

The Council of the City of North Royalton met in the North Royalton City Hall caucus room, 13834 Ridge Road on **March 15, 2005, at 7:30 p.m.**

PRESENT: President of Council Robert Stefanik, Council Representatives Denise Bobulsky, Vincent Gentile, Don Willey, Thomas Koch, Lisa Uffman-Kirsch, Robin Zaccardelli; Legislative Services Director Laura Haller, Law Director Thomas O'Donnell, Service Director Skip Mayer, City Engineer Clark Merdes, Interim Building Commissioner Rick Arrendale, Wastewater Superintendent Charles Johnson.

Agenda reviewed.

Discussion was held regarding the status of Ordinance 04-183. Miss Zaccardelli requested that this legislation be referred to the Rules & Ordinances Committee.

Mr. Stefanik requested that Resolution 05-31 be referred to the Storm Water Committee.

Mrs. Uffman-Kirsch said she objects to this referral. She said it would delay the Board of Health from acting on the septic system grants.

Mr. Stefanik said that he spoke with the Board of Health and was told that this would not delay these grants.

The Council of the City of North Royalton met in the North Royalton City Hall Council Chambers, 13834 Ridge Road on **March 15, 2005, in regular session.** The meeting was called to order at 8:00 p.m. by President of Council Robert A. Stefanik and opened with the Pledge of Allegiance.

PRESENT: Council: President of Council Robert Stefanik, Council Representatives Denise Bobulsky, Vincent Gentile, Don Willey, Thomas Koch, Robin Zaccardelli, Lisa Uffman-Kirsch, Legislative Services Director Laura Haller.

Administration: Mayor Cathy Luks, Law Director Thomas O'Donnell, Finance Director Karen Fegan, City Engineer Clark Merdes, Police Chief Paul Bican, Service Director Skip Mayer, Community Development Director Michael Kosdrosky, Wastewater Superintendent Charles Johnson, Acting Recreation Director Ed Swim, Interim Building Commissioner Rick Arrendale.

ABSENT: Office on Aging Director Debbie Duffy, Fire Chief Michael Fabish.

APPROVAL OF CONSENT AGENDA

- a. Approval of minutes: March 1, 2005.
 - b. Release of sidewalk bond for Royal Valley Phase 1B as approved by the Engineering Department.
 - c. Release of sidewalk bond for Cambridge/North Boston Phase 2 as approved by the Engineering Department.
 - d. Release of sidewalk bond for Ivy Ridge as approved by the Engineering Department.
- No one on Council wished to have an item removed from the Consent Agenda.

Moved by Mr. Willey, seconded by Mr. Koch **to adopt the Consent Agenda as presented and read.** Roll Call: Yeas: **Seven** (Stefanik, Bobulsky, Gentile, Willey, Koch, Zaccardelli, Uffman-Kirsch). Nays: **None. Motion carried.**

COMMUNICATIONS: None.

MAYOR'S REPORT:

Mayor Luks said that there are several items on tonight's agenda that have economic impact on the city's budget that she would like to talk about this evening. Mayor Luks said that preparing the budget each year has become increasingly difficult as our costs to provide services are increasing at a much greater rate than our revenues. We expect this trend to continue based on the cost of services study the city conducted recently. We are facing a potential 20% in funding cuts from the state which represents a 7% cut to our general fund.

Mayor Luks reviewed the process of preparing the annual budget. Mayor Luks said that the elected officials must act united in addressing the budget priorities to the best of our ability. Over the past year, priorities have shifted to trying to address the storm water and flooding issues. Every Council representative has committed to addressing the flooding problems as a top priority as well as trying to address road repairs and infrastructure improvements. We have made some progress and have done a lot to try and get funding assistance in these areas. We have requested for several years, even before the flooding last year, assistance from the Army Corps to do a study of the Baldwin Creek area which we know is a large factor in the flooding of the northwest quadrant of the city. After many years of working toward this through Congressman LaTourette and then Congressman Brown, we were told that we were awarded \$100,000 to begin studying this project to determine if we were eligible under the federal guidelines for Army Corps assistance to fund the actual project and to determine if there was a cost benefit ratio that met their guidelines, and to determine what the correct fix should be for this problem. We were told by Congressman Brown that we would be receiving results of Phase 1 of this award by September 2004, and at that time we would also receive interim recommendations of short term provisions we could put into effect to try and alleviate some of the flooding problems until the full fix is accomplished.

After the spring rains, the Army Corps revisited our area and at that time it was decided that the Rocky River water shed would be included in this study and as such we did not get the results in September. To date, we have not received the promised results and she has been questioning Congressman Brown and the Army Corps as to why this project has been stalled. She was told by the Army Corps that they have spent \$35,000 on work they have done so far, which to the best that she can tell is that they completed the hydrology study. No one can explain to her at this point where the other \$65,000 went, however the Army Corps tells her that it will be funded possibly at the beginning of their next fiscal year which is not until October 1, 2005. Mayor Luks said that she has asked Congressman Brown's office twice to explain where the other \$65,000 is and to date she has not received an answer.

In addition to requesting Army Corps assistance, we formed the Residents Flooding Oversight Committee and hired a consultant to work with this committee to identify the flooding problems and look for potential solutions, and at the end of their work to recommend to the city projects that will resolve the flooding problems wherever possible. They are making good progress and she expects that we will be getting recommendations from them in the next several months and at that time, we will need to look at ways to fund these projects.

Mayor Luks said that we have also submitted numerous projects to FEMA under their mitigation grant program, some of which included the removal of some of the homes on Abbey Road that have flooded for the past 40 years. We feel there is no better solution than to get those homes out of the flood zone. There were additional projects submitted that were rejected. The Abbey Road project is still being worked through the process. We also submitted projects for homes on Edgerton, Bennett and Akins. The homes on Bennett Road were removed from the project by the State Emergency Management Agency because of the cost benefit ratio, but the two homes on Edgerton and the one home on Akins are still ongoing and we are awaiting results. In all of these projects, there will be a local share of funding. We also applied through the public assistance program at FEMA for mitigation dollars to make improvements to our storm water catch basins that were damaged during the flooding, to raise manhole covers on sanitary sewers in the flood prone areas to prevent storm water from infiltrating the sanitary sewers, and to make improvements to the communications system at B Plant so that we would receive even earlier warning if there is any type of failure occurring due to water levels or power failures. We have been successful in obtaining thousands and thousands of dollars through these programs, all of which require matching funds on the part of local government.

Mayor Luks wished to reiterate that funds were tight in putting together this budget. We have also applied for Issue 2 funding assistance through the state to widen the intersection at State and Wallings. We were fortunate to receive an award on this project and this too will require a local share of funding. This leaves the amount of funds available for local road repairs, which typically are not eligible for any outside assistance, to be an inadequate amount, but the best we could do this year.

