

SPECIAL REVIEW & OVERSIGHT COMMITTEE MINUTES

JULY 18, 2023

A Special Review & Oversight Committee meeting was held on July 18, 2023, at North Royalton City Hall, 14600 State Road. The meeting was called to order at 7:30 p.m.

PRESENT: Committee Members: Chair Jeremy Dietrich, Vice Chair Paul Marnecheck, John Nickell; Council: Joanne Krejci, Mike Wos, Heidi Webber; Administration: Mayor Larry Antoskiewicz, Police Chief Keith Tarase, Law Director Tom Kelly, Finance Director Jenny Esarey; **Other:** Joel Spatz, Ken Krejci.

APPROVAL OF MINUTES

Approval of the June 6, 2023 Special Review and Oversight minutes. Moved by Mr. Nickell, seconded by Mr. Marnecheck. Yeas: 3 Nays: 0. **Motion Carried.**

NEW BUSINESS

1. **Article III; The Council (b) Qualifications – Charter amendment**

Mr. Wos brought up instances of difficult ethical issues that have been dealt with in the past. We have had to address certain things in the last three years and one of the outcomes has been discussions regarding code of conduct. Mr. Wos felt this was something that needs to be discussed. He stated that we need to have a culture of transparency, accountability, and trust. He wanted to bring up an implementation of a conflict-of-interest law. In the City of North Royalton, this would need to be a Charter Amendment based on his research. He felt this was important to ensure the integrity of our local government and to demonstrate commitment in servicing the community with that integrity. Also, providing guidelines from members of Council or any elected office in the City. It would also apply to members of Council, including the Council President or the Mayor, in preventing conflicts and undo influences from things such as, outside employment.

One concern that Mr. Wos shared, which has grown over time, were ethic concerns with potential or elected representatives that work for other cities or local governments. For example, possible ethical implications of such work could include things such as, contracting conflicts. He went on to say, where an elected person's position involves awarding contracts or making decisions such as, voting on a contractor that may directly benefit the public entity that they work for. These instances could lead to favoritism or bias decision making, as it may prioritize the interests of their other employer over the best interest of the City they were elected to serve. He mentioned insider information, in which elected officials that serve in multiple public entities, may have access to privileged information from one entity that could be relevant to the decisions in another entity. This creates a risk of using insider information to gain an advantage or manipulate outcomes, which undermines transparency and fairness. For example, we have several committees in the City such as Planning. There are members on Planning Commission that are privy to privileged information regarding businesses, whereas people attend those meetings. He went on to say you may have an inside knowledge of what is coming in front of the City. This information could be potentially used elsewhere, leading conflicts of interests. Such as, if a business is not satisfied with their treatment and threatens to relocate, the existence of a conflict-of-interest situation can create opportunities for abuse. Mr. Wos recalled a situation months ago where we had a business within North Royalton that was somewhat dissatisfied with the treatment they were getting at Planning, and they threatened to go to Broadview Heights; which may have all been rectified.

Mr. Wos spoke of another possibility, such as when we go into Executive Sessions, where there could be discussions on property purchases or sales. Such things could have business implications in the City of North Royalton. Again, it is important to maintain confidentiality of that information. Someone with inside knowledge of that could exploit for their personal advantage. Another example could be competing loyalties. Holding positions in multiple public entities can create conflicting loyalties for elected officials. One may face pressures or obligations from their employer that may not align with the interests of the City they were elected to represent, which can compromise your ability to act in the best interest of their constituents.

Mr. Vos provided another example, such as influence-peddling; which could be a big problem. This is where working for another public entity while serving as an elected official, provides opportunities for influence-peddling. He went on to say that someone could leverage their position to benefit their other employer, or use their influence to gain personal favors or advantage. Furthermore, they could leverage their position in relationships for raising campaign funds to run for office. For example, garnish support from groups who are financially tied to business interests in the location in which they work or are elected, thereby creating a clear conflict between their public duty and private interests. He felt this is not a concept that is not out of the ordinary. There are many examples of local municipalities that have conflict of interest laws, such as Bay Village. He also mentioned a scenario in Cuyahoga County, whereas they required all of their employees who served an elected position, to either vacate one position or the other.

Mr. Vos felt expressed this was something that needed to be discussed. He shared draft legislation with everyone. As he had thought this through, he did not see a problem with those who work for a school system by virtue of their rolls, primarily focused on providing education to support students in the school district; that is different. He went on to say if this were to go to the voters and pass, any individual that is employed by any such entity would be required to resign from either or position within thirty days. Therefore, if they are filing for an election, they would have to do it within thirty days; filing for candidacy public announcement, whatever comes first. That would apply to all full time, part time, and contractual employment positions. He referred to another section, whereas any currently elected official within the City would also have thirty days to resign; upon the passing of the law. He continued that any person found in violation would be deemed ineligible. We would then need to have the City law office verify employment status of all candidates during their filing process. Also, any candidate found to be in violation of this ordinance shall have their candidacy invalidated.

