

The City of North Royalton Council Committee of the Whole met in the North Royalton City Hall Council Chambers, 13834 Ridge Road on December 7, 2005, in special session. The Special Council Committee of the Whole Meeting was called to order a 6:15 p.m. by Director of Legislative Services Laura Haller, and opened with the Pledge of Allegiance.

PRESENT: Council: Council Representatives Denise Bobulsky, Don Willey, Kurt McKee, Robin Zaccardelli, Lisa Uffman-Kirsch, Legislative Services Director Laura Haller.

Administration: Law Director Thomas O'Donnell.

Mrs. Haller read the Special Committee of the Whole Meeting Notice.

Moved by Mr. Willey, seconded by Miss Zaccardelli to **add the nomination of a Committee of the Whole President of Council Pro-Tem to the special meeting agenda.** Roll Call: Yeas: **Five** (Bobulsky, Willey, McKee, Zaccardelli, Uffman-Kirsch). Nays: **None.** **Motion carried.**

Moved by Miss Zaccardelli, seconded by Mr. McKee to **open nominations for Committee of the Whole President of Council Pro-Tem.** Roll Call: Yeas: **Five** (Bobulsky, Willey, McKee, Zaccardelli, Uffman-Kirsch). Nays: **None.** **Motion carried.**

Miss Zaccardelli **nominated Mr. Willey.** Seconded by Mr. McKee.

There were no further nominations.

Moved by Miss Zaccardelli, seconded by Mr. McKee to **close nominations for Committee of the Whole President of Council Pro-Tem.** Roll Call: Yeas: **Five** (Bobulsky, Willey, McKee, Zaccardelli, Uffman-Kirsch). Nays: **None.** **Motion carried.**

PUBLIC DISCUSSION: No one in the audience wished to be heard.

ORDER OF BUSINESS

Moved by Miss Zaccardelli, seconded by Mr. McKee to **dismiss any and all malfeasance charges against Council President Stefanik and Councilman Gentile.**

Mrs. Uffman-Kirsch read a statement into the record, a copy of which is attached to these minutes.

Mrs. Haller raised a point of order in that a vote to elect Mr. Willey as President Pro-tem had not been taken and should be done so at this point.

Moved by Miss Zaccardelli, seconded by Mr. McKee to **elect Mr. Willey as Committee of the Whole President of Council Pro-Tem.** Roll Call: Yeas: **Five** (Bobulsky, Willey, McKee, Zaccardelli, Uffman-Kirsch). Nays: **None.** **Motion carried.**

Mrs. Bobulsky read a statement into the record, a copy of which is attached to these minutes.

Roll Call: Yeas: **Three** (Willey, McKee, Zaccardelli). Nays: **Two** (Bobulsky, Uffman-Kirsch). **Motion carried.**

Moved by Mr. Willey, seconded by Mr. McKee to **dismiss Council Representatives Uffman-Kirsch and Bobulsky as managers of the investigation.**

Mrs. Uffman-Kirsch asked if there was going to be an answer to her previous question as to what the basis is for dismissal on the evidence. We have done the job as managers, presented the evidence, and worked hard to collect the evidence. There is a dismissal pending on the table to get rid of the charges and she is not seeing any evidence that the charges should be dismissed. She also has a point of order question regarding how Councilman McKee can vote on dismissal of these charges when he has not been involved in or party to any of these proceedings in the past. She does not know that this is fair to him and she certainly does not feel it is fair to the justice of the function and purpose of this committee.

Mrs. Haller said that Mrs. Uffman-Kirsch stated that there is a motion on the table to dismiss the malfeasance charges, however this motion has already been voted on and approved. The motion currently on the floor is to dismiss Council Representatives Kirsch and Bobulsky as managers of the investigation.

Mrs. Uffman-Kirsch said that before we vote on this motion, she is asking if there will be an answer to her questions regarding the evidence before being dismissed as managers.

Mr. Willey said as a member of the committee of the whole, tonight is the first contact and first information he has received. The time line has been just about a year and this is something that has been bandied around and he feels that there was not sufficient evidence nor communications presented to him personally. Therefore he thinks we need to get this behind us and move forward and collectively do what is best for the city.