We currently have pending project request applications in front of Senators Voinovich and DeWine and Congressman Brown for \$23 million in funding assistance from the Federal Transportation Bill for the purpose of widening Rt. 82. This is significant for the purpose of economic development. We need to move truck traffic and make accessibility from I-71 to our Industrial Park easier and more attractive to business. We need to be able to move traffic through our business district and out to I-77 to be able to encourage the development of our downtown central district project. The revenues coming from these projects could amount to millions and millions of dollars in tax revenues to help us fund these infrastructure and flooding problems. The funding is inadequate to do everything.

Mayor Luks said she recently received a letter from Congressman Brown regarding the funding program called WERTA, requesting that we advise him and the Army Corps of any potential projects we may have for funding. She spoke with Mike West from Congressman Brown's office last week, and Ed Walls from the Washington Office to discuss what types of projects we may have that would be eligible for this funding program. Mayor Luks said that as the Residents Flooding Oversight Committee and the consultant come forward with recommendations on solving some of these flooding problems, we would be able to submit these projects through the WERTA program for funding. Mayor Luks said that she was encouraged by both Mike West and Ed Walls, that as we receive these recommendations and have some project descriptions, we should present them for assistance in developing these projects through the WERTA program. Mayor Luks said that we will be continuing to work towards this. These projects will also require matching local funds.

Mayor Luks said that she learned today that two of our Council representatives also submitted a request through this program. She said that she was not aware of their plans to do so. They were requesting funding of a interceptor sewer for a trunk line to the southern portion of the city to enable sewers to extend throughout Ward 6 and parts of Ward 5. Mayor Luks said that she is very concerned at this point in time about asking for funding assistance through this program simply because of the economic implications that we are facing. The cost of the sewer expansion is much greater overall than what Council realizes and when we are competing for funding assistance for other priorities such as road improvements and flooding problems, to throw this into the mix right now is unrealistic. She said that she is concerned about the ramifications of the legislation that is on the agenda this evening urging a study and pursuit of sewerage the southern part of the city. One concern she has is the potential that it will impede the grants being offered to 28 homeowners in the southern part of the city by the Board of Health to upgrade their septic systems. It is her understanding that these grants will pay for 50% of these upgrade costs. This will be important in improving the septic situation in these areas and she is extremely concerned about the message we are sending to the Board of Health by saying we are now going to sewer. She is concerned that this will bring these grants to a complete halt. Mayor Luks said that she is also concerned that although the Board of Health will continue to inspect the septic systems in the southern part of the city, enforcement of failing septic systems will not happen as long as there is the possibility of sewers being extended.

Mayor Luks said that she again is asking for Council to go back to what we thought were our priorities and for all of us to get on the same page as to what these priorities are. While improving water quality is certainly a priority, there is more than one way to accomplish this, and while reducing sewer rates overall for the city is a priority, and has been all along, she truly questions whether sewerage the southern section of the city will have this effect. The grant request for the interceptor was just under \$3 million. The problem is in order to accomplish sewerage all of the areas that are currently on septic systems, it would not only require the force main, it would also require the installation of feeder lines. To really do it the way it should be done, it would also include removal of pump stations and putting those areas into gravity sewers. The cost of the interceptor itself is estimated at \$3,543,750.00. However, the cost of installing the feeder lines is estimated at approximately \$9,717,500.00 and the cost of eliminating the pump stations from the southwestern portion of the city and placing these on gravity sewers is estimated to be \$2,012,500.00 for a total cost of \$15,273,750.00. This dollar amount is for sewers to approximately 1,000-1,200 homes. She wants to know how we are going to pay for this. The just under \$3 million grant that the two Council members are requesting is just a drop in the bucket. The remaining amount is far too excessive to pay for and add on to the city's debt service. The reason that our sewer rates are as high as they are now is because of the existing debt service going back to when we were forced by the EPA to upgrade A Plant. If we do not add this to our debt service, the only other alternative would be to assess the residents that benefit from these sewers. She cannot see how assessing somewhere between \$10-15 million to 1,200 residents is feasible, practical, doable or even fathomable. If you look at it from a stand point of adding it to our long term debt service and what that would do to the annual debt service amount that we would owe and taking into

account the additional revenues from these added sewer users, the added revenues would be approximately \$500,000 per year. The short fall with the new debt service added to our old debt service, the new debt service would amount to \$473,100.00. The short fall would be \$672,900 that we would not be getting in sewer rates to be able to pay for that debt service. This would mean that one of two things would have to happen. Either we would have to find this money through increased taxes or we would have to find this money through raising the sewer rates. Additionally, no matter how we determine we are going to fund this debt, there is a 2% share that the city would have to absorb and not be able to put through as an assessment or charge to grant monies. This alone is \$305,475.00.

Mayor Luks said we have many priorities. Many of them are good, reasonable and necessary. We cannot afford to do them all and we must prioritize. She is asking Council to address our priorities one step at a time. Let's address the flooding issues, let's make the road repairs as best we can, let's improve local services as best we can and conquer these one at a time.

DEPARTMENT HEAD REPORTS:

Acting Recreation Director **Ed Swim** reported on activities occurring through the Recreation Department.

Community Development Director **Michael Kosdrosky** reported that business and property owners between Ridge and State Road on both the north and south side of Rt. 82 fall within an Improvement Target Area for the County. This means that these business and property owners are eligible for a store front renovation loan program. The deadline for these funds is April 15th. Loans are up to \$60,000 with a 3.5% interest rate over 12 years and can be used for façade improvements and renovations, exterior and interior building code improvements, including electrical, plumbing, HVAC and structural repairs. Mr. Kosdrosky encouraged any business that may want funding assistance to contact his office.

Finance Director **Karen Fegan** announced that representatives from the Regional Income Tax Agency will be at City Hall on March 23, 2005, from noon to 7:00 p.m. to assist residents with city income tax questions.

PRESIDENT OF COUNCIL'S REPORT: No report.

COMMITTEE REPORTS

All Committees, Boards, and Commissions announced the dates and times of their next regularly scheduled meetings. All meetings are held at City Hall, 13834 Ridge Road, unless otherwise noted. A complete meeting schedule is available from the Council Office.

PUBLIC DISCUSSION

The following residents addressed Council in opposition of proposed Resolution 05-11:

Wendy Milicic-Kovarik, 7385 Cady Road
John and Elaine Kopniske, 29624 Ridge Road
Craig Zeleznik, 18757 State Road
Terry Spinks, 5960 Edgerton Road
Eunice Schiering, 17708 State Road
Gary Obenauer, 4645 Heather Lane

Copies of any written statements that were provided are attached to these minutes.

LEGISLATION

THIRD READING CONSIDERATION: No action: 04-194, 05-1, 05-15, 05-16, 05-19.

ORDINANCE 04-183

AN ORDINANCE REQUIRING DIRECTORS TO ACCOUNT FOR LABOR AND MATERIALS USED ON CERTAIN PUBLIC IMPROVEMENT PROJECTS AND DECLARING AN EMERGENCY. Title read.

