

UTILITIES COMMITTEE MINUTES

April 8, 2008

The Utilities Committee meeting was held on April 8, 2008, at North Royalton City Hall, 13834 Ridge Road. The meeting was called to order at 7:40 p.m.

PRESENT: Committee: Chair Gary Petrusky, Don Willey, Dan Kasaris; Council: Vince Gentile, John Nickell; Larry Antoskiewicz Administration: Law Director Tom Kelly, First Assistant Prosecutor Donna Vozar, City Engineer Ken Tyrpak, Wastewater Manager Thomas Kuehn, Wastewater Supervisor Scott Shantery; Other Attendees: Joanne DuMound, Raymond Kogler, Jerry Nemetz, Rosemarie Zimmer, Mike Walsh, Jack Indovina, Cincy Indovina, Mike & Tracy Marx, Ken Wolnik, M. Nanchoff, J. Zawistowski, Cindy Mortin, Thomas Fink, Ken Sullivan, Lois Sullivan, Stephen Sklasz, John McAbee, Linda McAbee, Denis & Christine Borsuk, Bonnie Foster, Ben Finderburg, Linda McIntyre, J. Wertheimer, Brian Pekala, Mr. and Mrs. Marks, Mr. Detwiler.

APPROVAL OF MINUTES

Moved by Mr. Kasaris, seconded by Mr. Petrusky to **approve the minutes of March 6, 2008**. Yeas: 2. Nays: 0. (Excused Willey). **Motion carried.**

UNFINISHED BUSINESS

1. Gas wells on city property

Mr. Petrusky turned this over to the Law Director to answer questions of those present.

Mr. Kelly said that residents are present at this meeting regarding the well in the Royal Valley area and that they feel the well was drilled on the St. Paul Hellenic Church property without appropriate or significant notice to those in the area. He said Council and the Administration have been looking at this for some time trying to create legislation on a local basis that would allow us to do some regulation. The fact is that the Ohio Revised Code does not permit it. The state legislature has preempted local governments entirely. There are little things that can be done and some minor things that other municipalities have done. We have seen legislation from different cities that suggest regulation, but none of that legislation has ever been challenged and he suspects when it is challenged that the cities with this legislation will lose. The state legislature has determined that the Director of the Office of Mineral Rights has all of the authority to grant/deny the permits. Under the Ohio Administrative Code the director is given discretionary authority with regard to safety issues as with fencing and baffling to diminish noise level. The city can do very little and what is really desired would be to have State Representatives Patton and State Senator Spada at this meeting because they have the authority to vote on these issues where the City Council and Mayor have no authority. Mr. Kelly then invited the residents to speak.

The homeowners were not notified by the homeowners association. Mr. Kelley said that he spoke with Mr. Detwiler who advised that the homeowners association has not had an active board of trustees for years due to apathy where a quorum could not be gathered to elect the board members. Mr. Kelly said that the city cannot speak to that.

John McAbee, discussed the deed covenants and restrictions indicating that the city is a party to the homeowners association. Mr. Kelly disagreed and said that the city does not have any right to interfere with the homeowners association. Residents said that the 314 homeowners equally share in ownership of the common area and that there was no vote taken regarding the well. Mr. Kelly suggested that the homeowners association have a duly elected board of trustees who should then obtain private legal counsel.

Dennis Borsuk asked what the next step is after drilling. Mr. Kelly was not certain but said probably some sort of pumping equipment would be installed. Mrs. Vozar said that there are other things also determined by the State of Ohio such as fencing, restoration, buffering, muffling, etc. that our city is not permitted to control. These issues along with notification are things that the city would like to see changed.

Ken Wolnik spoke about the need for muffling, notice and buffering.

Mr. Kelly said that Council has asked that the Law Department draft legislation regulating some of the issues that residents in North Royalton face. He is not confident that legislation would be upheld given an appropriate challenge or is enforceable, but that perhaps the oil and drilling companies will comply due to costs involved. Mr. Kelly did not want residents to think that regulation will succeed especially with the oil and gas prices as they are today.

Mrs. Vozar said that the city is trying to schedule a meeting with the inspector to determine what the plan was for safety and buffering along with other issues.

Mrs. McAbee asked if there would be any notification in the future and many other residents voiced displeasure regarding the lack of notification.

Mr. Funderburg, Vice President of Ohio Valley Energy, the drilling company drilling the oil and gas well on the St. Paul Greek Orthodox Church site, said that it is their intent to be good neighbors in North Royalton. The St. Paul Greek Orthodox Church lease was prepared with a lot of diligence and thought by the representatives of the church. The landscaping clause in the lease is very intense. It will be landscaped and fenced. As far as notification, he said state law permit application requires that an aerial is submitted and a list of homes in a 500 ft. radius of the well drilling must be submitted. If there are less than 15 homes within the 500 ft radius then notification is not required. The notification is only to let the neighbors to know that there is a well being drilled not to dispute the issuance of the permit. The lease with the homeowners association is a non-development lease for one parcel only. This means that the company cannot come onto the property to drill. The lease with the church only allows for drilling one well. Right now the church is preparing for their Easter celebration and they are not coming on the site until after that. They will complete the well and start landscaping at that point. He said that the point is well taken about the notice and he will discuss that with his law firm and ODNR from this point forward. The Ohio Department of Natural Resources Division of Mineral Resources Management governs all that is done in Ohio.

