



## COMMITTEE WORK SESSION JANUARY 21, 2014

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

Also Present:                            Mayor Mike Zita  
   Laura Starosta  
   Karla Richards  
   Ann Campbell

The Committee Work Session convened on Tuesday, January 21, 2014 at 7:00 PM, in the Council Chambers of the Safety Administration Building. The meeting was called to order by Charlotte Whipkey, Vice President of Council. Following a salute to the flag and the Pledge of Allegiance, there was a moment of silent reflection.

### **General Topics of Discussion:**

#### **Storm Water Services-Summit County Public Health-Ryan Pruitt**

Mr. McGlone noted in November we discussed this earlier and that Mayor Zita asked for the County to speak tonight. Mayor Zita indicated that in December there were some questions from Summit County to be addressed, and turned this discussion over to Mr. Ryan Pruett, Mr. Hasenyager, and Ms. Caroline Karentis from Summit County Public Health for the details. Ms. Whipkey addressed the members and asked if any communities use private consultants and Mr. Hasenyager replied Macedonia and Stow use private firms. Ms. Whipkey asked in what capacity and Mr. Hasenyager replied he believed they do the mapping of the outfall testing and reporting the results to the communities and those communities submit that information in their annual reports to the Ohio EPA. Ms. Karentis explained the differences are that with our agency when we find a nuisance complaint we are able to investigate that and locate the source, however the private firms do not. Ms. Karentis added that some communities do it themselves. Once a nuisance issue is discovered we have jurisdiction to take over from there. Mr. Tousley asked about Chapter 1250 and it is standard for all of the communities? Mr. Hasenyager explained that this was implemented about 5-6 years ago from Ohio EPA best practices model and we modified it somewhat. Mr. Tousley asked of those other communities that contract with Summit County agreed to this and Mr. Hasenyager replied yes. Those communities that do their own testing or contract with another company must adopt their own legislation even if the County has their own ordinance.

Mr. Hasenyager noted the EPA also has recently required that City's have adoption as well. Ms. Whipkey clarified that Norton has their own illicit discharge legislation and asked which agency enforces that and Mr. Hasenyager suggested you check with your legal department on that, and that the City could enforce what you have and we would address it under our enforcement. Ms. Whipkey asked about the contract and if it was negotiable or do we have to take it or leave it? Mr. Hasenyager stated like with the City of Twinsburg we are not doing the sampling, only the illicit discharge sampling. There was discussion on the City's right to cancel or opt out and Mr. Hasenyager stated the contract would state the City could cancel with proper notice, a 60 day opt-out clause, at any time and we would just bill for the services up to that time. Mr. Hasenyager stated that in the case of the billing was done on a consistent basis throughout the County based on the cost of monitoring the outfalls, sampling and testing, and detection and elimination of illicit discharges. Ms. Whipkey stated she had spoken with Mr. Rodgers today and that he had spoken with Mr. Pruett relating to identifying the illicit discharge and was told that your agency would go back to the original source. Mr. Hasenyager stated as part of the contract in front of you, we would be tracing the sewers for the contamination point. Ms. Whipkey indicated it seems like Nash Heights was condemned on the outfalls alone. Mr. Pruett explained the issue with Nash Heights is that most of the lots are small with poor soil conditions, the need for repairs in the near future of five years or so, and the proximity of sanitary sewers in that area. Mr. Pierson clarified that ultimately you are the enforcement agency and Mr. Pruett concurred, with Ms. Karentis adding in regard to failing septic systems. Mr. Pierson asked then how is it that all of the outfall testing results in the Nash Heights area passed with small lots? Mr. Pierson stated there were three (3) areas that were tested; Shellhart, Weyrick area and these did not fail. Mr. Pruett noted there were nine (9) areas tested. Ms. Karentis noted we have high levels in six (6) of the outfall areas tested in Nash Heights. Mr. Hasenyager stated you had a total of nine (9) tested, six (6) were determined a nuisance and three (3) were not. Mr. Pierson noted that if proper enforcement was done some of these issues would be eliminated. Ms. Karentis explained their general operating procedures when they find a failing outfall. Ms. Karentis stated that they check the quality of the effluent from the septic systems first. If we check and they are alright we then check the on lot systems. We generally look at all systems on that street that could be possibly discharging into that outfall and have it repaired like with an aerator or a mechanical fix, or replace the system. This is our general operating procedure for all areas, not specifically to Nash Heights. Mr. Pelot asked what authority do you use to ensure follow up and repairs have been made? Mr. Hasenyager replied through the Administrative Code and as the local health district we have responsibility to follow up and see the repairs have been implemented. Mr. Tousley discussed Chapter 1250.05 B1 and stated he had a problem with this section which states: *"This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection."* Mr. Tousley asked what would happen this year if you make someone correct an illegal connection and the EPA or someone else changes the law in 2015. If he is reading it right, it sounds like they would have to fix it again at their cost under a newer law. Mr. Hasenyager replied that text was referring to systems in place prior to the rules being in place.

