



Norwood City Council Council Chambers July 12, 2011

A) CALL TO ORDER

The Council for the City of Norwood met in regular session on the above date with Ms. Jane Grote presiding. The meeting opened with a prayer and the Pledge of Allegiance.

B) PRAYER

C) PLEDGE OF ALLEGIANCE

D) ROLL CALL

On roll call, the following members were present: Mr. Moore, Mr. Thornbury, Mrs. Laake, Mr. Mumper, Mr. Gabbard and Mr. Sanker. Mr. Schneider was absent.

E) AMENDMENT OF AGENDA

On a motion by Mr. Mumper, seconded by Mr. Moore, it was moved to amend the agenda to add 3 committee reports; the first report from the Community Development Committee to approve signage for Chase Bank, the second report from the Community Development Committee to approve the signage for Lifestyle Lift, the third report from the Committee of the Whole on the Good Landlord Program, and to add to Introductory readings of Ordinances, ordinance # 1 an Ordinance authorizing the Building Commissioner to enter into a contract with Section Road Redevelopment, LLC for the former American Laundry redevelopment project and declaring an emergency. On the motion to amend the agenda as stated, all members present voted, "Yes."

F) MINUTES OF PREVIOUS MEETING

On a motion by Mrs. Laake, seconded by Mr. Thornbury, it was moved to approve the minutes from the June 14, 2011 meeting as if read. All members present voted, "Yes."

G) REPORTS OF STANDING COMMITTEES OF COUNCIL

1. Community Development Committee RE: Chase Bank Signage

Mr. Gabbard, the chair of the committee, read the report that the Community Development Committee approved the Chase Bank signage as presented. On a motion by Mr. Moore, seconded by Mr. Thornbury, it was moved to accept the committee report. All members present voted, "Yes."

2. Community Development Committee RE: Lifestyle Lift

Mr. Gabbard read the committee report that the Community Development Committee approved the signage for Lifestyle Lift as presented. On a motion by Mr. Thornbury, seconded by Mr. Mumper, it was moved to accept the committee report. Mr. Gabbard stated that between Chase Bank and Lifestyle Lift there will only be a small section of the building vacant on that side of Linden Pointe. Both are high end businesses. Mr. Gabbard noted that Mr. Debroszi spoke highly of these businesses, noting that Lifestyle Lift is a high end medical use facility that will bring in high dollar consumers. Mr. Thornbury said the Lifestyle Lift is a non-invasive cosmetic surgery facility. It will be a fairly extensive buildout with laser machines and skilled professionals. It is taking up a substantial section of the first floor in the Linden Pointe building. They are national organization with a substantial presence in the building. On the motion to accept the committee report, all members present voted, "Yes."

3. Committee Of The Whole RE: The Good Landlord Program

Mrs. Laake read the report regarding the Good Landlord Program. The committee has asked Mrs. Laake and Mayor Williams to pursue the program and report back to Council. On a motion by Mr. Thornbury, seconded by Mr. Mumper, it was moved to accept the committee report. Mrs. Laake stated that she was very impressed by the presentation from Sergeant Lewis on the KOPS program and their work done. She

thinks this program will piggy back perfectly with the KOPS program. Her hope is for lots of participation from landlords and they will be given instructions to help them. There will be information on how to write good leases which will lead to higher rents. They will ask landlords to contact the city if they are interested in participating. She will come back to Council with a timeline for the program. Mr. Moore asked Mrs. Laake if there is a schedule for the next meeting. Mrs. Laake said that there is not one yet. They're waiting to set a date. Traditionally they have met on Fridays during the day. She said that she can notify Council or set a particular date if someone wants that for a meeting. On the motion to accept the committee report, all members present voted, "Yes."

