

The regularly scheduled meeting of the Norton City Council was held Tuesday, April 4, 2023, at 6:00 p.m., in the Municipal Council Chambers with Mayor Joseph Fawbush presiding.

Present: Chris Jones, Stacy Salyers, Robert Fultz, Jr., Mark Caruso and Joseph Fawbush

Also Present: Fred L. Ramey, Jr., City Manager and Clerk, and City Attorney Matthew R. Dotson

The invocation was given by Rev. Roger Sloce and was followed by the Pledge of Allegiance led by Norton Police Chief James Lane.

Upon a motion by Councilman Jones, seconded by Councilman Salyers, and passed by the following vote: YES – Jones, Salyers, Fultz, and Fawbush, NO – None, ABSENT – None, ABSTAIN – Caruso, council moved to adopt the minutes of the March 21, 2023, council meeting as presented.

During the Mayor's Call for Visitors, Wise County/City of Norton Chamber of Commerce Executive Director Rick Colley came before council to recognize Fred L. Ramey, Jr., as the chamber's 2022 Citizen of the Year and present him with the award since Mr. Ramey would not be able to attend the chamber's Gala and Silent Auction on April 8, 2023.

Noting that the chamber of commerce has awarded the Citizen of the Year Award since 1954, Mr. Colley provided a synopsis of Mr. Ramey's educational and professional accomplishments and discussed those achievements as reasons for Mr. Ramey's selection for the award. He also read excerpts from a few of the nominations selecting Mr. Ramey as Wise County/City of Norton Chamber of Commerce Citizen of the Year for 2022.

On behalf of the Wise County/City of Norton Chamber of Commerce and the Gala Committee, Mr. Colley presented Mr. Ramey with the Wise County/City of Norton Chamber of Commerce 2022 Citizen of the Year Award and a round of applause followed.

Mr. Ramey said he was speechless, thankful and appreciative, but he did not feel deserving of this award. He said he was glad his mother and mother-in-law and father-in-law were present to share in this award.

Attributing much of his success to luck, Mr. Ramey explained that he was taught to work hard and that was what he has always tried to do. He said he was encouraged to apply for the position by former Fire Chief Danny Still because he saw that Mr. Ramey was a hard worker as Mr. Ramey was a city firefighter at that time. Mr. Ramey said as a college graduate, he was lucky to be hired into this position and given the opportunity by former City Manager Ernie Ward at a time when the community was on the verge of a renaissance with the leadership of Mayor Robert Raines and Councilman William Mays and the council of that time. He said these individuals had a vision, pushed him in the right direction, and said go make this happen, quickly adding that he was part of a team that was able to make some projects happen. Attributing the success of every project to a team and a team effort, Mr. Ramey said he has been fortunate to be around the team that we have in the city, which is second to none in his opinion. He expressed his appreciation for everyone he works with and for the continuous support of the city council since 1988.

Mr. Ramey said in acceptance of the 2022 Citizen of the Year Award he would only accept the award if his wife Lynn would come forward and accept the award with him. On behalf of his wife and him, Mr. Ramey thanked Mr. Colley and the Wise County/City of Norton Chamber of Commerce for thinking that he could be halfway worthy of this honor. Applause followed and a picture of the award presentation was taken.

Due to the absence of Councilman Caruso at the previous meeting, council had tabled consideration of City Attorney Matthew Dotson's proposed modifications to city ordinances related to misdemeanor offenses until tonight's meeting. Provided in council packets for review were draft resolutions for Mr. Dotson's proposed ordinance amendments.

Mr. Dotson gave council members a packet on the current code sections, the proposed ordinance amendments as well as the corresponding State Code and mentioned City of Norton/Wise County Commonwealth's Attorney Brett Hall's February 21, 2023, presentation about a proposal he had on prosecuting low-level misdemeanors, particularly shoplifting, on local ordinances rather than by the Code of Virginia.

Mr. Dotson met with the city manager, Mr. Hall and Norton Police Chief James Lane on March 1 to discuss Mr. Hall's proposal for the city to consider/amend its ordinances to authorize the city to charge for low-level misdemeanors on local ordinances rather than by State Code. During this meeting three code sections (local ordinances) were identified - Section 14-51 of the City Code, which is the primary petit larceny statute, Section 14-54 of the City Code which involves concealment, and Section 14-54.1 of the City Code which deals with punishment for subsequent larceny/concealment convictions.