Mr. Hassenyager stated that right now all septic systems without a NPDES permit are considered illicit connections to the storm system. We have 32,000 septic systems and we know there are about 9,000-10,000 that are discharging systems. Of those maybe 1,000 do have an NPDES permit and were replaced since 2007. The other 8,000 could be considered illegal connections, illicit connections. That does not mean they all need upgraded and replaced. The EPA has put together a general permit for the new systems that went in, but not for the existing systems. Our judgment on the existing systems would be whether or not they are functioning, if the effluent is reasonably clear and reasonably odorless as a discharging system is not odorless, it should not have a strong odor to it. Also under Section 3718 of the Ohio Revised Code it talks about conditions that constitute a nuisance and prohibits the Health Dept from requiring a remedy to something that is not considered a nuisance. We are required to allow the homeowner to make incremental repairs, like the sump pump to prevent local abuse from authorities, as opposed to replacing the whole system. We take the nuisances on a worse case scenario and process as best we can by prioritizing each situation. If it affects a resident on a daily basis like a system running onto a neighbor versus discharging into a ditch would be more a serious situation. Mr. Tousley noted he is not questioning the staff, just the document before us and the numerous references to the date of 2007 and asked if this date could be inserted within the document? Mr. Tousley stated he felt a lot of what he is reading is so open ended and there needs to be a limit on a cost for the regulations, a limit for entering private property, etc. Mr. Tousley stated it's his responsibility to protect the residents and while campaigning he had talked to an elderly lady that had a man from their department show up four or five times and that to him was harassment. It seems endless as to how a resident could be impacted. Mr. Hasenyager stated there could be cause to come back and take a look at this, since it was created 6-7 years ago. We do not really have issues with commercial uses; this is more intended for a private use and perhaps could be revised. Mr. Tousley read that if any is invalid or unconstitutional that these requirements do not apply. Mr. Hasenyager stated that is mostly standard language, and even if one paragraph may be invalid the whole document is not void. McGlone noted that Ord. #115-2013 is on next Monday's Council agenda for the third and final reading.

#### Agricultural District Renewals

Mr. Grether indicated we have four (4) renewal applications and discussed the following parcels: Edward & Mary Soltis-5040 Fairland Road, Hugh Quinn-3456 S. Hametown Road, William McKown-3296 Clubside Drive, Janis & Ronald Louis-3856 Greenwich Road. Mr. Grether moved to place these four (4) applications on Councils next agenda for a first reading and noted the public hearings are set to be held at the second reading, on February 10, 2014 at 7:15 seconded by Mr. Tousley.

Roll Call: Yeas: Grether, Tousley, Pelot, McGlone, Pierson, Whipkey  
Nays: None

Motion passed 6-0.

M.A.D. Council Representative

Mr. Tousley indicated that Ms. Whipkey is interested in serving as Councils representative on the Board and that we need to have a unanimous vote on this.

Mr. Tousley moved to place legislation on Councils next agenda to appoint Ms. Whipkey to the M.A.D. Board, seconded by Mr. Grether.

Roll Call        Yeas: Tousley, Grether, Pelot, McGlone, Pierson, Whipkey  
                     Nays: None

Motion passed 6-0.