Referred to the **Rules & Ordinances Committee.**

ORDINANCE 04-211

AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE CITY OF NORTH ROYALTON, PART 12 PLANNING AND ZONING CODE, CHAPTER 1282 OFF-STREET PARKING AND LOADING, AND DECLARING AN EMERGENCY. Title read.

Moved by Mr. Willey, seconded by Mr. Gentile to **adopt Ordinance 04-211**. Roll Call: Yeas: **None**. Nays: **Seven** (Stefanik, Bobulsky, Gentile, Willey, Koch, Zaccardelli, Uffman-Kirsch). **Motion defeated.**

ORDINANCE 05-8

AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE CITY OF NORTH ROYALTON, PART SIX GENERAL OFFENSES CODE, CHAPTER 618 ANIMALS, SECTION 618.19 DANGEROUS AND VICIOUS DOGS, AND DECLARING AN EMERGENCY. Title read.

Moved by Mr. Willey, seconded by Miss Zaccardelli to **adopt Ordinance 05-8**.

Mrs. Uffman-Kirsch said that amendments she had proposed were not recommended by the Safety Committee this evening. She said she would be bringing these amendments back before the committee next month.

Roll Call: Yeas: **Seven** (Stefanik, Bobulsky, Gentile, Willey, Koch, Zaccardelli, Uffman-Kirsch). Nays: **None**. **Motion carried.**

RESOLUTION 05-11

A RESOLUTION URGING THE MAYOR TO EXPAND SANITARY SEWER SERVICE TO ALL OF NORTH ROYALTON BASED ON A PRIMARILY GRAVITY BASED SYSTEM DESIGN. Title read.

Moved by Mr. Willey, seconded by Mr. Gentile to **adopt Resolution 05-11**.

Mrs. Uffman-Kirsch read a statement opposing Resolution 05-11. A copy of this statement is attached to these minutes.

Mr. Gentile said that the 800 currently failing septic systems would total about \$8-12 million to replace. Mr. Gentile read a statement supporting Resolution 05-11. A copy of this statement is attached to these minutes. Mr. Gentile displayed pictures of failing septic systems and containers of effluent collected at such sites.

Mayor Luks said that there is no question that there are failing septic systems in our city and there is more than one way to remedy these situations. She said that she strongly disagrees with Mr. Gentile that \$15 million dollars can be assessed to 1,000 residents. She said that it is much too cost prohibitive. It will result in higher sewer rates and/or higher taxes. Furthermore the agency that has written the regulations for the Phase 2 Storm Water Regulations is the very same agency that is writing the regulations for septic systems. She said that Mr. Gentile cannot say that if people are made to upgrade their septic systems to comply with current regulations and eliminate the polluting effluent, that the EPA is somehow going to have a problem with it. She said that this is rhetoric and a scare tactic. The 2008 deadline is not that we have to have all of our water cleaned up. The 2008 deadline under the Storm Water Phase 2 Regulations is that we need to report to the EPA where our problems are and tell them how we are going to solve them. This answer could simply be that the Board of Health is now enforcing the upgrading of these systems. The Board of Health has not been enforcing upgrades for the simple fact that the city continually sends them mixed messages. This is why the city had to take a step back a few years ago to look at the 208 plan, that was reviewed by the then seated Council Utilities Committee, and agreed that economically it was not doable in the near future to install this interceptor and the feeder lines in order to sewer this part of the city. There was concern as well that it would threaten the Rural Residential zoning, of which there is a great deal of case law that says it very well could.

Mayor Luks said the city filed the 208 plan for the sole purpose of telling NOACA, the Board of Health and the EPA that this is what our basic thought process was on what we would be able to afford to sewer over the next 20 years. Since then, Mr. Gentile and Council President Stefanik have taken it upon themselves to tell the Board of Health that we will be sewerred within seven years. Without having anything formally adopted by Council and without having an Administration that agrees with this position, you unilaterally took it upon yourself to do this at which point the Board of Health contacted her and said that the city needs to tell them one way or another what is going on with certainty or they won't be able to enforce the failing septic systems. Mayor Luks said she questions Mr. Gentile's and Mr. Stefanik's authority to unilaterally do these types of things and

she does not see that they are doing anything constructive for the residents of this community. Mayor Luks said that she wants to see their numbers that show that this is not going to create a higher sewer rate, because she has numbers in front of her that say otherwise.

Mr. Willey said he supports this because he believes we need to plan for the future. He said he recalls that the current 208 came out of the Utilities Committee without a recommendation. The concern he has is that in 2008 the hammer is going to drop and the city will be in a situation where we will be forced to spend money that we don't have and might not be able to get, similar to what happened with the upgrade of A Plant.

Mr. Willey said that Mrs. Uffman-Kirsch took a shot at some members on Council during her statement and questioned their motives. His concern about this is health. He too supported Rural Residential. When he first moved to North Royalton there was a brook behind his house with two 150 year old oak trees. Then the EPA came along and said that there has to be a retention basin, so this little brook with frogs and ducks turned into a chunk of concrete. Mr. Willey said that he was disappointed but neither he nor the city had any control over this. These are the things that happen as government evolves.

Mr. Willey said that as he recalls, Mrs. Uffman-Kirsch actually pays all of her real estate taxes to the City of Broadview Hts. except for one small lot that is about \$73.00 per year. So in terms of the impact on her personally, he questions this and does not know if that is a necessary issue.

Mr. Willey said that some of Council are trying to be vigilant today for what is going to happen tomorrow. Obviously, we have different perspectives on it, our motives may be different but we can only see the facts and truth as we see it and act accordingly.

Mr. Koch asked Mr. Gentile what gave him the authority to contact the Board of Health and tell them that sewers were going to be installed and jeopardize the septic systems grants for some of the residents.

Mr. Gentile responded that he spoke with the Board of Health yesterday and they reassured him that any sewer expansion would not jeopardize the grants. If those homes qualify, they will get the grant. We are not trying to jeopardize this and this is just a drop in the bucket out of 800 systems. As far as authority, Mr. Gentile said that he is a tax payer and a concerned resident just like everyone else and he can call the Board of Health anytime he wants.

Mrs. Bobulsky read a statement opposing Resolution 05-11. A copy of this statement is attached to these minutes.

Miss Zaccardelli reminded everyone that 05-11 is only a Resolution. All we are doing is asking for an alternate plan so that if the 208 plan fails we have something to back us up. She does not believe that the Board of Health is going to pull these grants. When you look at the cost of a new on-site septic system, you will be paying \$20,000, for off-site you will be paying \$15,000 and you can't have an off-site if you don't have 2 acres or more. In the long run, we need to be looking 10-20 years from now. Unfortunately past administrations have a bad habit of putting band-aids on things and we end up having to pay for it. All this Council is trying to do is get an alternate plan. She does not understand why the other members on Council are trying to fight this. They are accusing some members of having ulterior motives. Well, maybe they are the ones with the motives. She would like the residents to please pay attention, listen to what both sides are saying and come up with their own decision on this. She knows personally that she is not trying to hurt anyone in her ward. The last thing she wants to do is cost them money. She said it is her job to look out for them and this is what she is trying to do. We are just asking the Mayor to please come up with another plan and show us what else is out there.

