



**NORTON CITY COUNCIL  
REGULAR COUNCIL MEETING  
MONDAY, MARCH 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-Excused  
Laura Starosta  
Pete Kostoff  
Karla Richards  
Ann Campbell

The Regular Council Meeting convened on Monday, March 25, 2013 at 7:01 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:**

**EXECUTIVE SESSION FOR THE FOLLOWING REASONS:**

At 7:02 PM Mr. Nicolard moved to enter into Executive Session for the following reasons, seconded by Ms. Whipkey. Mr. Nicolard also invited Mayor Zita, Mrs. Starosta, and Mr. Kostoff to attend.

- A. Employee Compensation as defined in O.R.C. § 121.22 (G) (1) & Section 3.12 of the Norton City Charter
- B. Pending Litigation as defined in O.R.C. § 121.22 (G) (3) & Section 3.12 of the Norton City of Norton Charter
- C. Purchase of Property as defined in O.R.C. § 121.22 (G) (2) & Section 3.12 of the Norton City Charter

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

Motion passed 7-0. Mr. Dave Spice asked if he and any other members of the press could also attend, and Mr. Nicolard replied no. Mr. Nicolard noted that the members of Council & Administration would adjourn to the Clerk of Council's office for the Executive Session. At 7:59 PM, Mr. Nicolard closed the Executive Session and reconvened the Regular Council Meeting back to order.

### **COMMITTEE OF THE WHOLE CONTINUED:**

Mr. Mowery moved to add Ord. #25-2013 Charter Amendment to tonight's agenda, seconded by Mr. Pelot. Mr. Mowery stated that we are under a specific time constraint for the submission either too early or too late and we need to get this on for a first reading tonight. Ms. Whipkey asked why this is on for August 6, 2013 and a Special Election? Mr. Nicolard stated either the Clerk of Council or the Law Director could explain. Mrs. Richards explained that due to the time frame of when this was submitted to the City, we cannot submit it any sooner than 60 days prior to or any longer than 120 days. If we go beyond that it would set a Special Election just for the City of Norton at extra costs. Ms. Whipkey questioned that by going with the August 6, 2013 date that it's not going to cost us any extra? Mrs. Richards explained we still have costs involved. Ms. Whipkey stated she believed the 60-120 days is in the Constitution and Mrs. Richards concurred. Ms. Whipkey stated the Constitution sets a minimum of rights not denied the people, but if we were to move this forward put it on the agenda and amend it for the May ballot, couldn't we do that. Mr. Kostoff replied no because you missed the window for the Board of Elections. Ms. Whipkey asked about a prior Charter amendment that allowed for an additional fifteen (15) days for filing for the military. Mrs. Richards stated that related to candidate positions and has nothing to do with this requirement. Mr. Mowery asked about the costs for the election and Mrs. Richards indicated that for the August 6, 2013 Special Election our estimated costs are around \$10,400.00 and that was a low estimate. Mrs. Richards indicated that if we go beyond that and pick another date, it will cost at least \$13,600.00. If we go all three readings we will just make the filing deadline for the August 6, 2013 election. Ms. Whipkey stated there really is no reason to take it all three readings and Mrs. Richards indicated that is up to Council. Ms. Whipkey stated since it was presented by the people she has no problem moving this along. Ms. Whipkey asked about putting this on the Primary in September, and Mrs. Richards replied that won't make the deadline either because it's past the 120 days. Ms. Whipkey asked about the Norton City School levy and their costs would be about the same, and Mrs. Richards stated we still have our own election costs regardless. Mr. Mowery clarified that the petition is correct and Mr. Kostoff added we were told there were sufficient signatures.

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

Motion passed 7-0.