H) THIRD READINGS OF ORDINANCES

1. ORDINANCE APPROVING AN EARLY RETIREMENT INCENTIVE PLAN FOR THE CITY FOR NORWOOD EMPLOYEES.

On a motion by Mrs. Laake, seconded by Mr. Thornbury, it was moved to have the third reading of the ordinance. Mr. Moore asked Mr. Kiser what was changed in the revised exhibit that was presented. Mr. Kiser stated that the date is changed on the new exhibit "A" as discussed at the last meeting to make the date January 1st. It is a clean copy of the first page. Mr. Sanker addressed Mr. Kiser saying that Mr. Kiser prepared two ordinances; one for the earliest day allowed by law and one that says January 1st. Mr. Sanker said that Mr. Kiser has expressed that the first one is the one that will be accepted. If we pass this and send it up to the state and it is rejected, we'll have to start all over. He asked Mr. Kiser which would he think is best. Mr. Kiser answered that the plan is attached and it is updated. He said that he thinks if it is retroactive to January 01, 2011 so they will accept it. If they accept it we can go with it. If they reject it we can pass another one in August and pass one that is 60 days out within a year's time. Mr. Moore stated that he thought the amendment to the attachment changed September to January. He asked Mr. Kiser if he has something else. Mr. Kiser answered that he brought with him a different attachment with October 01, 2011 as a start date if council wanted something different. He mentioned that Mr. Sanker was asking that similar question. Mrs. Laake stated that by having a January 1st date in there is what OPERS is looking for to state the Council's intent of what was covered. She thinks we can make a good point that we were not without a plan because we did not notify OPERS or the employees that we're not going to have a plan. This also covers the person who by ordinance is entitled to the same benefits as contract employees and would cover legal obligations to that person. She said that Mr. Stith has said he would be comfortable if Council passes this that he would put a cover letter on it and fill out the form saying it was Council's intent all along to have this covered because we were required by contract to do it. Until the contracts are renegotiated we are obligated to do that. She hopes we would consider that. Mr. Mumper stated that he was not at the last meeting so he does not understand why Council has to do this when in the past it was done with the letter by the President of Council and the Auditor. He does not understand why Council has to be involved. He will be voting no. Mrs. Laake said that Council is involved because OPERS required that Council pass a plan because the old one expired as of April, 2009. Because of that, OPERS is requiring that we adopt the plan again. Mr. Moore said that we have an ordinance on the books that covers the plan without an end date. He understands the argument that this covers legal obligations in contracts but this it is over and above what is in our contracts. If we had cash that might not be a big issue. There are potentially two retirees this year and maybe four or six people who could take advantage of it. He asked Mr. Stith if there are five people that could possibly apply to the ERI, he thinks we could be looking at \$400,000.00 in potential costs under this. Mr. Moore asked if those numbers are completely wrong or is that a possibility. Mr. Stith answered that those are out of the realm. The plan money is paid over a three year period. Employees file with the OPERS and we get a bill, then we pay over a three year period. It is 14.5% of the person's salary who is leaving. For example, we would be spending \$7,200.00 for a \$50,000.00 employee. It is not a lump sum. Mr. Stith noted he is of course concerned if we even have that money to spend. He noted that the entire process of renewal in the past comes into question. The comment was made that the letter was done in the past. Mr. Stith noted that the letter was written before but he doesn't know how that process was done, as it has never been renewed during his term. The only person here tonight who was involved in the past was the President of Council. He expressed concern as to why this was not renewed last year