Mr. Stefanik said that he has a septic system and well water and he supported Rural Residential in the past, continues to support it, and even voted to expand it with the Master Plan. He feels that he brought Council and the Administration together to get the Master Plan passed. When everyone agrees up here it's great, but we don't always agree. This is something on which we don't agree. Last year in a meeting with the Mayor, Law Director, and the Legislative Services Director, David Harbarger who is a Law Director in Cuyahoga County and an authority on municipal law was posed the question: do you see an expansion of sanitary sewers in the southern half of North Royalton as a threat to Rural Residential zoning." Mr. Harbarger answered that because of the fact that we adopted Rural Residential zoning in the 1990's by a vote of the people, and because we were in the process of adopting a Master Plan with Rural Residential zoning included and even expanded by a vote of the people, he felt that in his professional opinion we would be able to withstand a challenge by any developer coming in and wanting to put in a smaller lot development in the southern end of the city. Mr. Stefanik said that no one who was present at this meeting has yet disputed that this is what was said.

As far as the grant program goes, there are 25 grants available for Strongsville, North Royalton and Olmsted Township with the majority of these grants going to North Royalton. He believes that these grants should go to homes with large lots down in the valleys where the topography would make it impossible in the future to tie into the sanitary sewers. He does not know if this is going to happen in 5 or 10 years, but he thinks some residents might be a little selfish to think that they are going to get their grant but not care about the other 800-900 people. He has a septic system and knows that sewers are coming down the road and he is going to start preparing for it today.

Mr. Stefanik said that in 2008, Phase 2 of the Storm Water Regulations states that we will have to meet certain criteria which means that every septic system is going to be inspected yearly. The septic users will pay for this through permit fees. Right now the fee is at \$40.00. Mr. Stefanik said he was told today that you could probably plan on adding a zero to that...\$400.00 per year. Also, septic systems that are not failing will have to be retrofit with either a chlorinator or an ultra violet light. These are systems on smaller lots, less than 2 acres. This is another expense that can be expected. Along with these yearly inspections will be laboratory sampling. The city is not going to pay for the sampling; the homeowners will pay for it probably through permit fees. Mr. Stefanik said there are 8 pump stations in the southern part of North Royalton. These stations pump sewage back and forth throughout the southern part of the city to our wastewater plant. By putting in an interceptor sewer we can eliminate 7 of these pump stations. In 2003 we replaced 2 pump stations at a cost of \$420,000. Just last year, we spent well over \$300,000 on one pump station because of problems. Mr. Stefanik said that he agrees that flooding should be our number one priority. The Master Plan is important, Rt. 82 projects are important, and road repairs are important. As far as the flooding goes, down in Ward 6 around the Nottingham Woods and Montague Court area, when it rains the flood waters back up into the pump stations thus moving the raw sewage into the homes in the neighborhood. This has happened more than once. Homes with septic systems on Bennett Road south of the parkway every time it rains hard and the rain pours down from the Turnpike in through the parkway on to Bennett Road, those septic tanks back up into the homes. You have to understand that part of this will alleviate some of the sewage back up due to the flooding in the southern part of the city, not all of it, but a small portion of it.

As far as talking to the Board of Health, Mr. Stefanik said that he has talked with them several times yesterday and today, and of the homes that they have visited for this septic grant program, only 20-25% of the people they have tested would even qualify for this grant. So just because they were out at your home performing tests does not mean that you are going to get this grant. Mr. Stefanik said that he stands by what he said before in that these grants should go to the people who would have the toughest time connecting to sanitary sewers due to topography.

Mayor Luks responded to Miss Zaccardelli's earlier comments. She said she is confused by the statement that they just want an alternative. It leads her to believe that perhaps there is a misunderstanding on what the 208 plan actually is. The 208 plan is a map of the city that we filed with NOACA. The reason that the city was asked to file it was because the Mayors from multiple counties that sat on that governing board, at which time she was a member, raised the concern about the fact that these storm water regulations were being imposed upon us and the Board of Health was not enforcing upgrading and repairing failing septic systems. So at that time, we invited the Board of Health to attend a NOACA meeting. Board of Health Directors from each of the counties represented at NOACA were present and there was a great deal of discussion, after which it was agreed upon that the Board of Health would begin enforcement if each local jurisdiction would file a plan, a map of their city, that was coded to indicate the areas that are sewered, the areas that we know will be sewered in the next 5 years, the areas that we think will be sewered within 20 years, and the areas that we don't believe will be sewered within 20 years. That way the Board of Health has some assurance that when they were going to a septic owner that they were not forcing them to upgrade in an area where sewers were going to be installed.

Mayor Luks said that you can't have an alternate 208 plan. You can only have one. There can't be Plan A and Plan B because the Board of Health still won't know where they can enforce and where they can't. The decision of what areas would be sewered and what areas would not was very much an economic decision. She has no problem with people disagreeing with her, she does have a problem when people are disagreeing by citing reasons that don't appear to be based in actual facts. Mayor Luks said the actual fact regarding the Storm Water Phase 2 regulations is that we will not be having the EPA coming in here in 2008 telling us we have to sewer. This is not how this works, this is not the way the regulations are spelled out. If you believe this, then you apparently misunderstand what the requirements in these regulations actually are. This year with the budget as tight as it is, with the limited dollars in the wastewater funds, and with areas where we know we have inflow and infiltration that are causing sanitary back ups and problems at our plants and in peoples homes, we don't need to conduct a study to determine the feasibility of sewerage in the southern part of the city because we need those funds to be allocated to correct the existing problems. In a situation where we know that economically we are not going to be able to afford to

expand sewers in the next 5 years into the southern part of the city, why do we want to pass this Resolution and send it on to the Board of Health and the EPA and confuse the issue and once again have the Board of Health tell us that they can't enforce because of the Resolution we just sent them. This will throw us behind the eight ball in cleaning up the water quality and still not make it any easier or feasible for us to sewer the southern part of the city. You are not dealing with a real set of facts. The reality is the reality and this is not what she is hearing from any one of you that are in favor of this.

Miss Zaccardelli asked the Mayor for the date of the 208 plan she submitted.

Mayor Luks said that she does not have it in front of her but it was a few years ago.

Miss Zaccardelli asked if it was quite a few years ago.

Mayor Luks said that she has only been Mayor for 5 years, so sometime within the last 5 years.

Miss Zaccardelli said she is not asking when she submitted the plan, but what the date was on the plan that was submitted.

Mayor Luks said that we developed the plan right at the time it was submitted. We are not talking about a Master Sewer Plan, we are talking about a different issue. She said that Miss Zaccardelli has the two confused.