Council Rules

Mr. Tousley noted the change in Rule 403 on page #11, as requested. Mr. Ms. Whipkey discussed Rule 504-Videotaping of Council Meetings and that this conflicts with the Charter due to the recent Charter change. Ms. Whipkey noted that Council does not have a choice in that matter. Mr. Tousley moved to approve the Council Rules as presented, seconded by Mr. Pierson amended his motion to include the issue of televised meetings seconded again by Mr. Pierson.

Roll Call:        Yeas: Tousley, Pierson, Pelot, McGlone, Grether, Whipkey  
                     Nays: None

Motion passed 6-0.

Ohio Attorney General Collections Division

Mr. Pierson stated that back in October, the Clerk of Council sent out this information asking for feedback from the Administration on this issue, which she received none. Basically the Attorney General's Office will collect outstanding debts owed to the City. Mr. Pierson indicated several departments have debts owed to the City. The costs are incurred by the debtor not the City and our only requirement is to exhaust all avenues to collect these debts and we could get paid as often as weekly. Mr. Pierson moved to place this on the agenda for next week, seconded by Mr. Grether Mr. Markey asked for clarification if legislation is what is being asked for and added that we need to have a standard agreement of the arrangements. Mr. Pelot asked if they keep a percentage and Mr. Pierson replied no. Ms. Whipkey was concerned with canceling at any time and Mr. Markey replied you can pull out with a 45 day prior notice. Ms. Starosta stated that the EMS Department uses United Collection and we have a contract with them and we pay a percentage. Mr. Pierson noted a representative from the Youngstown office could make presentation to Council if Council so desired. Mr. Markey noted that we would need to look at that contract before voting.

Roll Call:        Yeas: Pierson, Grether, Pelot, McGlone, Tousley, Whipkey  
                     Nays: None

Motion passed 6-0

### Wolf Creek Watershed Conservancy District

Mr. Grether discussed the presentation Council had several months ago and commented that out of the three (3) communities that are involved, Barberton and Copley have already adopted their legislation. Norton is the only community that has not. Mr. Grether noted that looking at Copley's resolution they put a clause that it was subject to approval of all three (3) communities. Mr. Grether stated he understands we are giving our support to move forward and that prior to moving forward with any spending of funds, it would need to come back to Council for approval. Mayor Zita stated we have already spent some funds for the hiring of a consultant and that cost was shared between all three (3) communities. Mayor Zita stated that many residents felt the City was not doing anything or we should be more responsible to offset the flooding then as well as prior floods. Newpark Drive, Barber Road, 261, and other areas sustained damage. Mayor Zita noted this recent flooding in July he saw properties with the flooding like he has never seen before, Mayor Zita stated that since Barberton is at the bottom and incur most of the flood waters, Mayor Judge is taking the lead on this issue and would be responsible for the legal filings. Mayor Zita stated they are looking to establish the District and get this Councils approval, even though it started last year, rather than pushing it through last year by the original Council. We were hoping to get the new Council's support. Mr. Grether noted that when Mr. Rozelle made the presentation it was noted there were questions on the total costs. Mr. Grether noted that two (2) of Barberton Council members voted no on their resolution due to that fact. Mr. Grether noted that the Muskingum Watershed has over 500,000 members and we may be looking at maybe 35,000 ish. Mayor Zita stated by coming in on the ground floor it provides Norton with a seat on the Board or our voice in the issues, unlike what happened with the MAD District. Mr. Pierson clarified that once the District was established the Court would have final jurisdiction and Mr. Markey explained the formal plan is set by the Board and assessments would be approved by the Court and then certified by the County. Mr. Pierson noted the courts could make the ultimate decision. Mr. Grether asked if the plan goes through and if the assessment numbers are higher than what we want, do we have an out or not? Mayor Zita stated he really could not say and that even though Barberton already collects \$5.00 a month this would not change. Mayor Zita noted the Muskingum Watershed District cost is \$12.00 a year or \$2.00 a month. Ms. Whipkey stated that from what she understood from the process; there were like 41,000 parcels involved and once we did the filing, a plan was made and submitted we would still have to pay for the plan and the citizens could come forward and voice objections. However she was not sure we could get out of this. Mr. Markey noted that in past experience with the MAD it's difficult to get out once you are into it. Ms. Whipkey discussed previous talks about the Newpark Drive assessment project and that Mr. Ryland stated we have money for the flooding that was not used. Ms. Whipkey stated she understood the flooding issues in that area, but has a problem with the general public picking up the cost to fix it. Ms. Whipkey discussed 2011 legislation and that we accepted \$600,000.00 in grant money, we had an Assessment Board so there must have been a study of some type because we accepted bids. The Assessment Board went along with the business owners and the Council rejected the report. Ms. Whipkey asked about these funds and if we still have the \$877,125.00 in total funds for Newpark Drive from 2010?