and stated that he does not think his office should do it. He thinks we should ask the President of Council her thoughts. Mrs. Laake asked Ms. Grote if she would like to comment. Ms. Grote said that, as Mr. Stith said, she is the only one here who has been involved in the process. In the past, she would receive a message from the Safety-Service Director indicating that there was a letter for OPERS and for her to sign. She requested that a copy of that letter be then sent to Council to make sure there were no objections to it being signed. She would get a call from Mr. Geers, who was the only Safety-Service Director who has asked her to do this, to come in and sign the letter which was already prepared. Once it was distributed to Council and there was no objection, it was signed and sent. She would sign after no objection and at the request of the Safety-Service Director and it was he did note it has not been done in the last two years. She does not believe that it has been done since Mr. Stith became Auditor. The last one was done about four years ago. The renewal was for brief periods of time, for one year or eighteen months, and she recalls this as she asked the Safety-Service Director about the short period of time. Mr. Sanker said the only thing we have received in writing from the state is information to the Law Department saying that it could not be retroactive. As far as conforming to contract with the 60 or 90 day provision, we would still meet contractual obligations. It was suggested though, that it is not retroactive. Mr. Sanker said that people have told us that PERS has done or said certain things, but he did not hear when or who they spoke to, and we get conflicting reports on things when calls are made. One employee told us they said there is not a plan in effect. Mr. Mumper said that he has a copy of the e-mail from Chris Brown to Donna Laake that Mr. Brown spoke to Tamara at OPERS and she said it is not retroactive. Mrs. Laake stated that it was our contention that the plan was never out of effect which Mr. Stith indicated. She wouldn't sign a letter either to obligate money without Council's agreement. It's Council's job to appropriate money. Mrs. Laake asked Mr. Stith that if this is passed and it is retroactive would he feel comfortable saying our plan never went out of existence. Mr. Stith stated that it is his understanding is that we have an ordinance and contracts that say we're part of this plan. He is looking for clarification as the contracts say one thing and the plan says another. With that issue, he was hesitant to sign the letter. He asked if Council wants to stay with the plans that were passed in 1997 or would they like to work out one with a one, two, or three year buyout and send it. He felt it was necessary for Council to clarify which one. He will make sure it gets filed. We never followed guidelines for notification of 30 days to our employees and we never got rid of the ordinance. Mr. Stith noted we have confusion over which plan we are in and how it is administered. Given we still have a 1997 ordinance and 100% of employees are eligible and there are contracts that say we have this. If this is passed retroactively he will make the argument to PERS that it was not the intent of Council to not be in the plan. He's looking for clarification. Mr. Moore stated that their argument is that it is a requirement, but he thinks it is a legally muddy issue. Without a clear-cut answer it is hard for him to say to open the city to additional costs. He remembers a three year buyout that was more than discussed. Without a clear legal obligation to spend money, he cannot vote to spend money we don't have. Mrs. Laake stated that we have a clear legal obligation which is the contracts Mrs. Laake said that she would like to call to question. Mrs. Grote asked if there is a second that motion. Mr. Thornbury seconded the motion. Ms. Grote announced that the motion is to call to question or to end debate. On the motion to end debate the motion failed with Mr. Thornbury, Mrs. Laake, and Mr. Gabbard voting, "yes," and Mr. Moore, Mr. Mumper and Mr. Sanker voting, "no." Ms. Grote announced that the motion needed a ¾ majority to end the debate so the motion failed. Mr. Thornbury directed a question to Mr. Moore if he would prefer those who are eligible to not receive the benefits or receive them at a later date. Mr. Moore answered that he does not understand the question. Mr. Thornbury redirected the question and asked if Mr. Moore was concerned that if we pass this that it will cost more money. Mr. Moore answered that that was correct. Mr. Thornbury said then if we do not pass this those people who retire won't get paid. Mr. Moore stated that they wouldn't get paid under this plan. He wondered what is the city's liability here if they're not. Mr. Moore mentioned that we have an employee contract that says we have to pay a certain amount; he won't volunteer to pay more than that. Under the contract, we are required to make the difference between 27 years and 30 years. Mr. Thornbury said that the dollars that Mr. Moore is quoting are different between the contract amount and what Mr. Moore believes is specified in this. Mr. Moore stated that he does not have specifics. He doesn't know for sure, that depends on years in and