Regarding the question of whether Mr. McKee should be voting to dismiss the charges, Mrs. Uffman-Kirsch stated that it is no longer a relevant question and does not need to be addressed.

Roll Call: Yeas: **Three** (Willey, McKee, Zaccardelli). Nays: **Two** (Bobulsky, Uffman-Kirsch). **Motion carried.**

Moved by Mr. Willey, seconded by Mr. McKee to **dismiss attorney Nick Phillips as special counsel to the Committee of the Whole.** Roll Call: Yeas: **Three** (Willey, McKee, Zaccardelli). Nays: **Two** (Bobulsky, Uffman-Kirsch). **Motion carried.**

Moved by Mr. Willey, seconded by Mr. McKee to **dissolve the Committee of the Whole.**

Mrs. Bobulsky referenced her previous statement of how in good conscience can this committee dismiss the charges and now we are dismissing the entire committee and we are talking about communication. When has anyone from this committee ever even attempted to communicate with her and ask her what she knows and what evidence she has. This was never done. She said that she does not mean to sound like she is picking on Mr. McKee, but he is new and there was never any communication between any of us in terms of what was going on. She does not know how he can make an informed decision based on that.

Mr. Willey said that he had approached Mr. Koch, the former Pro-Tem of this committee, and asked him on 4 or 5 different occasions what the status was on this matter and Mr. Koch had nothing to communicate to him or anyone else on Council. Mr. Willey said that their admonition was that any questions were to go directly to the Pro-Tem.

Miss Zaccardelli said that during this whole course, neither of the managers tried to inform them of anything that was going on. Everything was always hush-hush and a big secret. As far as Mr. McKee goes, she said that he is very well informed and has been to many Council meetings and he has talked to many people in the community and she feels he is pretty well informed on the ridiculousness of this whole situation.

Mr. Willey said that regarding Mr. McKee, elected officials are called upon from the day we take our oath to make very important decisions, even in some cases life and death decisions. This could be a completely different Council here this year and yet there are things in the city going on like the industrial park development, the central city development, and these are issues that any new Council person would be addressing. This can happen 30 seconds after you are sworn into office.

Mrs. Uffman-Kirsch said that in summary the evidence that has been heard tonight shows at best that the basis for the charges being levied were and remain valid. At worst, it speaks to a deflection, deceit and cover up that extends from North Royalton, Ohio, to Buffalo, New York, to Washington, DC. As a member of this committee and Council, she wants answers and she wants the truth and she is appalled that other members of the committee and Council do not.

Miss Zaccardelli said that in the United States and the court of law you are innocent until proven guilty. We have not received any tangible reference to anything that Mr. Stefanik or Mr. Gentile have done wrong. As far as she is concerned at this point, it is all hearsay. If there is no communication, it is everyone's fault. She said that as far as she is concerned, they are innocent.

Mrs. Bobulsky said that early on, when Mr. O'Donnell was setting up how this whole procedure would go along, he told us that hearsay is admissible, and we do have more than hearsay, we have affidavits.

Miss Zaccardelli said that we have not seen anything.

Mrs. Bobulsky said that they were also told not to speak per the attorney for the other side, not our attorney. That is why Mr. Koch was also not informed and we abided by that.

Roll Call: Yeas: **Three** (Willey, McKee, Zaccardelli). Nays: **Two** (Bobulsky, Uffman-Kirsch). **Motion carried.**

Moved by Mr. Willey, seconded by Mr. McKee to **adjourn the Special Committee of the Whole Meeting.** Roll Call: Yeas: **Five** (Bobulsky, Willey, McKee, Zaccardelli, Uffman-Kirsch). Nays: **None.** **Motion carried.**

Meeting adjourned at 6:43 p.m.