Mr. Funderburg said that the drilling rig has a double muffler system. There are diesel engines running. It is a construction site. He said they drilled 12 wells in Hudson in the last 2 years and they have been landscaped. They drilled the well in North Royalton last year. He is willing to sit down to address issues.

Mrs. Marks said that there are 4 sets of lights shining in the back of the house.

Mr. Marks said he is concerned that there is no silt screen downhill from the site. There is standing water around the drilling site that will be pumped away. Mr. Funderburg said they will install a silt fence and he will do all that he can to be sure that water does not leave that site since he will answer to EPA over it. He will check the site and have the silt fence installed tomorrow.

Jack Indovina said he is concerned about responsibility for mud, debris and ponding if it rains and floods the properties. Mr. Funderburg said their company is responsible for this. It was asked about the brine pond and Mr. Funderburg explained the use of it and that this is required to be completely removed.

Mrs. Indovina asked about the liability for those walking in the area of the site. Mr. Funderburg said that it was his understanding that St. Paul's Church cleared the soccer playing. Mr. Kelly said that it is a private property liability issue and would be between the drilling company and St. Paul's church and a matter of individual responsibility and liability.

Mr. Fink asked about the liability where the lease involves the property of the homeowners association and Mr. Kelly said that would involve their private counsel. Mr. Funderburg said they have a liability policy for anything that happens on the site.

A resident asked how the gas will be transported from the site. Mr. Funderburg said that the gas will go out the front to the Columbia lines.

Mr. Kogler said that there is a 26 year old with Downs Syndrome and was concerned for his safety.

Mr. Funderburg said that he was not certain of the requirement of chain link fencing. A company representative said that the area will be gated and secured. The well head will be encased.

Mr. McAbee asked the city representatives to please monitor this closely. Mayor Stefanik said that the city is monitoring it and doing everything that can be done.

A resident asked Mr. Funderburg if it is known if the well has gas or oil in it as of today. Mr. Funderburg feels strongly that it will make a gas well but it is not known until the project proceeds.

Mr. Wolnik said he is concerned about the runoff to a wetlands area. Mr. Kelly said Mr. Tyrpak, our City Engineer, will be keeping a close watch over this.

Mr. Fink asked about the necessity of bringing the Royal Valley Homeowners Association into the drilling. Mr. Kelly said that the State law requires that 20 acres are needed and the property was combined with that owned by the church to meet the requirement.

Mr. McAbbee said that the drainage from St. Paul's church goes toward his backyard. The church was given permission to extend their parking lot conditional to a retention basin installation and he wants to know when that basin will be installed since his property erodes due to the runoff of the church property. Mr. Tyrpak said he will look into this right away.

Mr. Pekala asked what will remain after the drilling. A photograph was available to those present of another well area. Mr. Willey said most people probably have not noticed, but there is a well head on the west side of Drug Mart next to the coffee shop.

Mrs. McAbee asked about the document signed on behalf of the homeowners association. Mr. Kelly said that the signors have already stated that it was signed with the thought that it was within the authority to do so. If it is something desired to be challenged that needs to be done in civil court. She said Ordinance 05-27 is requesting that the notification should be given to the city. Mr. Kelly said that a form notice is given and it is filed with the Director of Legislative Services. Mr. Gentile said that legislation dealt with the discovery of existing wells in the city to account for all operating and orphan wells. Mrs. McAbee read the legislation and said this legislation instructs the Director of Legislative Services to forward a copy to the city departments as listed. Mrs. Vozar said that we did this in order to get the notice of an application. The city was notified when the application is taken, not when the project drilling begins.

Mrs. Marks said that there are several representations of the landscaping and wanted to know what will be put in. Mr. Funderburg said that he was not sure but it was thoroughly determined in the lease. He will provide a copy of the oil and gas lease to the city. The landscaping should be done in approximately 60 days.

Mr. Marks asked if a meeting with the church and the homeowners could be had to discuss common interests. Mrs. Vozar recommended that this be done after a copy of the lease is obtained. Mr. Kelly recommended this be done after the residents meet to elect a homeowners association board.

Mr. Kogler said that he belongs to St Michaels Church on Mill Road where there is a gas well. The picture shown today is not representative of what he sees there. Mr. Funderburg said that what is seen is the East Ohio Gas meter run and that the gas meter run in this city will go to the front to a Columbia Gas meter.