eligibility. We don't have the money though and may need to close a department to cover this. He said if we did not give a 30 day notice then we're legally obligated to do it. Mr. Moore said that if the Law Department told him that or he could not see a counter argument he may vote for it. Mr. Thornbury asked Mr. Kiser if he would care to elaborate on that. Mr. Kiser stated that we do have contracts with the legal obligations. They do provide for something different and what PERS is talking about costs us more. What PERS offers is our only choice and the only way to fulfill the obligations in the contract. Mr. Kiser said he wanted to be clear on that. Our only vehicle after so many questions to PERS, you have to do it their way or no way at all. We have legal obligations and a PERS program that promises more than what we have in the contracts, but it's the only vehicle to fulfill that if we don't pass this. Mr. Moore asked Mr. Kiser if one enters into a contract and cannot fulfill the obligations is the only option to do more. Mr. Kiser answered that if we don't do it we will get a grievance. Our argument would be legal impossibility and we would have to argue that in court and the judge would decide who was right. He cannot predict how that litigation will turn out. There is a legal obligation in our contract but we would have to spend more if we follow the PERS option. On the motion to have the third reading of the ordinance, the motion passed with Mr. Thornbury, Mrs. Laake, and Mr. Gabbard voting, "Yes," and Mr. Moore, Mr. Mumper, and Mr. Sanker voting, "No," with Ms. Grote stating that the chair votes "Yes" to break the tie. Mr. Mumper stated that he has one more question. He asked if the exhibit was changed since the last meeting. Mrs. Grote stated that the exhibit was amended on the floor and this is just a clean copy. On a motion by Mrs. Laake, seconded by Mr. Thornbury, it was moved to pass the ordinance. The motion passed with Mr. Thornbury, Mrs. Laake, and Mr. Gabbard voting, "Yes," and Mr. Moore, Mr. Mumper, and Mr. Sanker voting, "No," with Ms. Grote voting "Yes" to break the tie. The ordinance passed.

I) INTRODUCTORY READINGS OF ORDINANCES

1. ORDINANCE AUTHORIZING THE BUILDING COMMISSIONER TO ENTER INTO A CONTRACT WITH SECTION ROAD REDEVELOPMENT, LLC FOR THE FORMER AMERICAN LAUNDRY REDEVELOPMENT PROJECT AND DECLARING AN EMERGENCY.

On a motion by Mr. Moore, seconded by Mr. Thornbury, it was moved to suspend the rules and have all three readings of the ordinance. Mrs. Laake asked if someone could explain this ordinance since it was just received tonight. Mr. Kiser stated that the Building Commissioner needs to be involved in the grants. What this does is describe how the money should be received and dispersed and outlines what the Clean Ohio Funds are to be used for. It is to assess issues on the site and pay for cleanup. Mrs. Laake pointed out that on page three under section C where it refers to the disbursement of funds, there is a clean voucher invoice described which is not attached. Mr. Kiser stated that he thinks this is just a run-of-the-mill voucher they will have to fill out for disbursements. He noted that would be a good question for Mr. Stoker. Mr. Kiser said he has not seen the voucher and thinks it is equivalent to an invoice. Mrs. Laake asked if this requires the city to spend funds. She also stated that she would like to have gotten this earlier to review it before the meeting. Mr. Kiser answered that it does not require the city to spend funds. It does not mean that our public works employees are not out there or public officials are not working with them. To his knowledge there are no obligated costs to the city. He noted they made changes in the agreement to make it so. Mr. Kiser yielded to the Mayor to elaborate. The Mayor stated that Mr. Stoker explained to him at the last meeting that we've received grant money. This is the agreement to receive the funds. The mayor noted that Mr. Stith had indicated that there is a formal structure to receive CORF money from the state and how we disburse. Mrs. Laake stated that in the beginning of the document it says we are applying for funding not that we have done it already. The Mayor stated that we did it for this property and also for the Strike property. Mrs. Laake stated that she just wants to understand what we're voting on. On the motion to suspend the rules and have all three readings of the ordinance, all members present voted, "Yes." On a motion by Mr. Moore, seconded by Mr. Thornbury, it was moved to pass the ordinance. All members present voted, "Yes."

INTRODUCTORY READINGS OF RESOLUTIONS

Mrs. Wehmeyer requested to address council on the street levy. She stated that 25 years ago someone asked her to attend Norwood meetings. She attended a finance meeting

which was to discuss street conditions. There was no money to do anything about streets and that was in 1986. Council finally agreed to put on an emergency street levy for five years. After 25 years and many renewals, we're now looking to put on an additional street levy. Residents complain about streets, but the city does not have any money. Forget the \$400,000.00 which was supposedly allocated for streets. The last levy was an emergency for 25 years. This suggested levy is an emergency levy for street repair and maintenance for 25 years. Most people voting now will not be in Norwood in 25 years. She asked if this additional levy assume salaries and benefits of public works and does it release the \$400,000.00 from streets to the general fund. The resolution requests the county auditor to certify the tax valuation of the city. But in section 1 it states the amount of \$60.92 and estimates about \$800,000.00 a year for twenty years is about \$20 million. It was about the same figure used back then to replace the streets. Homeowners have accepted a permanent school levy in 2010, and they approved a ten year levy in 2011. Ms. Grote stated that her time was up. Mrs. Laake asked to make a motion to allow her to continue. The motion was seconded by Mr. Thornbury and passed with all members present voting "Yes." Mrs. Wehmeyer continued stating that President Obama said if he doesn't get what he needs will be no social security checks paid or others paid on August 3, 2011 and that concerns her.