Ms. Starosta stated these were two (2) different applications and she would need to check with the engineer on that. Ms. Whipkey stated she understood that we received the funds and then the people decided they did not want to be assessed, so that project did not go forward and we still have that money. Ms. Whipkey stated if that money is still there she did not believe that money could be used to offset this project for our people here, but they lobbied to get this done and she does not want everyone else to foot the bill while they get off so easy. Ms. Whipkey pointed out that Mr. Comunale is with one of the businesses in that area and is also on Summit County Council. Ms. Whipkey asked to have the information on the assessments to review. Ms. Whipkey stated she would like something to offset the cost to Norton citizens and noted that those businesses would reap more benefits than many others. Mayor Zita noted that if some of these businesses were to move out their payroll tax dollars would go away as well. Ms. Whipkey stated she understood the benefits, but she would like to find a way to help the costs to the citizens and still help the businesses. Ms. Whipkey questioned if there is any way to get any of the money involved in this project? Mr. Pelot stated we may not be able to use those funds, but if we could perhaps it could be worked into the project. Mr. Grether stated he definitely supports helping these businesses with the flooding, and has other concerns for all businesses but struggles with bringing projects forward and not having the total costs available to the businesses or the residents. Mr. Tousley referenced Ohio Revised Code Section 6101.17-Dominant Right of Eminent Domain, which states: *“The board of directors of a conservancy district, when it is necessary for the purposes of this chapter, shall have a dominant right of eminent domain over the right of eminent domain of railroad, telephone, gas, water power, and other companies and corporations, and over townships, counties, and municipal corporation”*, and expressed concerns it takes all powers out of our hands because this Board is the end all. Mr. Tousley stated he personally cannot assess someone without their opinion. Mr. Tousley also discussed Ohio Revised Code Section 6101.05, which states *“..the petition shall be signed either by five hundred residents, or by a majority of the residents”*. Mr. Tousley noted that the citizens can do a petition themselves and we all know that people in this City know how to do petitions. Mr. Tousley indicated he would love to see the people do a petition, adding that he cannot make that decision for the people. Mr. Tousley also discussed Ohio Revised Code Section 6101.18 which states ... *“appropriation of property for sewers to address public nuisance”*. Mr. Tousley stated that he believes this means that if they run into something, they can force sewers immediately and he questioned who would pay for that? Mr. Tousley discussed the mapping of the Muskingum Watershed District and it shows that Barberton, Norton and possibly Copley are in that District. Mr. Tousley why isn't that conservancy taking care of the flooding problem? Mr. Tousley questioned if the citizens are already paying for that District would that also be paying for the Wolf Creek District? Mayor Zita replied he does not believe we are because if so it would already be showing up as an assessment on the tax bills. Mr. Tousley noted from what he saw in their mapping it shows that Wolf Creek, Pigeon Creek and the Tuscarawas River are all involved in that Watershed District. Mr. Pelot suggested we ask Mr. Rozelle to come back to this newer council to answer our questions and Mr. Grether noted that was his intention to ask Council if this was worthwhile. Mr. Tousley questioned if Norton said no and the other two cities said yes, are we stuck in it anyway?

Mr. Pelot believed they would have to go and get signatures and then we would be included without a voice on the Board as happened with the Mosquito District. Mr. Grether moved to place this on Councils next agenda for first reading only and also invite Mr. Rozelle for a brief discussion, seconded by Mr. Pelot. Mr. Grether stated he believes in the Watershed Districts to address the flooding from the research he did.