### **COMMUNICATIONS FROM THE PUBLIC-Agenda and Non-Agenda Items**

William Paluch, 3740 Shellhart Road, Norton, Ohio, stated that last week he had asked why these meetings were not televised, and no one would give him any answers, it was like talking to a wall. Mr. Paluch stated for the record that there will be filed in Courts a mandamus action ordering you to have these meetings televised. Mr. Paluch also discussed an official action about the Law Director and that he would be filing with the Disciplinary Council of Ohio on ethics violations because he violated every one of those people's votes. Mr. Nicolard gavelled Mr. Paluch stating that although that's his right, we will not discuss it here. Mr. Paluch stated that he would see you all in Court and let the Court decide if this he is right or wrong. Mr. Paluch stated he would be damned if you are going to take his rights away. That's the same thing you are doing with the sewers, you are taking the people's rights away. He said he is not about to let you do that and he would fight the sewer issue. We cannot afford this and we have told you that and you still want to go on and push it through. Mr. Paluch stated if you like your jobs then you need to start listening to the people, because they will decide when the election comes up and decide if they want to keep Mayor Zita, and maybe they will be picketing at Acme.

Mr. Larry Perkins, 3844 S. Neitz Drive, Norton, Ohio, read letter relating to the definitions of televised meetings, and current choices, (see attached).

Mr. Tom Kornas, 3771 Brookside Drive, Norton, Ohio, commented about when all of you run for election or re-election, and you want to put signs in our yards, you print flyers and hand them out, seeking positive stories in the press, telling everyone what a good job you will do. Then why is it that after all the campaign promises, then you become isolated and we don't see you unless we come out here at the meetings? Mr. Kornas stated that when it comes to something as important as a sewer project we should be notified in person, not by certified mail telling us our taxes are going up \$1,000.00 and more with the 27% surcharge. You need to face the people again like at that town hall meeting last July. If you don't want to face the people, then resign and get out, we can always find replacements. You love to talk to people when running for office, but you need to talk to us when you're in office. Mr. Kornas suggested that we have the Finance Director put up a power-point display and show us exactly what is being paid on the assessments. Why are you hiding this information, he has been asking for that information. Mr. Kornas implied that everyone is getting money, show that on the power point, Mr. Kornas stated it's easy to do and he knows you have a database, so why can't you do that? Why don't you agree to have quarterly meetings, or at least talk about it. Mr. Kornas asked Mayor Zita if he would like to have a quarterly meeting and Mayor Zita replied sure, why not but at his convenience according to his schedule. Mr. Kornas stated our Law Director has billed the City of Norton over \$450,000 in the last four (4) years. This needs to be explained and explained in the newspaper, and at the quarterly meeting.

Robert Copen, 2518 Sue Lane, Norton, Ohio, called attention to Ord #22-2013, and that you have no problems passing other ordinances with one reading and now you have a truck where the current vehicle has a frame rusting out and the employee is still driving this daily and risking his life in this unsafe vehicle. They asked for this last November and here it is almost April and Mr. Copen requested that Council waive the 3<sup>rd</sup> reading tonight so they could stop risking their lives in that old vehicle. Mr. Copen questioned what the liability would be if they he were injured before you get this approved? Mr. Copen discussed the potential of an accident and the liability of a lawsuit that could come out of that because you knew of its poor condition and left it in service. Mr. Copen stated that if he were having a heart attack and this older vehicle is in route to him and breaks down, his family would own this City. Mr. Copen urged Council to please waive that third reading and get that vehicle ordered.

Andrew Lehner, 3853 Easton Road, Norton, Ohio, spoke about things he has heard on the website watching the Council meetings. Mr. Lehner stated he supported Mr. Paluch's comments about the televised meetings and the voters asked to have it both ways for televised meetings and the web. It's not being done and your not listening to us. Mr. Lehner stated he has lived here since 2001 and this is the first time has never seen anything like this in his life with you not listening to the people who voted you into office. Mr. Lehner stated this is an election year and you should be thinking about that. Mr. Lehner discussed the sewers and stated that yes the ball is rolling but it's rolling at us-the residents. Mr. Lehner stated every time you get money into your pockets, you burn it, and what about us? Mr. Lehner stated that we came here to speak the truth and he can see through lies, and he can tell who is lying and who is telling the truth.