1. RESOLUTION DECLARING THE NECESSITY OF LEVYING A TAX FOR STREET REPAIR AND IMPROVEMENT IN EXCESS OF THE TEN MILL LIMITATION AND REQUESTING THE COUNTY AUDITOR TO CERTIFY MATTERS IN CONNECTION THEREWITH AND DECLARING AN EMERGENCY.

On a motion by Mr. Moore, seconded by Mr. Mumper, it was moved to suspend the rules and have all three readings of the ordinance. Mr. Moore stated that he was asking for all three readings because of time constraints. Ohio Legislature has changed the timing so we need to pass this tonight and pass the Resolution of Intent on August 9th so that it can be at the Board of Elections on August 10, 2011 by 4:00 PM. A street emergency levy was put on in 1986. We have done \$2 million on streets out of the general fund since passing that levy, but haven't done any this year. He hopes that this levy can take care of the needs and not be taken away. He would like to see this go to the voters for consideration. Mr. Thornbury directed a question to Mr. Moore if the resolution specifies that the monies would go into a separate fund. Mr. Moore answered that there is a section that is in the ORC that directs the reasons for levies; if the levy is passed for a specific purpose it can only be spent for that purpose. That is why it can be given a longer time frame. Mr. Kiser stated that this is generally correct. He's not sure if the payroll of those working on the streets is included or excluded. It is a likely that we can fashion the language for restrictions. That language it is not here, as this does not yet affect what will be on the ballot. Mr. Moore said he would like to make the levy permanent. He said we had a street study done a while ago and that said we should spend \$1 million each year, but if the streets are in good shape people may want to repeal the tax. Mr. Thornbury asked Mr. Kiser about the 1986 efforts that Mrs. Wehmeyer referred to. He said that it sounds like she was saying that money was set aside for streets in 1986 but was not spent on streets. Mr. Kiser stated that he is guessing that the levy was not specific to streets but whoever was in office justified it for streets but it wasn't specific for that. Mrs. Laake stated that she believes she was the clerk then, and she remembers a general operating levy and remembers that when it came up for renewal four years ago some said they would like \$400,000.00 to go to the streets but there is no requirement in the levy for that to be done. That levy comes up for renewal next year and she thinks we need to get our house in order and we need that levy for operating funds for the city. She said she doesn't know how we can expect people to vote for this. She will probably vote no, as we need to concentrate on passing the levy renewal next year. Mr. Moore asked the Mayor if he knows the background on the older levy. The Mayor stated that it was not a street levy but a general operating levy. It was a temporary levy then but not for streets. He said he does not remember anyone saying it was for streets. He respectfully disagrees with that. Mr. Sanker stated that we need to certify it to get the language prepared for the ballot. If people don't feel they can afford it they can vote it down. This gives them an opportunity to vote on it. The Mayor stated that he understands people's reservations. This resolution is not for putting it on the ballot. He has not heard from anyone if it is a bad or good idea. He would like to have the opportunity to talk to people to hear what they think. On the

motion to suspend the rules and have all three readings of the resolution, the motion failed with Mr. Moore, Mr. Thornbury, Mr. Mumper, and Mr. Sanker voting "Yes," and Mrs. Laake and Mr. Gabbard voting, "No." Ms. Grote announced that the motion needed all 6 votes to suspend the rules, so the motion failed.