Roll Call: Yeas: Grether, Pelot, McGlone, Pierson, Tousley, Whipkey  
Nays: None

Motion passed 6-0.

Road Program Funding:

Mr. Pelot stated that Ms. Whipkey had prompted this discussion to look into finding additional funds above the \$300,000.00 plus that is already allocated. Ms Whipkey stated she would like to see the tipping fees as well as any money coming in from the arcade games go directly into the Road Program Fund. Mr. Pelot stated he also has concerns with the Police Dept. vehicles and the need to increase to an additional vehicle besides the one already approved with this year's budget. We did not get the vehicle requested from 2013 until just recently. Mr. Pelot discussed keeping the vehicles on a rotation cycle where we would be turning over our vehicles with higher miles. We currently have two (2) squad cars with roughly 174,000 miles and one has a blown engine. One of the new cars that is budgeted for this year will replace the one with the blown engine. There is another vehicle with 174,000 miles it had an engine replaced due to the flood damage and was covered by the City's insurance. However, this car still has over 174,000 miles on it and the wear and tear on the transmission. Mr. Pelot expressed his concerns of keeping the cars in rotation so in the case of an emergency our officers do not break down on the way. Mr. Pelot noted he realizes the internet cafes may be coming to an end soon, but would like to see at least \$24,000.00-\$25,000.00 set aside annually for one more cruiser. Mrs. Starosta stated we have three (3) businesses that are signed up, one of them has already paid their fees and if all paid this would be about \$94,000.00. When the moratorium is lifted we may have four (4) more. Ms. Whipkey stated there is a fourth one that is waiting to come forward. Ms. Whipkey asked if we could pass something to tie up that money not to be spent for anything but the road program with the exception of a police cruiser? Mr. Pierson stated we could look at the state bids to get a better price for the cruisers versus the way we have been spending in the past. Mr. Pierson stated he would like to look at other options with other vendors. Mr. Pierson stated he agreed with the Chairman that we need money in the road program because the police cars aren't going to have a road to drive on the way it is going. Mr. Grether stated he would support the dollars going into a road program as it was better than a levy. Ms. Whipkey asked Mr. Markey if we could lock the money away somewhere and Mr. Markey stated he believed it had been done in the past and something could be put together. Mrs. Starosta discussed the past practices of putting into the General Fund and then amend the budget later. Mr. Markey discussed waiting for the recommendations from the Planning Commission to amend the code sections and this recommendation could all be done at this time.

Mr. Grether asked Mrs. Starosta to elaborate on the impact to the General Fund. Mrs. Starosta explained the details on this and that last year we had \$108,000.00 and that it does affect the General Fund and the carry over balances. It's like taking it from one pocket and putting it elsewhere. Ms. Whipkey clarified that there is \$93,000.00 in there now and Mrs. Starosta replied one place paid in December of last year, one paid in January of this year and we are waiting on the payment for the third one. Mrs. Starosta stated in prior two years it was approximately \$113,000.00 and that was with seven (7) businesses and the rental fees. If the Planning Commission were to come back and allow all seven, we could be looking at over \$200,000.00 with all of the fees. This year we have collected \$12,000.00. Mr. Pelot asked if we are still on target for the Cleve-Massillon Road project for 2016 and Mayor Zita replied that we had a meeting today and we are working on that. Mr. Pelot asked if we can go with Akron or Summit County for the program and Mayor Zita stated it was Summit County that we used last year and we would have needed our information to them by last October or November. Mr. Pelot asked for the Ward Council members provide him with the top five (5) roads your wards and he will be working with Mr. Reynolds on the listing. Once this information is obtained he would come back to Council with more details on how many roads we can do and the cost per mile, etc. There was discussion that Council should wait on getting Planning Commissions information before deciding on this issue. Ms. Whipkey suggested we leave this on Councils Matters Referred listing.