APPROVED: _____ DATE APPROVED: _____
PRESIDENT OF COUNCIL PRO-TEM

ATTEST: _____
DIRECTOR OF LEGISLATIVE SERVICES

Statement read by Councilwoman Uffman-Kirsch at the 12/7/05 special Meeting:

The purpose of this Special Meeting is to address the issue of the malfeasance charges levied. We have a motion on the floor to dismiss these charges. I'm wondering what the basis for dismissal is, the evidence that this committee of the whole determines is sufficient for dismissal of charges. On the contrary, the evidence that supports non-dismissal is quite compelling. According to direction given by the Law Director at the May 18 Work Session, the purpose of Managers being appointed was to present information regarding the charges. Their duty is to get at the truth and that in the light of all facts brought out, the outcome should be just. We, the Managers, have not been afforded the opportunity to present the facts. We will do so now.

TIME LINE OF EVENTS

2/23/05: Brown letter to Luks and Stefanik about WRDA fund money (Gentile July newsletter ... through much research found Federal funding)

2/25/05 Stefanik memo to Luks re Brown's letter-need assistance? Luks calls Brown's office re: WRDA Fund Money for flooding projects. She told 2 aides that she was applying for WRDA fund money through the Senate side, and they confirmed she could do that.

3/15/05 Stefanik memo to Luks-contacted ACOE, requested \$2.6 mill. Project description attached"The City of North Royalton is requesting consideration to obtain financial assistance"

3/15/05 Council meeting.

- Stefanik admitted sent letter to ACOE about sewer project through Brown
- Stefanik acknowledged that funding request was on its way to Capitol Hill and acknowledged it was an application
- Defendants told by Law Director that they cannot request funding ...outside of the scope of their authority...cannot speak on behalf of City.

3/17/05 Memo from Stefanik to Luks. Acknowledges that Administration not interested in applying for grant for southern interceptor sewer. Goes on to state that now that they have cost estimates, can request \$11.2 million. Contact him how he should proceed with amending his original request.

3/21/05 Stefanik memo to Luks advising he upped request to \$11.2 million, 75% of sewer project cost of \$15 mill after told outside of authority by Law Director and no interest in applying by Administration.

4/20/05 Received verification from an aide in Senator Voinovich's office that the "Edgerton Road sanitary sewer project is on the list" for funding in the WRDA program. Stated information provided by the ACOE.

5/18/05 Committee of the Whole Work Session. After which, advised that if charges were served, defendants would file an injunction in court which would force taxpayer money to pay for this matter. Managers goal was to have no taxpayer money spent on this matter. Thus, we did not formally serve the charges.

6/7/05 In an attempt to collect information, FOIA requests were sent to a myriad of people, including Congressmen Brown, Young, and Duncan, ACOE-Buffalo, CCBOH, among others, for information on this sewer project that may have been received by them or they may be aware of.

6/17/05 Received response from Office of the Counsel of the US House of Rep. that FOIA does not apply to Congress AND they have constitutional immunity from outside questioning and interference for all Congressional requests. If this wasn't alarming enough, Brown's letter alone had an extra paragraph in it that stated, "Finally, you should be aware that it is Congressman Brown's policy to maintain the confidentiality of all constituent communications unless the law or the public interest requires otherwise. Accordingly, Congressman Brown would not agree voluntarily to release the records you seek."

- 7/22/05 Received response from ACOE which included a bunch of irrelevant documents from other City's and a statement "that it has been determined that certain documents should be withheld because they contain opinions and recommendations of the District Engineer's staff."
- 8/16/05 An appeal was sent to the ACOE requesting the withheld documents.
- 9/30/05 Response received from ACOE that "none of the withheld information relates to the project that you have referenced. Moreover, our document and computer files indicate that there are no records responsive to your request currently maintained in the District." Obviously this response was very alarming, considering that evidence exists that the ACOE WAS sent information on this project. This evidence included Mr. Stefanik's March 15 memo to the Mayor and his statements at the 3/15/05 Council meeting stating that information on this project was sent to the ACOE. In addition, we have evidence from Senator Voinovich's office that information provided by the ACOE showed that the Edgerton Rd sewer project was on a list for WRDA funding. Called contact at ACOE to ask how they could have no records on project when we have, and copied them on evidence that they were sent information and involved in this. Call never returned.

