

**Special Utilities Committee Minutes**  
**February 16, 2010**

The Special Utilities Committee meeting was held on February 16, 2010, at North Royalton City Hall, 13834 Ridge Road. The meeting was called to order at 6:00 p.m.

**PRESENT:** Committee: Chair Don Willey, Vice Chair John Nickell, Dan Kasaris; Council: Vince Gentile, Larry Antoskiewicz, Gary Petrusky, Paul Marnecheck; Administration: Assistant Prosecutor Donna Vozar, Service Director Kris Kamps, Wastewater Superintendent Tim Tighe; Other: C.J. Cutter, Bob Karl (Ulmer & Berne), Debbie Palmer, Pat Jones.

**NEW BUSINESS**

**1. Cutter Oil Heasley Field Oil/Gas Well**

Mr. Kelly stated that yesterday morning the city was informed that Cutter Oil was planning to relocate the Heasley Field oil/gas well to a property other than the property which was the subject of the lease. He said he had not read the lease in many months, so he re-read the lease and said he is satisfied that the well was to be located on Heasley Field. He said there are certain revenues that are tied to the location of the well which will not apply to the city in the event the well is moved. He said this places the city in a position where they may have to require the enforcement of the lease.

Mr. Kelly said he sent a letter to Charles R. Cutter, President of Cutter Oil Company, and copied the appropriate people on the letter. He said in reviewing the lease agreement there are many references to the location of the well. He said some of these locations are argumentative. He said Paragraph 11 states that Lessee shall submit to Lessor prior to drilling a plat showing the location of the well. He said it also states Lessee shall receive written approval from Lessor of the location of the well. Mr. Kelly said the next sentence states that Lessee agrees to maintain the well and all related equipment installed on the lease premises. He said it then states the plat is attached as an exhibit to the lease. Mr. Kelly said this plat shows the well as it was negotiated on the Heasley Field property. He said subsequent to the execution of this instrument, Mr. Cutter appeared before the Planning Commission on March 4, 2009 at which time the public was invited to attend and to see for themselves the location of the Heasley well. Mr. Kelly said the maps that were distributed at that meeting were copies of the plat that was attached to the lease instrument. Mr. Kelly said it is his opinion that this lease agreement requires that the well be drilled on the Heasley Field property and to do otherwise is a violation of the agreement.

Mr. Willey asked what precipitated this special meeting. Mr. Kelly said it was his request that the committee was informed so that they would be aware of the status of these proceedings. Ms. Vozar said that on the Council agenda there is a motion authorizing Mayor Stefanik to permit the drilling between February 19 and March 1, 2010. Mr. Kelly said there was a request to start the drilling and that calls for a commencement letter from the Mayor. He said that letter calls for the committee's authorization.

Mr. Willey asked if there were any questions.

Mr. Nickell asked what the next step will be. Mr. Kelly said the next step is on Cutter Oil's behalf. He said Cutter can either proceed to place the well where it has been agreed to place the well, they can proceed to place the well on some other property which will precipitate some legal response by the city, or they cannot drill the well at all. Mr. Kasaris asked if it is possible that Cutter can decide to abandon the current pool of acreage they currently have and reconfigure the pool without including Heasley Field. Mr. Kelly said he supposes they could do that. Mr. Kasaris said if Cutter was to do this, would it be possible, under the current law, to forever prohibit any gas/oil company from ever using Heasley Field for gas or oil. Mr. Kelly said he is unsure.

Mr. Petrusky asked if Mr. Cutter can walk away from the 20 contiguous acres he has contracted. Mr. Kelly said he can abandon the lease and walk away from it if he chooses to do that. Mr. Petrusky asked if he will have to wait until it expires. Mr. Kelly said he believes the lease provides him with the right to drill the well, but not an obligation to do so.

Mr. Kasaris asked Mr. Kelly if Council gives the Law Department the authority to institute some type of legal proceedings, would he proceed under Paragraph 16 of the agreement which provides arbitration. Mr. Kelly stated he would proceed under Paragraph 16 which calls for a 30 day notice which he said he gave to Mr. Cutter today. Mr. Kelly stated that he does not need Council's approval to institute this legal action. He said he is in fact charged in doing so whether Council approves of it or not. Mr. Kasaris asked Mr. Kelly if he is successful with the legal matter, can Mr. Cutter re-form the pool without including the city. Mr. Kelly said it is possible that Mr. Cutter can do this.

Mr. Antoskiewicz asked Mr. Kelly if Mr. Cutter decides to abandon his lease, would the city then have the right to entertain other oil companies to pursue the city's acreage along with other residents or land to make up the 20 acres. Mr. Kelly said this is possible. Mr. Antoskiewicz then asked Mr. Cutter why all of a sudden he no longer wants to place his well on our land when we have gone through many months of planning. Mr. Cutter said on Friday he received a letter from the city stating he has to go to Planning Commission and said he thought that he had already done this. Mr. Cutter said he feels he has run into too many roadblocks along the way. He said he is worried that down the road he feels he will be held responsible for anything that goes wrong on Heasley Field over the next 20 or 30 years. Mr. Kelly said the letter that Mr. Cutter received on Friday was sent in error and Mr. Cutter was notified promptly that this requirement was no longer in play. Mr. Kelly said all of the terms of this agreement that Mr. Cutter is complaining about were negotiated prior to the time the agreement was signed. He said these arguments are false from top to bottom.