The city attorney discussed Section 14-51 of the City Code which is the petit larceny statute and is the main city code for shoplifting. He said the first issue with the current code was the dollar figure for what constituted petit larceny was outdated and needed to be updated.

The main change for Section 14-51 of the City Code involved how the city was going to punish petit larceny offenses. The current section classified petit larceny as a Class One Misdemeanor punishable by up to 12 months in jail and/or up to a \$2,500 fine. After discussions with Commonwealth's Attorney Brett Hall and review of ordinances of localities that have already done this, the city attorney recommended changing the wording to state that it was punishable only by a fine of up to \$2,500 and remove the punishable by up to 12 months in jail portion. He advised that removing jail time from the code would not require the city to pay the court-appointed attorney fees.

Mr. Dotson explained that overcrowded jails have resulted in shoplifting offenders not serving a second of jail time but are fined. Currently this fine money goes to Richmond, Virginia, but if offenders are charged under a local ordinance the money would come to the city. He also said prior to conviction the prosecutor could amend the local ordinance to the State Code if necessary.

Following a discussion about petit larceny case scenarios, fines and restitution, the city attorney said the key to this would be collecting these judgements and fines by the prosecutor's office or it would be useless. He explained the process and various legal options for collection of those fines.

Councilman Caruso asked if the city could on the ordinance level specify the maximum number of offenses required to receive jail time and prosecute under State Code rather than city ordinance or if this was up to the prosecutor's office.

The city attorney advised that it was possible in theory but doing such on the ordinance level would put jail time back on the table which would bring the attorney fees aspect back into play.

Discussion followed with Police Chief James Lane confirming that he understood that his officers would have the discretion to charge repeat petit larceny offenders under State Code rather than city ordinance.

Mayor Fawbush asked if the petit larceny offender was from out of state if the city could extradite the offender or if the city should go the State Code route for prosecution.

The city attorney said he would be glad to look into the extradition matter and advised charging under State Code if the person was a repeat offender or an out-of-state resident.

Chief Lane said one positive thing about these ordinance amendments was that this action would lessen the amount of time police officers were tied up with processing and would enable them to get back on the road.

A discussion followed about how transient petit larceny offenders would be prosecuted.

Mr. Dotson said these ordinance amendments would give the police department and its officers the discretion to make the decision of charging under local ordinance or State Code and he was perfectly comfortable that Chief Lane understood what that discretion would look like in practice.

When asked if the local ordinance amendments were something he wanted, Chief Lane said that he was reserved about this and was not on board at first, but after discussions with Commonwealth's Attorney Brett Hall he understood that officers could just make the charge, take offenders into custody and take them to Criminal Justice Center in Wise. He explained three of his initial concerns were repeat offenders, punishment for these offenses and consistency, but after talking with Mr. Hall his concerns were alleviated. He said in the long term he did not know how well the changes would go, but he pointed out that the state is increasingly pushing for less incarceration and more fines. He said under the circumstances he and his department felt that they could work with this, but Mr. Hall had assured him that if his department did not feel like the changes were working, then the changes could be reversed and he would help us all he could.

A discussion followed regarding implementation of this exact proposal in Scott County.

The city attorney advised that if Chief Lane and his department felt that charging under local ordinance for petit larceny offenses was not effective after trying this, then council would not have to take any official actions or resolutions. All that would be necessary would be for Chief Lane to say that his department was no longer prosecuting petit larceny/concealment under local ordinance, but State Code.

The city manager suggested that the police department track the first six months to see what was happening and provide council with a report.

The city attorney advised council to amend Section 14-51 of the City Code related to prosecution of petit larceny offenses, to amend Section 14-54 of the City Code related to prosecution of concealment offenses, and repeal Section 14-54.1 of the City Code related to prosecution of petit larceny and/or concealment offenses.

The city manager said the earliest council could consider having a public hearing to solicit public input on amending Section 14-51 of the City Code related to prosecution of petit larceny offenses, amending Section 14-54 related to prosecution of concealment offenses, and repealing Section 14-54.1 of the City Code related to prosecution of petit larceny and/or concealment offenses was at the April 18, 2023, council meeting and the changes would not become effective for 30 days which would be May 16, 2023.