**Unfinished Business:**

Mr. McGlone stated he has two (2) items he needs removed from the Matters Referred listing because they have timed out: Sewer Planning and Old Stone Jail Sewer Line. There was no objection to the removal of these items. Ms. Whipkey noted the sewer benefits were already assessed to the residents. Mr. McGlone clarified that the specific discussion was for setting flat rates if we were to buy the sewers from Summit County. Mayor Zita noted there was a waterline project brought forward by residents on Shellhart Drive and one resident has asked where the project stands and if the City is willing to contribute more to their project. Mayor Zita explained the details of the engineer's costs and there was discussion on the process required with petitions and the percentage of the residents required to accept the costs. Mr. Grether reminded Council of the procedures required to advise the citizens of the costs, and Mayor Zita noted the next step is to send out certified letters to the residents and before doing so with these high costs, he wanted to know if Council is in favor of reducing the costs first. Ms. Whipkey discussed the costs on intersections at the cost of \$8,000.00 on the 80 ft and the 50 ft to cross the road would be \$7,200.00. Mr. McGlone noted that Mrs. Buzzelli's name was not on the petition. Mr. Pierson asked if all of this is due to bad wells? Mr. Grether noted that Mrs. Buzzelli had brought him a sample of her well water and it's very poor and that there must be a bad vein on the wells in this area as several residents have complained. These residents kept waiting for City water but they can't wait any longer. Mr. Grether asked is there any way we can go out for bid now and Ms. Whipkey noted she thought there is a legal process that must be followed.

Ms. Linda Newman of Holiday Drive, Norton, stated that she has not really wanted to come forward and speak on issues; however this one resident is asking the City to help out when she probably did not vote to approve for the charter amendment of the \$5,000 cap. This is hypocrisy as they most likely did not want to help the other people with their assessments. Mr. Grether stated that this is not just for these residents, it would affect all residents eventually and he is in favor of going the normal process with the assessments, and the bidding driving the price down. Mr. Grether was not in favor of this and noted the assessments will come back to Council for final approval and it was the citizens that asked for it. Ms. Whipkey agreed, adding that these residents asked for this improvement. Mr. Pelot stated this should be the same courtesy as we have done with waiving the tap in fees for one year if they connect. Mr. Pierson stated he would like to know what else these residents have done to fix the problem. Mr. Pelot noted some have dug new wells several times, dug deeper, have installed expensive filtration systems all to no avail. Mr. Pierson stated he felt \$11,000.00 is pretty steep, and he would like to see it going out for bids. Mr. Markey stated you cannot go out for bid on assessments without the proper order with legislation. Mr. Grether stated is only fair for the process and procedure in place like all other projects. Mr. Markey clarified the legal rights of the City's costs for assessments.

**New Business:**

Mr. Pierson asked where do we stand with the meeting with the EPA, and Mr. Markey stated the EPA has been approached and we are waiting for dates from the EPA. Mr. Pierson asked Mrs. Starosta about the Dell Group and American Messaging billings and Mrs. Starosta stated she believed this could be for Fire and EMS, etc. Mr. Grether discussed the economic development in the City and asked if he could help in any way especially with the recent development of the AGMC possibly bringing in urgent care clinics. Mr. Grether indicated he would be willing to go talk with someone at Akron General about that. Mayor Zita stated he has a few contacts he could share. Mrs. Whipkey noted that Mrs. Richard's had shared that information with Council recently. Mayor Zita stated he has already talked with some people about that, and that discussions will continue. Ms. Whipkey stated that she had read in today's paper that the State is working to get some funding to help the municipalities move forward with infrastructure. Mr. Markey stated there is a bond issue they are trying to get on the ballot. Mr. Markey noted that the Governor's office is proposing an infrastructure program somewhere in the amount of \$200,000,000.00 which would mean an amendment to the Ohio Constitution. This may go on the November election for authorization. Ms. Whipkey stated the article said the funds would be for repairs and new infrastructure.

**Topics for the next Work Session:**

Approving the 2013 Codified Updates

Shellhart Waterline Project-Intersection Costs-What side of the road

**Public Comment-Agenda and Non Agenda Items:**

No one signed up to speak this evening.

Mayo Zita announced the upcoming Norton FOP raffle.

**Adjourn**

There being no other business to come before the Committee Work Session, the meeting was adjourned at 8:56 PM.

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Charlotte Whipkey, Council Vice President

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

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

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