Mr. Nickell asked if there is anything that Council can do to keep the Cutter Oil well on Heasley Field. Mr. Kelly said the agreement was already negotiated. Mr. Nickell said if Mr. Cutter walks away the city will not receive any revenues.

Mr. Kasaris asked Mr. Kelly how it affects the city monetarily if Mr. Cutter were to relocate the oil well to a different property. Mr. Kelly said the city would stand to lose the 500,000 cf of free gas per year. Mr. Kasaris asked if the well is relocated, is the city still entitled to the 500,000 cf of gas because we are still leasing our land. Ms. Vozar said when she asked Mr. Cutter what his intentions are regarding the items that have not been paid to date, Mr. Cutter indicated that if he moves the well, the city would not get the \$10,000 roadway access or the gas. Ms. Vozar said that the city has tried in every way to accommodate Mr. Cutter.

Mr. Kasaris asked Mr. Cutter what the value is of 500,000 cf of gas. Mr. Cutter said it would be approximately \$2,500 per year. Mr. Kelly said regardless of the amount, the contract says what the contract says and the people of North Royalton are entitled to have these contracts enforced. He said he does not wish to be a problem for Mr. Cutter. He said he hopes that Mr. Cutter is very successful in drilling this well and successfully reaching the minerals that are under the ground, delivering them appropriately for sale and returning some dollars on the investment for everybody including the City of North Royalton. Mr. Kelly said if Mr. Cutter moves that well, we have broken the faith of the people who were at Planning Commission who were told where the well was to be, and who relied on that public hearing and Planning Commission approval that was given, and the plat that was entertained and spoken for, both in terms of the lease and the public hearing. Mr. Kelly said we should hold him to the agreement. Mr. Kasaris said if we hold him to the agreement, he can simply re-pool the land and the residents of North Royalton will be out the revenue they would receive as far as the oil is concerned. Mr. Kelly said it is possible that if he decides not to drill the well the Heasley Field minerals will sit there until another company takes them out of the ground. Mr. Nickell asked Mr. Kelly if we pursue this in court and we lose what would the cost be to the city for this type of trial. Mr. Kelly said he does not know what the exact cost would be as there would be too many variables. Mr. Antoskiewicz said if this goes to court, would this hold Mr. Cutter from negotiating a new deal. Mr. Kelly said it is a matter of discretion with the court as to whether or not an injunction might be issued. Mr. Kelly said the city made every reasonable effort to negotiate this contract and said he does not know why Mr. Cutter has not drilled this well. Mr. Kelly said the city has done nothing to impede his efforts. He said the city actually bent over backwards to try to accommodate him. Mr. Kelly said he does not want to speculate why Mr. Cutter has not drilled. He said Mr. Cutter has stated that he could not make a connection to Columbia,

which Mr. Kelly said is an accurate representation. Mr. Kelly said that even when we had Dominion come before the Planning Commission and they got approval for a line which allowed Mr. Cutter to make a connection that did not suit Mr. Cutter. He said Mr. Cutter then came back to Council with an entirely new agreement. Mr. Kelly said Mr. Cutter has had every opportunity to drill and he has not drilled. He said in the future if Council desires the Law Department to negotiate an agreement with an oil driller that is less restrictive and provides our residents with less protection they need to let the Law Department know that. Mr. Nickell said if he was an outside observer it would appear that the city does not want this well drilled in the city. He said he does not feel this well was ever embraced. Mr. Kelly said it is not the Law Department's job to be embracing. He said it is the Law Department's job to negotiate the best terms they can for the community and said that is what they have done.

Mr. Kelly discussed the motion that is on the consent agenda and said all that motion does is indicate the sense of the Council relative to authorizing the Mayor to proceed. He said that does not mean the Mayor has to give him the right to proceed. Mr. Kelly said the Law Department would probably recommend to Mayor Stefanik that he give Mr. Cutter the right to commence. It would then be up to Mr. Cutter whether or not he wants to move forward. Mr. Petrusky said it is his view that it is in the best interest of Council to approve this, allow Mayor Stefanik to give Mr. Cutter consent and then allow Mr. Cutter to choose what he wants to do.

Mr. Antoskiewicz said through the entire process there have been a lot of items that have been discussed and requests from Mr. Cutter that have been approved by Council. He said that Mr. Cutter has drilled several wells in the city and said he does not understand why this well is the exception. Mr. Antoskiewicz said he feels that Mr. Cutter should have called the Law Department, Council or Mayor Stefanik to say that he changed his mind about drilling this well.

#### **ADJOURNMENT**

Moved by Mr. Nickell, seconded by Mr. Kasaris **to adjourn the meeting**. Yeas:3. Nays 0. Meeting adjourned at 6:39 p.m. **Motion carried.**