Vice Mayor Caruso said he wanted to make it known that the City of Norton was not going soft on crime but was giving offenders a second chance.

Councilman Salyers said he still thought the city's police officers needed laptops in the patrol cars so information would be readily available to the officers.

Mayor Fawbush said the possibility of purchasing laptops for police patrol vehicles was something that could be discussed at the next council work session.

Mr. Caruso requested that city administration provide council with a cost estimate for purchase, software, installation, etc., for the laptops at the next council work session.

Mayor Fawbush thanked the city attorney for his work on the proposed ordinance modifications.

The consensus of council was to authorize the city manager to advertise a public hearing to be conducted at the April 18, 2023, council meeting to solicit public input on amending Section 14-

51 of the City Code related to prosecution of petit larceny offenses, amending Section 14-54 related to prosecution of concealment offenses, and repealing Section 14-54.1 of the City Code related to prosecution of petit larceny and/or concealment offenses.

Also tabled until tonight's meeting was consideration of a request from the commissioner of the revenue to refund a 2015 bank franchise tax to Bank of America.

Mr. Ramey explained that according to the city's commissioner of the revenue Bank of America filed a 2015 bank franchise tax return with the City of Norton and submitted a check in the amount of \$13,542 as required by State Tax Code. Bank of America filed an amended return in 2015 in 72 localities in Virginia including the City of Norton because the bank had included closed branches. According to the commissioner of the revenue, Bank of America closed the Norton office in 2014, so a 2015 bank franchise tax should not have been submitted to the City of Norton.

Council discussed at the March 21, 2023, council meeting whether or not to authorize the refund since it was Bank of America's mistake as well as potential options for refunding the money. At that meeting, the city attorney had advised council that they could table the refund to allow for counsel review of applicable tax statutes of limitations.

Mr. Ramey asked the city attorney to update council on potential statutes of limitations that could apply.

Mr. Dotson told council he had reviewed the law for potential statutes of limitations for taxes and there was a statute of limitations that was potentially applicable.

Providing council with some background, the city attorney said there were two potential remedies when a taxpayer has been aggrieved by an assessment. He said the first was an administrative process whereby the taxpayer would apply to the commissioner of the revenue and explain why the taxpayer believed the assessment or tax that had been paid was or would be erroneous. Mr. Dotson explained that there was a corresponding code section that once the commissioner of the revenue received the application or notification that he/she potentially made a mistake the commissioner of the revenue was required to look into the matter. If it was determined erroneous, then the commissioner of the revenue had to communicate with the treasurer and refund the money. He said the application period was three years from December 31 of the tax year of issue and in this case, there was no doubt that Bank of America had communicated with the commissioner of the revenue about this particular issue.

After a brief discussion, Vice Mayor Caruso noted that the commissioner of the revenue had determined that a refund was due to Bank of America for incorrectly filing a 2015 bank franchise tax with the City of Norton and the city owes the bank the money.

Upon a motion by Councilman Caruso, seconded by Councilman Fultz, and passed by the following unanimous roll call vote: YES – Jones, Salyers, Fultz, Caruso and Fawbush, NO – None, ABSENT – None, ABSTAIN – None, council authorized a refund in the amount of \$13,542 to Bank of America for incorrectly filing a 2015 bank franchise tax with the City of Norton.

Mayor Fawbush thanked the city attorney for his legal counsel on this matter.

The next item on the agenda was a draft Resolution of the City's Intent to Expend Funding from the Regional Improvement Commission.

Noting that copies of the draft Resolution of the City's Intent to Expend Funding from the Regional Improvement Commission were distributed to council, the city manager provided council with background on the Regional Improvement Commission, which was created by the General Assembly in 2020, and discussed the draft resolution with council.

Mr. Ramey said the commission serves the Bristol Transportation District which represents 14 localities, 12 of which are counties and two are cities. He said the purpose of the commission was to be able to receive disbursements made to it, establish funding priorities for member localities related to improvements in the areas of public education, transportation and public safety, and make annual payments divided equally among the jurisdictions to fund the established priorities as determined by the commission.

The city manager, who currently serves as the City of Norton's representative on the commission, informed council that the commission had established the funding priorities for the current year, which was to follow the State Code and say that the localities needed to make sure that they had expended those funds in the areas of public education, transportation and public safety. Noting that the commission receives quarterly payments from casino revenue that goes to the Lottery Commission and State Code requires that transfers to localities only occur once a year and not quarterly, Mr. Ramey said the first payment was projected to take place in August 2023. He said each locality would receive equal shares by check in late July or early August.