J) ADMINISTRATION REPORTS

1. Mayors Report

RE: Miscellaneous Business

Mayor Williams said that after the Committee of the Whole meeting he went on an inspection on Montgomery Road and came across exactly what we discussed earlier in the Committee of the Whole on the Good Landlord Program. The people living there were disrupting the neighborhood. He's not sure if they can be criminally prosecuted. There are violations of the law and this person is making people miserable. That is why the Good Landlord Program should continue moving forward. We will also keep working on the KOPS program.

On June 30, 2011 the Mayor was honored to swear in three new police officers and they have begun their training.

The Mayor said that he went to the 4th of July fireworks and was invited to speak. He said it was a great night and the National Anthem singers were awesome.

The Mayor noted he attended an event where the Norwood Knothole baseball had a tournament in which the teams exchange players and then go have a swim party. It was a positive thing to be a part of. Public Works did a good job on the fields and the coaches made sure the fields were cleaned up after the tournament.

The Mayor stated that he was going to read a letter from a Honolulu paramedic unit recognizing one of our firefighters. During a near-drowning, Philip Reed was in the area and identified himself as an out-of-state paramedic and offered assistance. He pulled the patient onto a reef and provided rescue breathing until paramedics arrived. Mr. Reed was on his honeymoon and saved the individual's life. We have people of all walks who work for the city and maybe we should have recognition for these people. Mr. Reed received a certificate of recognition from the Honolulu EMT.

The Mayor announced that there is a company who wants to use City Hall in a movie and he OK'd that. Mr. Mumper asked about the film. The Mayor said that it does not cost us anything and so he does not think there will be a problem.

Mrs. Laake said that the letter the Mayor read refers to an area filmed in the movie "From Here to Eternity." She saw the incident with Mr. Reed discussed on Facebook. This is positive recognition for our city.

K) UNFINISHED BUSINESS

There was none.

L) NEW BUSINESS

On a motion by Mrs. Laake, seconded by Mr. Thornbury, it was moved to send a letter of appreciation to Mr. Reed for his actions in Honolulu. All members present voted, "Yes."

Mr. Sanker announced that two weeks from tonight, the Norwood Day Parade will start at 7:00 PM. He also mentioned that Wednesday, July 27, 2011 is Norwood Day at Old Colony. Mrs. Laake said that the Business Women's Club found out that the Def Leopard concert is scheduled that night but shouldn't interfere. Tickets for Norwood Day at Old Coney are on sale in City Hall. Ms. Grote said that tickets are sold in City Hall or at a special gate at Old Coney.

M) COMMUNICATIONS

1. Letter from Ohio Division of Liquor Control RE: TFSO Five River Petroleum, LLC

On a motion by Mrs. Laake, seconded by Mr. Mumper, it was moved to receive and file the letter and to file an objection to the transfer of the liquor permit with the Department of Liquor Control. Mrs. Laake asked if we need to specify why we our objecting. Ms. Grote said that we have a form that follows a specific format and that is not needed now. On the motion to receive and file the letter and to file an objection, all members present voted, "Yes."

2. Letter from Earnings Tax Department RE: June 2011 Earnings Tax Report

On a motion by Mr. Moore, seconded by Mr. Mumper, it was moved to receive and file the letter. Mr. Mumper stated that in May we had a decrease of 11.68% so it looks like

it's getting better. On the motion to receive and file the letter, all members present voted, "Yes."

3. Letter from the Mayor RE: Mayor's Court Fines

On a motion by Mrs. Laake, seconded by Mr. Mumper, it was moved to receive and file the letter and to send a letter to Mr. Sorrell wishing him well as he has been ill. All members present voted, "Yes."

N) EXCUSE ABSENT MEMBERS

On a motion by Mr. Mumper, seconded by Mr. Thornbury, it was moved to excuse Mr. Schneider's absence. All members present voted, "Yes."

O) ADJOURNMENT

On a motion by Mr. Mumper, seconded by Mr. Thornbury, it was moved to adjourn. All members present voted, "Yes."

*Casey Brown **

*Jane M. Grote **

Casey Brown
Clerk of Council

Jane M. Grote
President of Council

*** Original copy was approved by council and signed by Ms. Brown and Ms. Grote during the regular Council Meeting held on August 9, 2011 and can be viewed at the Clerk of Council Office, 4645 Montgomery Rd, Room 205, Norwood, OH 45212**