Miss Zaccardelli restated her question and asked if the Mayor came up with the 208 plan by using the Master Sewer Plan.

Mayor Luks said that at the time it was based on topography and expense.

Miss Zaccardelli said yes or no would be sufficient.

Mayor Luks said actually no it wouldn't if she really wants a comprehensive answer. The way the plan was determined was based on where there were existing sewer lines that could simply be extended and in which case we felt that it was conceivable that those could be sewerred within the next 5 years. We then looked at areas that were going to be more difficult and more expensive in which case we pushed those out to later time frames. This was done through discussion at the then sitting Utilities Committee and agreed upon, and this is what we submitted. Economics played a huge part in this.

Addressing a comment made earlier by Mr. Willey, Mrs. Uffman-Kirsch said that Resolution 05-11 came out of Utilities with a recommendation for defeat.

Mr. Willey stated that he was speaking about the 208 plan, not Resolution 05-11.

Mrs. Uffman-Kirsch further addressed comments made earlier by Mr. Willey. She said she never questioned his motives from up here. This is not just about Rural Residential, this is about the economics of the city. The safety of Rural Residential staying is certainly one fact, but it is not all of it. Mrs. Uffman-Kirsch said that she actually has 4 parcels, two of which are in Broadview Hts., two of which are in North Royalton. She pays here property taxes to the areas where her land is, and 100% of her income taxes are paid to North Royalton, not that this is anyone's business, or that anyone is able to access that, but she will share that with him.

Mrs. Uffman-Kirsch addressed Mr. Gentile regarding the failing systems. She agrees that we have failing systems and this is why we need to defeat 05-11 so that we can get started with the 28 people who have been approved for a grant. She said that if the Board of Health told Mr. Gentile that these grants are not in jeopardy, she is going to give him the benefit of the doubt in this statement that he misunderstood. She read from notes of her conversation with the Board of Health: "we were originally ready to send out letters to these 28 individuals" She said she would like to jump to Mr. Stefanik's comment about 25 grants for Strongsville, North Royalton, and Olmsted Twp. She has no idea what he is talking about here. There were approximately 50 grants that were available in Cuyahoga County, 29 of which have been approved for North Royalton. Mrs. Uffman-Kirsch again quoted from her conversation with the Board of Health: "we were originally ready to send out letters to these 28 residents letting them know that it looks good, telling them we want them to contact us to set up a one on one meeting to go over the options that they could have for septic systems and to give them a list of 5 or 6 contractors that we have approved on the grants and get them estimates. However, two weeks ago he started getting calls from everyone and their brother". Mrs. Uffman-Kirsch asked if these were her residents. The response was no, it was members of the city. She asked if she could assume that this was Mr. Stefanik and Mr. Gentile. She was told yes it was. She asked for the content of the conversation. She was told

that they were asking questions about the 208 plan. At this point the Board of Health explained to them that the 208 plan is not under our jurisdiction it is under the jurisdiction of NOACA. That led them to tell her that they are looking at this Resolution. Mrs. Uffman-Kirsch asked if this Resolution passes will the septic grant program be eliminated. He responded absolutely, except for approximately 5-7 of the 29 who would otherwise not be able to connect to the sanitary sewer because of topography or distance. She said that the Board of Health will be rewriting our grant for how they got the money and will use it for something else like stream side protection. She asked the gentleman from the Board of Health if he clearly stated to Mr. Gentile and Mr. Stefanik in this conversation with them what this Resolution would do to this grant program. He said absolutely, unequivocally, he shared with them what this would do to this grant program. Mrs. Uffman-Kirsch said that she would give Mr. Stefanik and Mr. Gentile the benefit of the doubt that they misunderstood those conversations or maybe you spoke with someone else that had a different angle on it.

Mrs. Uffman-Kirsch said that Mr. Stefanik said that we don't agree on this. She said that this is right and we can always disagree on things. But when there is something that has the long range and short range negative financial impact to this entire community, not just her ward, they are going to disagree adamantly. As she has said before, it doesn't matter if she is sitting in this chair or not, she will not stop on this issue.

Mrs. Uffman-Kirsch wished to clear up the matter of permit fees. She said those numbers are wrong. The Ohio EPA permit fee is \$200 every five years. There is a local \$40 Board of Health permit fee that will be replaced by a \$200 inspection and lab fee. This is for off-lot discharges only. If you are in the grant program you are an on-lot discharge system.

Regarding the water quality discharge, Mrs. Uffman-Kirsch said that she did an analysis under the NPDES permit of what the discharge is from our sewer plant and what the discharge would be from the upgraded septic systems. In the upgraded septic systems the limitations are more stringent than they are on our sewage plant in 4 areas.

Mrs. Uffman-Kirsch said that we don't need an alternate plan. We have a plan that works if everyone would stop interfering with the process. The plan is to inspect, replace and upgrade our septic systems. We must defeat Resolution 05-11 so that this grant can proceed and adopt Resolution 05-31 which supports the Board of Health septic system program. She has been told unequivocally by the Board of Health that they will not mandate septic compliance until they have Resolution 05-31 in hand.

Mr. Gentile said the reality is we need to start getting rid of the septic system discharge problems. We can't make it happen because we don't have jurisdiction over this, the sewers we do. Mr. Gentile said that he spoke with the Board of Health yesterday and what they want is for the City Engineer to identify specific lots that can never be sewer for the off-lot granting purpose. They are not pulling the money, this is not in jeopardy. The way it was delivered to them is that there was a map given to them with big circles on it showing roads never to be sewer. They told him that 119 people applied. The grant money is still available and they want to see which way this Resolution is going. The bottom line that this is only 29 systems. They are projecting 800 failing systems now. This effects only a minute amount of people. The cost of 800 compliant septic systems at \$10-15,000 per system is \$8-12 million. Whether you pay that in a sewer assessment, or pay the bill to replace your septic, it's still money out of your pocket and will still effect the local economy either way. At least with the sewer assessment, it is tax deductible, the septic system is not. Mr. Gentile said that he is a proponent of sewers because of what is contained in these jars and pictures. If we didn't have this, then he would not have a problem. This is a black eye on our community and it needs to go away. We have to maintain this community and it is up to the individual homeowners. If not, then the city may have to take action. We are asking for an alternate plan.

Mr. Koch said we need to set priorities and work on the problems we have. As far as the whole sewer idea, he knows that Wards 1, 2, 3 and 4 will end up paying the bill for this in the future. He does not think that we need to do this at this time. He knows that Wards 5 and 6 will pay too, but everyone will get caught up in this and he does not want the sewer bills going up. As long as the Board of Health does their job, this should work and we don't need to put in an interceptor and expand the sewers at this time.

Mr. Willey said there seems to be two sides to this story and if both are right, he suggests that whatever the result of the vote is tonight that we get an opinion from the Board of Health addressing what this Resolution does or does not do so that at least we would have their official position.