Because each locality must provide some form of documentation regarding its intent to fund priorities in 2023, Mr. Ramey said each locality was asked to provide those locality priorities in document form at the commission meeting in April. He said discussion with council revealed council's desire to spread that funding over the three categories of public education, transportation and public safety.

Mr. Ramey told council that the draft resolution was written using the word intent, but ultimately at the end of the fiscal year the auditor for the commission would ask each locality to certify how the funding was spent. His recommendation at that time would be to document by resolution how that money was spent, so the public could see how the casino revenue allocation was used. He said the draft resolution could be amended if council desired or action by council could be held until the next meeting.

The city manager asked if members of council had any comments concerning the draft resolution.

Mayor Fawbush said he thought council's intent was to spread the revenue over the three categories and exact expenditures could be reported later.

The city manager told council that some localities were spending the money on one of the targeted areas. He also explained that the draft resolution was designed to allow for flexibility at this time.

Mayor Fawbush asked if council had any questions.

There were no questions from council.

Upon a motion by Councilman Caruso, seconded by Councilman Salyers, and passed by the following unanimous vote: YES – Jones, Salyers, Fultz, Caruso and Fawbush, NO – None, ABSENT – None, ABSTAIN – None, council authorized a Resolution of the City's Intent to Expend Funding from the Regional Improvement Commission, as presented. (Insert)

A Resolution Proclaiming the Week of April 9-15, 2023, as National Public Safety (911) Telecommunicators Week in the City of Norton was presented for adoption.

The city manager said this resolution was something city council had done for a number of years to highlight the importance of Norton's 911 dispatchers as the initial point of contact during any emergencies. He said their professionalism and promptness in reporting those emergencies and obtaining important information during those emergencies were things that were often taken for granted.

Mr. Ramey explained that there is a national program that highlights these efforts across the country in the form of National Public Safety (911) Telecommunicators Week. Acknowledging

that public safety telecommunicators are the first and most critical contact our citizens have with emergency services, the city manager reported that City of Norton E-911 Center dispatchers answered 4,637 emergency 911 calls and 27,904 non-emergency calls in 2022.

The city manager asked Police Chief James Lane to discuss special activities the police department had planned to honor these public safety - 911 telecommunicators.

Chief Lane spoke briefly about the great team of men and women who serve the city as dispatchers. He said once the resolution was adopted and signed it would be framed and displayed at dispatch headquarters and each shift of dispatchers would be treated to lunch. He said he was also proud to say that with recent local changes increased training for 911 dispatchers is being looked at by the Police Academy, noting that it has been far too long since these dispatchers received advanced training.

The police chief said he was proud of the dispatchers and the service they provide for the City of Norton and the entire community.

Discussion followed about the emergency texting system and its usage and success.

Upon a motion by Councilman Salyers, seconded by Councilman Jones, and passed by unanimous vote, council moved to adopt a Resolution Proclaiming the Week of April 9-15, 2023, as National Public Safety (911) Telecommunicators Week in the City of Norton. (Insert)

On behalf of council, Mayor Fawbush extended his gratitude to the city's dispatchers for the work they do.

Council had been provided with a check to Glass Machinery & Excavation, Inc., dated March 3, 2023, in the amount \$341,566.97 for approval for paving done on the Southside Comprehensive Waterline Replacement Project.

Upon a motion by Councilman Jones, seconded by Councilman Fultz, and passed by the following unanimous roll call vote: YES – Jones, Salyers, Fultz, Caruso and Fawbush, NO – None, ABSENT – None, ABSTAIN – None, council moved to approve a check to Glass Machinery & Excavation, Inc., in the amount \$341,566.97.

Upon a motion by Councilman Caruso, seconded by Councilman Fultz, and passed by unanimous roll call vote, council moved to go into closed meeting to discuss Personnel as per Section 2.2-3711 (A) (1) of the Code of Virginia as amended.

Mayor Fawbush declared council in closed meeting.

Upon a motion by Councilman Caruso, seconded by Councilman Salyers, and passed by unanimous vote, council moved to go back into open meeting.

Mayor Fawbush declared council back in open meeting.