Paul Tousley, 4536 Garrett Drive, Norton, Ohio, also spoke about our rights and his principal in this whole thing is his freedom. Mr. Tousley cited several quotes from our founding fathers relating to the liberties of the people (see attached). Mr. Tousley discussed stealing and what is going on with the sewers is stealing. Mr. Tousley talked about the last petition for doing a credit roll back with over 800 signatures and because of a technicality it was thrown out. Mr. Tousley suggested you put the sewer issue to a vote of the people.

Mr. Tousley stated you have a responsibility and every person in here was born to freedom it was not earned and it needs respect and your should take your role seriously.

Ms. Pat Reese, 4052 Wadsworth Road, Norton, Ohio, asked when is this Administration going into put a public apology in the paper to Mr. Roman of Romaster? Ms. Reese stated this needs to be published and needs to be done immediately. Ms. Reese discussed the cost of the sewers and the MOU at a cost of \$2,000,000.00. This fee does not even cover the costs of employees, etc., and questioned where does this come from? Ms. Reese stated the taxpayers will be impacted by the costs and are always informed of additional costs after the fact. We are astounded that some Members of Council do not read things and just go along with whatever the Administration is pushing.

Cindy Prather, 2783 Shellhart Road, Norton, Ohio, stated she knows you are all under a lot of burden and she is praying for all of you.

Ms. Susan Dayton 4474 Cleveland-Massillon Road, Norton, Ohio, and owner of Dayton Nursery, stated that she also represents a lot of the business and residents along Cleveland-Massillon Road that just learned of the project being started now. Ms. Dayton stated that we had to deal with the road closing for the bridge work and now we have this waterline. We are all in a depression and we need your help and are asking for you to put this on hold. We have never asked for help before. This is Easter week for her and she does not even know how to keep orders. Ms. Dayton stated her business is critical from April-July. Ms. Dayton stated this is really going to affect all of us in a hard way and she had hoped it would be done in a way to offset the effect. Please delay this project until at least August so that our businesses can thrive. When the City has done things in the past they always did things in the off season. We just want continue to run independent and continue to run our own business. Ms. Dayton asked if we can have your support? Mayor Zita stated he would address Ms. Dayton shortly under Reports from Officers/Boards and Commissions. Ms. Dayton stated we still have not recuperated from the recent bridge repair. We need you help now to stall that project. Can she ask now for support?

Mr. Richard Gardner 4556 Roop Avenue, Norton, Ohio, asked how we are going to handle all of the unused office equipment, and Ms. Whipkey stated we don't know that at this point. Mr. Nicolard reminded everyone that the recent Charter Amendment permitted this. Mr. Gardner stated there is a proposal for a new fire truck, which may be needed, and asked wasn't that covered in the Fire Levy? Mr. Nicolard stated that this vehicle was budgeted to come out of the Fire Dept. levy and not the General Fund. Mr. Gardner thanked Mayor Zita, Mr. Kostoff, and members of Council for wasting our time here for nearly on an hour in Executive Session and expressed his issues with this being at the beginning of the meeting instead of the end like you normally do. Mr. Pelot stated the Executive was listed on the agenda, and posted in the 4 wards and on the web site. Mr. Nicolard stated that it was necessary to hold the Executive Session at the beginning of the meeting because issues may needed to be added to the agenda, which can only be done under Committee of the Whole, which is at the beginning of the meeting.

### **CONSIDERATION OF MINUTES**

Minutes of March 11, 2013 Council Meeting approved as submitted.

Minutes of March 18, 2013 Committee Work Session, deferred until the next meeting.

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

Mayor Zita addressed the concerns about the Cleve-Mass. waterline project, and that we met last Friday with the officials in Barberton, and there were also some residents present, in addition to Mr. Mowery.