Mr. Stefanik said that the Ward 5 and Ward 6 meetings will have representatives from the Board of Health present and hopefully someone from the EPA will also be able to attend. A lot of questions will be answered with a lot of back and forth dialog. Mr. Stefanik said that he thinks that it is important that the residents weigh all the facts before making a judgment on this. Nothing is going to happen overnight. We applied for grant money through the federal government for an interceptor because we heard the program was out there and North Ridgeville had applied for it. We found out about it by accident. We made a few phone calls and lo and behold, the money is there and they said that we could qualify for that program. He felt it should be taken to the next step to see if we can get this funding. Regarding the numbers given by the Mayor this evening, he said this was the first time he ever heard those numbers. We have a Utilities Committee meeting every month and this has been on the agenda for probably 2 years and now at the 11th hour we get some more numbers thrown at us. Mr. Stefanik invited the Administration to come to these committee meetings and maybe share some of this knowledge. We need to know this, we are the ones holding the purse strings in the city and we are the ones voting on how to spend the money. He thinks they need all the information to do this properly for the residents.

Mayor Luks asked to speak.

Mr. Stefanik said just a minute please.

Mr. Stefanik said that he thinks we need to revisit the 208 plan. Things have changed from 5 years ago with the new regulations that have come down and they are probably going to change a lot more in the next 5 years. This plan needs to be revisited, adjusted and we need to do it with more input than just one person doing it. He thinks we should bring in the Board of Health and the EPA, sit down and get some guidance from them. He felt that it is important to do this logically and not just fly off the handle. We have time to do it, and he is pleading with the administration that we take this time, plan it properly and move forward. He would sure like to see all the residents at the upcoming Ward meetings in May and June. Try and get your questions to us ahead of time so that we can get the answers in time for the meeting. Mr. Stefanik thanked the residents for coming tonight. He said that he knows it is an important issue whenever you hit someone in their wallet, but he wanted them to remember that it's his wallet too and he hopes to do right by the residents of North Royalton.

Mr. Stefanik said that everyone has had the opportunity to speak twice on this issue, and this is how the Council meetings are run per Council Rules, so the Mayor will have the opportunity to incorporate her statements into discussion on other legislation later on.

Mayor Luks said that in other words she cannot respond to what Mr. Stefanik just said.

Mr. Stefanik said as far as he knows, everyone has had their two times to speak.

Mayor Luks asked how many times Mr. Stefanik got to comment.

Mr. Stefanik said twice.

Mr. Stefanik and Mrs. Bobulsky asked the Law Director for an opinion on this.

Mr. O'Donnell said that when asked before he did opine that there are two opportunities to speak.

Roll Call: Yeas: **Four** (Stefanik, Gentile, Willey, Zaccardelli). Nays: Three (Bobulsky, Koch, Uffman-Kirsch). **Motion carried.**

ORDINANCE 05-13

AN ORDINANCE AMENDING VARIOUS PENALTY SECTIONS OF THE CODIFIED ORDINANCES OF THE CITY OF NORTH ROYALTON PERTAINING TO MISDEMEANANT CRIMES, AND DECLARING AN EMERGENCY. Title read.

Moved by Mr. Gentile, seconded by Miss Zaccardelli to **adopt Ordinance 05-13.** Roll Call: Yeas: **Seven** (Stefanik, Bobulsky, Gentile, Willey, Koch, Zaccardelli, Uffman-Kirsch). Nays: **None.** **Motion carried.**

ORDINANCE 05-17

AN ORDINANCE AMENDING CHAPTER 880 EARNED INCOME TAX, SECTION 880.27 DISBURSEMENT OF FUNDS, OF THE CODIFIED ORDINANCES OF THE CITY OF NORTH ROYALTON, AND DECLARING AN EMERGENCY. Title read.

Moved by Mr. Willey, seconded by Mr. Gentile to **adopt Ordinance 05-17.** Roll Call: Yeas: **Seven** (Stefanik, Bobulsky, Gentile, Willey, Koch, Zaccardelli, Uffman-Kirsch). Nays: **None.** **Motion carried.**

(At this point Council recessed at 9:45 and reconvened at 9:55.)

ORDINANCE 05-18

AN ORDINANCE TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF NORTH ROYALTON, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2005 AND DECLARING AN EMERGENCY. Title read.

The Director of Legislative Services read the following proposed amendments:

1. Replace the original Exhibit A with an amended Exhibit A as presented to and approve by the Finance Committee.

Moved by Mr. Willey, seconded by Mr. Gentile to **amend Ordinance 05-18 as read.** Roll Call: Yeas: **Seven** (Stefanik, Bobulsky, Gentile, Willey, Koch, Zaccardelli, Uffman-Kirsch). Nays: **None.** **Motion carried.**

2. Amend Exhibit A, Fund 51 by reducing the capital outlay from \$21,000 to \$7,000.

Moved by Mr. Willey, seconded by Mr. Gentile to **amend Ordinance 05-18 as read.** Roll Call: Yeas: **Seven** (Stefanik, Bobulsky, Gentile, Willey, Koch, Zaccardelli, Uffman-Kirsch). Nays: **None.** **Motion carried.**

3. Amend Exhibit A, Fund 51 by increasing contractual services-sanitary sewer disposal by \$20,000 from \$1,186,600 to \$1,206,600.

Moved by Mr. Willey, seconded by Mr. Gentile to **amend Ordinance 05-18 as read.**

Mayor Luks said that this amendment is to incorporate \$20,000 as an expenditure to fund a feasibility study to expand sewers into the southern part of the city. She is very much against this amendment for all of the reasons stated earlier, however she wishes to reiterate one thing. As the recommendations from the consultants and the Residents Flooding Oversight Committee come in as to remedies that we can put in place to correct inflow and infiltration that creates sanitary back ups, we are going to have to look for funding to accomplish these projects. This should be our top priority, not a study on an issue that we cannot afford to move forward on. In terms of the numbers that exhibit our inability to afford it and her not providing those to Council earlier, she only just got the completed numbers yesterday and today herself, and as legislators when you are putting forth something that is going to have a financial impact you should do the research and find out the cost before you act on it. She said she shouldn't have to spoon feed it to them.

Mr. Stefanik wished to remind the Mayor that on February 25, 2005, he sent her a memo about this grant program and the memo said: "Please see attached received today from Congressman Sherrod Brown. If this is not something the city is already pursuing, do you think it might be something we want to explore? Since the timeframe for this is very short, please let me know if I can be of any assistance to you in this matter." For the record, he did not hear a response from the Mayor.

Mayor Luks said that this is correct, he did not receive a response to this. She also received the exact same letter that Mr. Stefanik received addressed to her from Congressman Brown and she responded to him directly. She spoke with Mike West and Ed Walls of his staff and discussed with both of them potential projects that are going to be recommended from the Residents Flooding Oversight Committee and whether or not those would potentially be eligible for funding. She was told yes they would and that as we have those recommendations, we should contact them again to pursue development of those projects. Mayor Luks said that she did not need Mr. Stefanik's assistance for this.