Mr. Ramey polled each member of council as to the Certification of Closed Meeting with each answering yes. The city manager then read A Resolution of the Certification of Closed Meeting.

Upon a motion by Councilman Salyers, seconded by Councilman Jones, and passed by unanimous vote, council moved to adopt A Resolution of the Certification of Closed Meeting. (Insert)

The mayor entertained nominations for appointments to the 2023 Virginia Municipal League (VML) Policy Committees.

Councilman Caruso made the following nominations for appointments to the 2023 Virginia Municipal League Policy Committees: Jeffery Shupe, Community and Economic Development

Committee; Jeffery Shupe, Finance Committee; Matthew R. Dotson, General Laws Committee; Abe Rutherford, Human Development and Education Committee; and Stephen McElroy, Infrastructure Committee.

Upon a motion by Councilman Fultz, seconded by Councilman Salyers, council moved that the nominations cease.

Mayor Fawbush declared the following individuals appointed to the following VML Policy Committees: Jeffery Shupe, Community and Economic Development Committee; Jeffery Shupe, Finance Committee; Matthew R. Dotson, General Laws Committee; Abe Rutherford, Human Development and Education Committee; and Stephen McElroy, Infrastructure Committee.

In comments from the city manager:

Mr. Ramey spoke briefly about his appreciation for being chosen as the 2022 Wise County/City of Norton Citizen of the Year, recollecting that he just happened to be in the right place at the right time to be part of some very special projects in the city. He said the projects would not have been possible had it not been for the folks sitting at this level who make the decisions to fund projects. He said he has always appreciated the support he has received from council and wanted to express his appreciation to council.

The city manager said tax tickets were mailed last week.

He said council had requested a table be reserved for the Wise County/City of Norton Gala on April 8, 2023, and tickets were distributed to council members. He asked council to let him know if they planned to attend and the names of attendees if possible.

In comments from the city attorney:

Updating council on the status of a next real estate delinquent tax sale, City Attorney Matthew Dotson said he was working on title histories for six cases.

He said he received a file from former City Attorney William Bradshaw's office this week on a request for a real estate tax exemption.

Mr. Dotson said he had met with City Code Official and Zoning Administrator Winfred Collins, Mr. Ramey and Mr. Shupe on blighted property issues and what could be done with those properties.

The city attorney also said he had reviewed the Main Avenue Bridge replacement contractor's insurance and bonds and assured council that he thought everything was moving in the right direction.

The following comments were made by council members:

Councilman Jones congratulated Mr. Ramey for being selected 2022 Citizen of the Year by the Chamber of Commerce and noted that the honor was well deserved.

Mr. Jones said he would update council concerning tomorrow's downtown group meeting.

Councilman Salyers applauded Mr. Ramey, noting his humbleness, and said he was glad that he was able to serve on council with Mr. Ramey even though it was for such a short period of time.

Councilman Fultz also commended Mr. Ramey for the award and thanked him for his years of service and for positioning himself and the city very well.

Councilman Caruso congratulated Mr. Ramey for being named 2022 Citizen of the Year, adding that it was well deserved and that Mr. Ramey's service to city has been tremendous.

Mr. Caruso asked for council to hold off on the city's Emergency Operations Plan (EOP) that was approved at the last meeting. While distributing 50+ suggested changes to council members, he noted that he had reviewed the EOP and the document did not give city administration, city employees or city council the ability to see how things would happen if. He said he would like to see the EOP developed into an actionable, comprehensive, useful plan that could be used during times of crisis and offered his expertise in writing plans at the tactical operation and strategic level. He said he hoped city administration would read his handout and act quickly to establish an action group to fix this document, because it has the potential to save or lose lives.

Mayor Fawbush commended Mr. Colley's presentation on Mr. Ramey's accomplishments and noted that Mr. Ramey has helped not only the city, but also the county, the region and the Commonwealth. He quickly pointed out that Mr. Ramey has a true love for the City of Norton that comes from the heart and that is why he deserves the 2022 Citizen of the Year award. He said Mr. Ramey's love for the City of Norton does not go unnoticed and we appreciate everything you do.

There being no further business to come before council, Mayor Fawbush declared the meeting adjourned.

CITY OF NORTON, VIRGINIA



Joseph Fawbush, Mayor

ATTEST:



Fred Ramey, Jr., Clerk of Council