Mr. Indovina asked about emergency numbers to contact. He said that there is a sign with the contact number. Mr. Funderberg will supply the number to the Mayor's office. Mayor Stefanik said residents should dial 911 for emergencies.

Mrs. Indovina asked about safety and potential explosions during drilling. Mr. Funderburg said that measures are being taken to ensure that the area is safe.

Mr. Detwiler was asked about signing the lease. He said that he signed to benefit the Royal Valley organization and the bulk of the people. He felt he signed the lease in the best interest of the organization.

Mrs. McAbee asked if there would be earth shaking during the drilling. Mr. Funderburg said this will not happen.

Mr. Indovina drove to the area today and asked if some form of structure could be placed around the pipe now. Mr. Funderburg said he would not be doing that. Mr. Kelly said that is not required.

Mr. Kelly asked Mr. Funderburg to explain royalty issue. It is a percentage according to the property involved of the 12 ½% total. Mr. Kogler said that the royalties are not that much as he understands from the church on Mill Road. Mr. Funderburg said the well volume is not yet known. The state average for a well is about 20 years. Mr. Gentile said the well next to Drug Mart has been operating there since 1953.

Mr. Indovina said the lease is for 5 years, what happens if the well lasts longer. Mr. Funderburg said that there is 5 years to drill the well and the secondary term of the lease reads as long as the well produces commercial quantities the royalties will continue.

Mr. Kelly asked about the end of the life of the well and who would be responsible to close it. Mr. Funderburg said his company will be responsible for closing.

Mrs. McAbee asked about the affect this well would have to the valuation of her home. Mr. Kelly said that there are wells all over Hudson and he did not think that Hudson valuations have diminished. That information would be needed from a home appraiser.

Mr. Pekala asked about royalties going to the homeowners association and how that would be distributed. Mr. Kelly said that would usually go to the operating expenses of the association. Mr. Detwiler said this was the intention. A homeowners association meeting is scheduled for May 18th at 4:00 at the Broadview Heights Recreation Center. Residents will receive notification.

2. Ridge Road sewer update

No action.

3. Wiltshire Road sewer odor status

Mr. Kasaris said that there was a meeting with the residents of Wiltshire over a potential settlement between North Royalton and Broadview Heights. Our Assistant Prosecutor is working on this.

4. Kurtz Brothers contract status

Mr. Kelly said that they are expecting a positive response with respect to the requested changes of the agreement. There is no signed agreement as of this time.

5. Wastewater Superintendent report

No further report.

6. Sanitary sewer connection (tap-in) request City of Parma and City of Broadview Heights

No action.

7. Amended Streets, Utilities and Public Services Code

No action.

8. Landscaping of Utility Boxes

No action

9. York Road Sewers

No action.

10. Sewer problems in Gregory Dr. area

Mr. Kuehn reported that 4 manhole dishes were installed temporarily. Manholes were measured and a requisition for 20 manhole dishes is being processed for that area. A date will be set to inspect the manholes in the area and a contract will be made for sealing. Mr. Kasaris asked when the dye testing and subsequent enforcement will begin. Mr. Kuehn said that the dye testing will begin in May and the rest will be discussed in the department head meeting next week. Mr. Kasaris said the city is spending large amounts of money and that it is necessary that the residents do their part. The Waste Water Department will send letters of notification and if the residents do not comply then the Law Department will become involved.

11. Infiltration of storm water

No action.

12. Street lights

Mr. Petrusky said this is in process in the section of Royal Valley.

NEW BUSINESS**1. Proposed Resolution regarding gas and oil wells**

Mr. Gentile distributed a copy and asked that this be considered for passage to send to the state representatives. He said this is asking for a little more control and that this also deals with notification. It was demonstrated tonight by the residents present that much of their concerns and complaints could have been handled if there was better notification.

Moved by Mr. Petrusky, seconded by Mr. Kasaris to recommend approval to Council of a **Resolution to petition the Ohio General Assembly to permit municipal home rule regulation of gas and oil drilling commerce.** Yeas: 3. Nays: 0. **Motion carried.**

2. Abbey Road Grinder Pump (10699 Abbey)

Mr. Willey said that residents of 10699 Abbey Road need a grinder pump for tie-in to our waste water system. Our Waste Water Department is working on legislation with the Director of Legislative Services that will be presented to Council. These pumps have been purchased by the city for the Abbey Road residents and this is the last pump to be installed.

Moved by Mr. Willey, seconded by Mr. Kasaris to **recommend approval to Council of legislation authorizing the installation of the grinder pump at 10699 Abbey Road.** Yeas: 3. Nays: 0. **Motion carried.**

ADJOURNMENT

Moved by Mr. Willey, seconded by Mr. Kasaris to **adjourn the meeting.** Yeas: 3. Nays: 0. **Motion carried.**

Meeting adjourned at 9:25 p.m.