ryland reminded everyone these would be estimates not the true cost. Ms. Whipkey asked about a moratorium on the tap in fees and Mr. Ryland stated yes we did but it had expired. Ms. Whipkey stated she thought there was another one issued that is still in effect. Mrs. Richards relied their were two different projects and two specific time frames on these project from the official date of completion the residents had one year to connect. Ms. Whipkey asked about the waterline project on Norton Avenue, and Mr. Ryland replied there were some problems with extremely hard rock in that area that has broken some drilling equipment so we have authorized for them to open up the roadway. Ms. Whipkey asked if there is any idea when the residents will have this completed and Mr. Ryland replied not at this time but he would look into that, the decision to cut into the roadway was just made earlier today. Ms. Whipkey clarified that the citizens in that area are not to be charged and asked if its still the case and Mr. Ryland replied that's correct, they will not be charged.

NEW BUSINESS:

Ms. Whipkey stated last week she had a conversation with the Solicitor last week about an issue on Attorney Client Privilege. Mrs. Whipkey stated that she told Mr. Kostoff if she was wrong about that she would apologize, well she found out that she is not wrong. Ms. Whipkey said it is in the minutes that Mr. Kostoff read the opinion verbatim and it is in the minutes of January 28, 2013. Ms. Whipkey stated that as far as she was concerned Mr. Kostoff did violate Attorney/Client Privilege and asked for his termination because she does not feel we can trust you. Mr. Kostoff, you violated our Attorney/Client privilege. Then you practically accused me of sitting in an Attorneys office writing up documents that were sent to the City concerning a lawsuit of which I had no part of, because you did not understand what she was saying. Ms. Whipkey stated that Mr. Kostoff had blamed his secretary and that is not an excuse, she works for you. You are the Attorney and are in charge of your staff. You initiated this opinion, you wrote it, you bought it, you owned, and you said it was Attorney/Client privilege. You gave that letter to each of us Council members in an Executive Session in a sealed envelope with Attorney/Client Privilege written on it. Read the minutes verbatim and it was not paraphrased as you stated. Ms. Whipkey stated she wants to see Mr. Kostoff's immediate resignation. Mr. Mowery commented about his town hall meetings on the third Thursdays of every month from 6-9, and urged the Administration and other Council members to attend. Mr. Mowery stated this would be informative and beneficial to all that could attend.

PUBLIC SERVICE ANNOUNCEMENTS:

Mayor Zita read several announcements (see attached).

ADJOURN:

There being no other business to come before the Regular Council Meeting, the meeting was adjourned at 8:31 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 March 11, 2013.

Karla Richards, CMC-Clerk of Council