A month or so ago, we found out that the sewer project was no longer being considered in the original Congressional subcommittee under the WRDA funding, but was now appearing in House Appropriations Subcommittee on Energy & Water Development as a request for funding via Congressman Brown. The Mayor attempted to get information on that request from the Subcommittee Chair's office, but was refused.

Statement read by Councilwoman Bobulsky at the 12/7/05 special Meeting:

On June 6, 2005 a Public Records Request was sent to the Cuyahoga County Board of Health Commissioner Terrence Allan for any and all documentation and/or correspondence from or between Council President Stefanik and/or Councilman Gentile pertaining to the following subjects: sanitary sewer extension into the southern part of North Royalton, Septic Grant Replacement program, and others. A response was received dated June 13, 2005 from John McCleod, Director of Environmental Health Services OF THE BOH, after speaking with his staff and compiling a list of conversations, e-mails, etc. that they had with Mr. Stefanik or Gentile over the last year or so. According to Ms. Heather Scott, sanitarian w/BOH, there were 3 phone conversations with Mr. Gentile between January 2004 to June 2005 to discuss among other topics the potential for sanitary sewer installation. She went on to state that she had approximately 10-12 phone conversations with Mr. Stefanik regarding among other topics the potential for sanitary sewer installation. Mr. Rick Novickis, Supervisor Division of Environmental Health, BOH, stated there were approximately 8-10 phone conversations with Mr. Gentile and 8-10 with Mr. Stefanik between December 2004 to June 2005 to discuss issues pertaining to the City's 208 Water Quality Plan and the potential for possible sewer installation in the future, among other topics. It certainly can be argued that both of these gentlemen had every right to engage in communication with the BOH as each and every one of you have the same. However, here's where the problem comes in. Mr. Stefanik and Gentile's actions and conversations with these members of the BOH created a sense of confusion between the BOH and the City of North Royalton in terms of enforcement of septic system compliance and the Septic Grant Replacement program. Mr. Rick Novickis at the summer of 2005 Ward 6 meeting at the High School publicly stated the potential for expansion of sanitary sewers did indeed jeopardize the grants for 25 plus eligible residents. I have a signed affidavit from Clark Merdes, City Engineer, stating that Heather Scott and her superiors at the BOH were contacted by and spoken with Mr. Stefanik and Gentile about a sewer project for the southern portion of North Royalton. Ms. Scott requested verification from Mr. Merdes about the status of the project so the BOH could make a determination about septic compliance. It was apparent to Mr. Merdes that the BOH was under the impression that North Royalton was planning to expand the sewer system to the southern portion (signed 11/17/05). Confusion. Seems Mr. Stefanik has been confused with the septic grant replacement program. In his April 2005 newsletter he takes credit for introducing the grant to North Royalton, to the residents and administration in July 2003. However, I have a copy of a letter dated September 2002 from Mayor Luks to the BOH recommending specific sites and looking forward to participating in the program. More confusion. The BOH must think the left hand doesn't know what the right hand is doing.

These were impulsive actions by Mr. Stefanik and Gentile without the proper planning reflective of priorities that we need to focus on. We have serious stormwater infiltration problems into our sanitary sewer lines. There is an estimated cost of millions to repair citywide. Why would we want to add more users to an already crippled system particularly during storm events? I'm all for returning federal and state tax dollars back to our city but we need to look at priorities. Sanitary sewer expansion is not such a priority.

It needs to be known that several attempts were made to formally resolve this malfeasance issue. The last attempt was thwarted with a threat of a court injunction if we moved forward with a meeting to resolve. We have followed the rules, we adhered to their request to remain quiet in attempt to resolve, although the same did not hold true for the their side. We are now saying what has needed to be said for a long time.

The evidence speaks for itself and is quite compelling. How in good conscience can this Committee of the Whole vote to dismiss the charges? The public needs to know that unless Council operates as a Council within its authority, the city will be harmed in its relations with county, state and federal agencies.