Mayor Zita stated that we need to look at some issues, such as the fact that this is a joint project with Barberton and Norton, and that Barberton is the lead City on this project. It was initially set to start last fall and has been delayed for various reasons. We have moved forward as timely as possible, and in the next few days he will be contacting Barberton to see what can be done as far as a delay. Mayor Zita stated that Barberton's project consisted of a sewer line replacement in addition to the waterline. Ms. Dayton stated there would have been less impact if this was done in November. Ms. Dayton stated we have been hit twice already with shutdowns and delays, and now we are facing another. Mayor Zita explained that the waterline project is to start after April 1, 2013 and is not to be a total shut down in that area is known as a mobile construction site. There was discussion about possibly working through the night, and Mayor Zita noted that you have to bear in mind we also have residential property there as well. Ms. Dayton asked who is going to reimburse her and the other business for all of their losses Mr. Bergstrom stated that this is a OPWC project and sometimes you are required to spend that funding within a certain time. If there is any kind of a delay in the project there may be costs involved and we need to know the numbers. Ms. Dayton noted that Kenmore Construction had stated at the meeting that they are willing to work with the businesses and their impact. Mayor Zita stated he hopes to address this as soon as possible but it would come at a cost. Mr. Mowery stated that we have businesses that are asking for our help and none of them can afford to take this hit. We need to delay this project until November, that is all they are asking for here, and there is not doubt this will kill businesses. Ms. Whipkey stated this would have an impact. Mayor Zita discussed the disposal of property and all we are doing at this point is compiling what needs to be disposed of and will take a while. We have not arrived to the point of how we will dispose of this property, but a yard sale is not going to take place.

#### **PUBLIC HEARINGS-None**

#### **INTRODUCTION OF NEW LEGISLATION**

\*\*Added during Committee of the Whole

##### **ORD #25-2013**

Mr. Mowery offered Ord #25-2013 for its first reading and asked the Clerk to read it:

AN ORDINANCE SUBMITTING TO THE ELECTORS OF THE CITY OF NORTON  
A PROPOSAL TO AMEND THE CHARTER OF THE CITY; AND DECLARING AN  
EMERGENCY.

First reading only.

#### **INTRODUCTION OF PRIOR LEGISLATION**

##### **ORD #22-2013**

Mr. Pelot offered Ord. #22-2013 for its second reading and asked the Clerk to read it:

AN ORDINANCE AUTHORIZING THE PURCHASE OF A 2013 FORD F-150 PICK-UP  
TRUCK FOR THE FIRE DEPARTMENT AT A COST NOT TO EXCEED \$27,363.66, AND  
DECLARING AN EMERGENCY.

Mr. Pelot moved to waive the third reading, seconded by Mr. Conklin. Mr. Mowery asked how long before delivery and Mr. Kostoff stated that once the ordinance is signed a purchase order could be processed immediately.

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

Motion passed 7-0.

Mr. Pelot moved to adopt Ord. #22-2013, seconded by Mr. Conklin.

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

Motion passed 7-0.

### **ORD #23-2013**

Ms. Whipkey moved to table this indefinitely, stating that by doing so this dies on the vine and we will maintain the contract with the current company, seconded by Mr. Pelot. Ms. Whipkey stated there are definite duties spelled out in the contract, which we should have a copy of later on. Ms. Whipkey noted that Mayor Zita recently met with Mr. Roman and she discussed the issues with the recent damages to the baseboards at the Community Center. Mayor Zita stated we discussed that issue in addition to the contents of the contract. Mayor Zita stated there was discussion on the paint scraped off of the molding and would get painted at this point and probably removed and replaced. Ms. Whipkey asked because the molding was vinyl and the solution itself was enough to do the damage and it was more an error of the vinyl being painted. Mayor Zita stated on that particular thing, yes and noted we are in the process of resolving things. Ms. Whipkey discussed the resolution of apology and the discussion of this coming from Council. Ms. Whipkey stated the Board of Control and the Administration owe the greater apology.

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

Motion passed 7-0.

### **ORD #9-2013**

Mr. Pelot offered Ord. #9-2013 for its third 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.

Mr. Pelot moved to adopt Ord. #9-2013, seconded by Mr. Conklin. Ms. Whipkey stated she feels this is invasive towards the people and in the position that it would be abused. Mr. Mowery stated it would put the citizens in a catch 22 position. Mr. Pelot stated this was directed at the foreclosure where the bank just throws what is left out in the front yard. This allows the city crews to go in and clean this mess up and put into dumpsters.