Mr. Stefanik said that he had contacted Congressman Browns' office first and then the Mayor probably did so afterwards. Certainly when there is something of this magnitude he feels it would be nice if she could give a response to the President of Council and members of Council when there is something this important on the table.

Mrs. Uffman-Kirsch said that she too is opposed to utilizing \$20,000 for a feasibility study for an interceptor sewer. She does not think we need to spend a dime on this based on all the reasons given before. She also very much questions the fact that \$20,000 is going to give a comprehensive study. She has repeatedly said that if we are going to study this issue, it cannot just be feasibility from an engineering standpoint, it has to also look at the feasibility from an economic standpoint. What economic impact will the installation of the sanitary sewer line into the southern section of the city make on the entire city. So therefore she further has questions as to whether or not we are going to get good information for \$20,000. Again we have different priorities.

Mrs. Uffman-Kirsch said that she has a question for Mr. Stefanik regarding the \$2.6 million grant. She asked if he and Mr. Gentile actually made formal application for that grant? Has it been applied for?

Mr. Stefanik said we sent a short letter to the Army Corps of Engineers' Buffalo office through Sherrod Brown. They decided then that this would fit the parameters of the grant that they are offering. As far as he knows right now it is on its way up to Capitol Hill to be considered for this year's budget.

Mrs. Uffman-Kirsch said so the answer to her question is yes, that would have been considered an application formally made for money.

Mr. Stefanik said he guesses you could call it an application.

Mrs. Bobulsky said she is against this \$20,000 being allocated for a feasibility study of sewers in the southern part of the city. She said that we already know what the answer is and what we are going to get for that \$20,000. She sees this money being better spent on her residents on Pamela Drive, Parkdale Drive, Gregory Drive, etc., and she doesn't think she needs to enumerate any more to help deal with their infiltration problem.

Mrs. Bobulsky said that she too has a question about the grant application. She said that she was under the assumption that things that were applied for were to be done by the Administration, not Council.

Mr. Stefanik said that as far as he knows, the Fire Chief applies for grants, Human Services applies for grants. If there is money out there, it should be investigated.

Mayor Luks asked the Law Director if a Council person or two Council people have the ability to make application for grants on behalf of the city.

Mr. O'Donnell said no. The Charter clearly defines the duties of Council and the Administration. This power is solely within the Mayor's authority. Council persons have no authority to speak on behalf of the city or to make such applications. This is why we have an executive.

Mayor Luks asked Mr. Stefanik if, at any time he, suggested to her when he sent the memo and the letter from Sherrod Brown, that one of the projects he would ask for funding for would be for the interceptor sewer?

Mr. Stefanik said that when he sent the letter he did not know this until he heard that North Ridgeville was applying.

Mayor Luks asked if he ever discussed with her the fact that he was submitting this request for funding for the interceptor sewer.

Mr. Stefanik said that when he found out on Friday that possibly this would be able to make the cut...

Mayor Luks said so in other words he did it without discussing it with the Administration.

Mr. Stefanik said yes, she is correct.

Mr. Gentile said that Council adopted a Resolution a year ago by a vote of 5/2 on an interceptor study. Nothing has happened. The \$20,000 amendment that Council is proposing for this study was originally appropriated for a 2005 Ford Expedition. Many of us on Council did not feel that this would suit the needs of the community for storm water infiltration or sanitary sewers. We thought it would be prudent to purchase a used vehicle for this department for about \$7,000. We felt that since the previous Resolution had passed 5/2 a year ago and received no response, that we would try to appropriate money this year to get at least that study so we would have some hard data as to whether or not this was feasible. He is concerned about the infiltration of storm water into the sanitary sewers and feels that this is a priority to this community and this is why he is going to support this amendment.

Mr. Koch said he voted for the study a few years back. But since the June 9th storm and with all the flooding in our sewer systems, he feels that this money is best used to correct those problems before we start adding more sewers and more problems to it.

Roll Call: Yeas: **Four** (Stefanik, Gentile, Willey, Zaccardelli). Nays: Three (Bobulsky, Koch, Uffman-Kirsch). **Motion carried**

Moved by Mr. Willey, seconded by Mr. Gentile to **adopt Ordinance 05-18 as amended**. Roll Call: Yeas: **Seven** (Stefanik, Bobulsky, Gentile, Willey, Koch, Zaccardelli, Uffman-Kirsch). Nays: **None**. **Motion carried**.

SECOND READING CONSIDERATION

ORDINANCE 05-26

AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE CITY OF NORTH ROYALTON, PART 14 BUILDING AND HOUSING CODE, CHAPTER 1444 LICENSING OF TRADESMAN AND CONTRACTORS, BY AMENDING SECTION 1444.02 APPLICATIONS PARAGRAPH (a) AND ENACTING NEW SECTION 1444.09 PERFORMANCE BOND, ATTACHMENT OF BOND, AND DECLARING AN EMERGENCY. Title read.

Moved by Mrs. Uffman-Kirsch, seconded by Mr. Gentile to **suspend the rules requiring 3 readings and referral to committee**. Roll Call: Yeas: **Seven** (Stefanik, Bobulsky, Gentile, Willey, Koch, Zaccardelli, Uffman-Kirsch). Nays: **None**. **Motion carried**. Moved by Mrs. Uffman-Kirsch, seconded by Miss Zaccardelli to **adopt Ordinance 05-26**. Roll Call: Yeas: **Seven** (Stefanik, Bobulsky, Gentile, Willey, Koch, Zaccardelli, Uffman-Kirsch). Nays: **None**. **Motion carried**.

FIRST READING CONSIDERATION

RESOLUTION 05-29

Introduced by: Mayor Luks. **A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF CHRISTINE RAGONE AS A MEMBER OF THE CITY OF NORTH ROYALTON'S RECREATION BOARD, AND DECLARING AN EMERGENCY.** Title read.

Placed on **second reading** and referred to the **Rules & Ordinances Committee**.

RESOLUTION 05-30

Introduced by: Gentile, Zaccardelli, Uffman-Kirsch. **A RESOLUTION APPROVING THE APPLICATION OF STEVE AND NANCY MATTES FOR PLACEMENT OF FARM LAND IN AN AGRICULTURAL DISTRICT, AND DECLARING AN EMERGENCY.** Title read.

Moved by Mr. Willey, seconded by Mr. Gentile to **suspend the rules requiring 3 readings and referral to committee**. Roll Call: Yeas: **Seven** (Stefanik, Bobulsky, Gentile, Willey, Koch, Zaccardelli, Uffman-Kirsch). Nays: **None**. **Motion carried**. Moved by Mr. Koch, seconded by Mrs. Uffman-Kirsch to **adopt Resolution 05-30**. Roll Call: Yeas: **Seven** (Stefanik, Bobulsky, Gentile, Willey, Koch, Zaccardelli, Uffman-Kirsch). Nays: **None**. **Motion carried**.