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

Motion passed 5-2.

### **RECONSIDERATION OF PRIOR LEGISLATION**

#### **ORD #102-2012 (Tabled on 1-28-13)**

Mr. Conklin moved to remove Ord. #102-2012 from the table, seconded by Mr. Bergstrom.

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

Motion passed 5-2.

**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.**

Mr. Conklin stated that due to lack of support at this time he moved to send this back to Committee for further discussion, seconded by Ms. Whipkey. Mr. Bergstrom agreed and wanted to be sure Council is confident about the facts as they were presented in a way to move forward. Mr. Bergstrom stated he was very clear in his campaign that he supported sewers but only in the right way. Mr. Bergstrom stated this is a tool in moving forward, and if it's appropriate then we will have control. Mr. Bergstrom discussed the \$2 million dollar price and that rates would go up, and was not sure where this reference came from. Mr. Bergstrom stated we had asked the Engineer to provide the scenario of being able to pay this back and were told yes, but he does not agree to table it, we need to keep this in the forefront for the future. We were elected to work for the people, however it's not necessary for putting everything we do on the ballot. Mr. Bergstrom questioned if we need to have Summit County come in tell us what their plans and process are. Mr. Nicolard asked about setting a date and Mr. Bergstrom suggested having the time to ask Summit County come in, and Mr. Conklin stated he would work with the Clerk and Summit County and select a date in the near future. Mr. Kostoff commented about the the history of the readings and the concerns or comments that if we pass this MOU we are bound to purchase this, which is not true. Mr. Kostoff read Section 3 of this legislation which clearly spells this out. Mr. Kostoff noted that when this was first brought out by the previous Administration, the MOU was to be the first step that may lead you to a formal contract. Mr. Kostoff stated that if the MOU does see the light of day, it provides the City the ability to make its due diligence to look over all issues. The original intent was for the first time in the City's history, to put the City on the negotiating table to set its own rates for the residents. Common sense would dictate that when you remove the middle man the costs would be different. This was not intended to be a blind purchase. Mr. Kostoff stated its clearly in the ordinance and the citizens may request copies of that ordinance, and it also is stated again in Section 2 of the MOU. Mr. Conklin stated that however Council and residents feel, he still wants to see decisions made here in this Council chambers, not made by Summit County, or in Columbus. Mr. Conklin expressed his concerns that if Council does not want to pursue this, do we open the door for the EPA to come in and dictate and that would not be in our best interest and those decisions on assessments would not be decided here, they would be decided in Summit County or the City of Akron. Mr. Conklin stated he wants decisions made here, not somewhere else.

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

Motion passed 7-0.

**UNFINISHED BUSINESS**

Ms. Whipkey discussed the Cleve-Mass Road waterline project, which gave her the opportunity to go back to several years of legislation and she is confused. In Ord. #95-2012 which was passed in March due to a financial error, and Ord. #95-2012 in December that we share the 50 percent share on costs, and when you look at the Ord. #95-2012 the 50% has been removed, its not even mentioned. With #95-2012 our price went up \$34,000.00+ and the cost of the project costs were also increased. Ms Whipkey stated that she feels this really needs to be look at again because it looks like were overcharged nearly \$19,000.00.

Mr. Pelot recalled asking Mr. Ryland about the cost increase and if that was shared with both communities and he thought at the time Mr. Ryland had concurred. Ms. Whipkey stated we need clarification on this, adding that no other Barberton businesses are affected by this other than Twig's Restaurant. Mr. Conklin discussed the poor quality of the video on line after watching it in the Clerk of Council's office and at home, it looks like watching a set of q-tips. Mr. Conklin stated that if a 16 yr .old on You-Tube can do a better job taping a friend jumping off a roof, we need to look into improving this.

### **NEW BUSINESS**

None

### **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 9:27 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 Monday, April 8, 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.