RESOLUTION 05-31

Introduced by: Mayor Luks. **A RESOLUTION SUPPORTING THE CUYAHOGA COUNTY BOARD OF HEALTH'S HOUSEHOLD SEWAGE DISPOSAL PROGRAM TO IMPROVE WATER QUALITY DISCHARGE FROM HOUSEHOLD SEWAGE DISPOSAL SYSTEMS IN NORTH ROYALTON.** Title read.

Placed on **second reading** and referred to the **Storm Water Committee**.

Moved by Mrs. Uffman-Kirsch, seconded by Mrs. Bobulsky to remove **Resolution 05-31 from the Storm Water Committee.**

Mrs. Uffman-Kirsch said that this Resolution allows the Board of Health to do their job to inspect and mandate upgrades of failing septic systems. We have heard a lot of discussion tonight, especially by the proponents of the interceptor sewer line, that one of the main reasons we need to have an interceptor sewer line is to get rid of the failing septic systems. As the Mayor mentioned several times there are other alternatives to that, and one of those is upgrading and replacing septic systems. The Board of Health will not mandate upgrade of septic systems until they have this Resolution in hand. They feel that with the mixed messages they are getting from the city, they are not willing to put themselves or the residents in the position of mandating a septic replacement and then having sewers come in down the road.

Mrs. Uffman-Kirsch said that the Board of Health stated that without this Resolution in hand, they will not only not enforce septic compliance they will most likely not proceed with the vast majority of the grant recipients. Without the majority consent of Council supporting their septic inspection and replacement program, they will not proceed due to the fear of indecision about future sewers.

Mrs. Uffman-Kirsch requested that since this has already come out of one Council committee that we no longer need to have this go back into another committee. She said we need to suspend the rules, act on this tonight, allow these grants to proceed and allow the inspections and the mandatory replacements of septic systems to proceed so that our water quality can improve.

Mrs. Bobulsky said that she too thinks this Resolution should be acted on this evening. We have already discussed this in committee. The Board of Health is currently working on the inspection and septic compliance under a similar Resolution in other communities such as Pepper Pike, Orange Village, Gates Mills, Hunting Valley, and these are very affluent communities. Obviously these communities know something about the impact of septic vs. sewers on their finances and their quality of life. She feels that this Resolution needs to be acted on this evening and questioned the need for further delay.

Roll Call: Yeas: **Three** (Bobulsky, Koch, Uffman-Kirsch). Nays: **Four** (Stefanik, Gentile, Willey, Zaccardelli). **Motion defeated.**

MISCELLANEOUS

Al Bendzak, 11431 Villa Grande, addressed Council regarding "government secrecy and silence, public discussion, and RICO".

After Mr. Bendzak's 5 minutes were up, Mr. Stefanik had to tell Mr. Bendzak several times to take a seat before the Mayor would respond.

Mayor Luks said that Mr. Bendzak again brings up an issue with his children and Lt. Loeding that happened years ago. This issue went through litigation and was thrown out of court. Mayor Luks said she understands that he has had other litigation due to problems with the City of Parma, City of Brunswick, City of North Royalton, the school district, and it is her belief that they were all thrown out. Mayor Luks said it is also her understanding that since the recent incident involving their children, that our Law Director did discuss things with him. Mayor Luks said that she is not going to agree to a meeting with Mr. Bendzak because she knows from history that they don't accept what is being said to them and it never ends, and ultimately becomes litigation.

Nancy Bendzak, 11431 Villa Grande, addressed Council regarding "I.D. theft".

Mayor Luks said that accountability is what the issue was when the Bendzak's children were taken to the Police Station for being in a bar underage and consuming alcohol.

Mrs. Bendzak responded from the audience and Mr. Stefanik asked her several times to please be seated.

The Mayor said that their children were brought into the station lawfully and there was no evidence or indication.....

At this point Mr. and Mrs. Bendzak both began yelling from the audience and Mr. Stefanik stated that this was their last chance to stay seated.

Mr. and Mrs. Bendzak continued to yell from their seats and at this point were removed from the meeting by police officers.

Mr. O'Donnell felt that the record should reflect that the city did investigate all of the incidents that the Bendzaks have been complaining about for many months. He has had the investigation reviewed, and the Law Department fully supports the Police Department, the work that they did and the investigation. The lawsuits that were filed by the Bendzaks were completely tossed out of court. In fact, they hired several attorneys and each of them one by one voluntarily withdrew as counsel for the Bendzaks. The Bendzaks then turned around and accused these attorneys of violating their rights and other sundry complaints.

Mr. O'Donnell said that Mrs. Bendzak approached him several months ago about this identity theft. On a brief look at one document she presented to him, it did not appear to be an identity theft issue. There is a complaint that someone else's name is associated with hers in a credit report. This does not necessarily mean it is identity theft. He does not know how that name got there, but it was reported by Choice Point out of California. Choice Point is a clearing house of information for all of the credit reporting agencies and had a huge theft of records recently. Choice Point is protected by the Federal Government and Mr. O'Donnell said that he does not have the authority or jurisdiction over this corporation. Furthermore, he does not represent individual citizens on personal credit history complaints. If there was truly an identify theft, the Police Department would investigate it. He did not view that this was an identity theft. He feels that that it is a complaint by an individual against a Credit Bureau for reporting information inaccurately on their credit report. There are procedures for this. Most people would hire a lawyer and file a lawsuit in civil court under the Fair Debt Collection Act or The Credit Reporting Act and collect for damages and attorney fees. Mrs. Bendzak wants him to do her work for nothing and he is not her personal attorney. The City Law Director represents the Mayor, Council, the Boards and Administration. They do not represent citizens on personal complains such as credit report issues. For too long much of the things the Bendzaks have been complaining about have gone without response by the Administration and he thinks that it is time that we at least respond and indicate to Council and the public that many of their complaints are inaccurate, nonfactual and in his opinion they have stretched the truth to suit their own purposes.

Mayor Luks said that the Administration has responded to their issues, they just have not accepted those responses. We felt that responding at the Council meetings would only perpetuate this matter. This is why we have not responded in the past, but it has gotten to the point where something needs to stop, it's out of control.

ADJOURNMENT

Moved by Mr. Willey, seconded by Mr. Gentile **to adjourn the March 15, 2005, Council Meeting.** Roll Call: Yeas: **Seven** (Stefanik, Bobulsky, Gentile, Willey, Koch, Zaccardelli, Uffman-Kirsch). Nays: **None. Motion carried.**

Meeting adjourned at 10:32 p.m.

APPROVED: _____ DATE APPROVED: _____
PRESIDENT OF COUNCIL

ATTEST: _____
DIRECTOR OF LEGISLATIVE SERVICES