Mr. Vos has been aware that there have been people concerned about this. On a personal note, he works for a large bank and there are certain ethics and legal things that he must go through, since he is running again for election this year. He had to seek approval from the company, which is something he deals with all the time. There are plenty of examples that he could speak of. Even when he does technology at his job, he cannot do anything that would be similar to a financial business. For example, he cannot sell real estate or do insurance, or taxes for people. He noted there may be others on Council that have things they must follow, such as Mr. Dietrich, who is of a non-compete status. He mentioned there are other cities that have it clearly written, as well as the County. He felt that as stewards of the City, we should try to do everything as legitimate as possible. There is always the potential for these types of instances. He felt that we should defer all risk and not allow such things when you are an elected official; there is too much of a conflict.

Mr. Dietrich commented that the draft was well written and agreed this is something we need to discuss. Mr. Vos spoke to ethics, whereas we had a couple things happen in the past, where the subject of a code of conduct came up from members of Council. He felt it was something that we could legislate and it would have to go to the voters, which would entail a Charter change. He would think the elector would not have a problem passing the legislation. Mr. Nickell concurred that the information was well put together. He also did some research and was in agreeance with Mr. Vos. He pointed out what the state of Ohio reads, whereas any classified civil service cannot be in political office; with reasons listed. Mr. Nickell stated that we are not just targeting our Council President, who did have to resign a position from Cuyahoga County years ago because they implemented the rule. Mr. Marnecheck clarified that he did not resign from the position, however he found a better one outside of public employment. Mr. Nickell expressed that he was happy for Mr. Marnecheck, as the Commissioner of Economic Development for Brook Park. He pointed out that North Royalton has the large tracks of land that we want to develop for industrial, which Brook Park is ten miles away. That city also has land that they are trying to develop for industrial. He went on to say that on the website for Brook Park, Mr. Marnecheck's name was listed as the contact if you wish to know about those opportunities. He commented that we are not insinuating that Mr. Marnecheck has done any of these things, however we are concerned it can have the potential for conflict of interest. He brought up possible scenarios regarding land for sale in both cities and how the difficulty of that could be handled. He stated that Mr. Marnecheck is privileged with information.

Mr. Vos wanted to make clear that this applies to anybody and agreed it is not meant to target anyone. He continued that as we sit through meetings and certain things come up, such as in Executive Session, there are things that bother him personally. He felt this would be appropriate; it is a blanket statement for any member of elected government in the City. Mr. Nickell noted that Mr. Marnecheck just so happened to be in that position, whereas there may be conflicts. Mr. Nickell noted that he is a realtor. He continued that if he represents a buyer and seller, he must make a disclosure, in which both clients must sign that they are okay with him representing both. This subject can be problematic. Mr. Vos clarified that he was not conveying that someone would do any of the things he mentioned. There can also be people that overhear you discussing things and it be totally unintentional. Mr. Nickell brought up a past scenario in Brooklyn, where there were agreements and cost sharing that took place regarding I-480. He added that he would be in support of this legislation.

Ms. Webber called upon Mr. Kelly for his opinion pertaining to this. Mr. Kelly stated that his opinion on the question of whether you should or should not, is likely not relevant. He went on to say that it is Council's collective wisdom, and the Mayor, that get to decide these things. In this case, he is an amender perhaps, depending on what is communicated. He expressed that you should at least be aware of unintended consequences. For example, if that were to be applied today, the opportunity for our Mayor to sit on the Regional Sewer District Board would be eliminated, because he would be paid a stipend for that board. Having the Mayor on a Regional Board is a very desirable circumstance. Years ago, we worked very hard in the last Administration to get an amendment to allow the Mayor to serve on those boards, whereas prior to that, it had been prohibited. Mr. Vos did not have any language relating to boards of that nature. Mr. Kelly stated it is public employment. Mr. Vos indicated it does specify the conditions such as, city, village, or township within Cuyahoga County; Cuyahoga government or any adjacent cities. Mr. Kelly clarified that he has not read it. He concluded that if everyone is in alignment, to do what everyone believes is best.

Mr. Nickell felt that it was a good point and we could certainly write that in the legislation, that our Mayor is permitted exclusively. Ms. Webber shared that the Ohio Ethics Commission does govern what we are allowed to do. If we have an issue that looks like a conflict of interest, the Ohio Ethics Commission does have Ohio Ethics Law that should govern us in the ability to submit a question. Ms. Krejci asked if there is anything in the Ohio Ethics Commission. Ms. Webber indicated that you could ask them. Mr. Marnecheck inquired if Ms. Krejci was referring to him with her question. Ms. Krejci agreed. It was Mr. Nickell's understanding that there is nothing in it.

Mr. Dietrich commented that we also govern ourselves. He spoke of his career as a window salesman, which his job also has requirements and restrictions on what he can do within that industry. For example, he cannot work within 75 miles of another window company or within 75 miles of a Window Nation location. Also, he must wait a calendar year of not working to be able to seek employment within another window company. He felt that Mr. Vos was not saying you cannot get a job in another county, however it is the joining counties for obvious reasons. He agreed about the situation with Mr. Marnecheck having worked ten miles away, however, again, this is not specific legislation for him. He went on to say he did not present this or encourage it. However, he is not going to deny a Council person the opportunity to bring something to the table that is bothering him; that is the whole point of Review and Oversight. As the Chairman, Mr. Dietrich stated he is in an awkward position and he did pull petitions; he has not filed. However, it has nothing to do with it. This is something that Mr. Vos has proposed to protect the City. If we were to get a job in another city, we would have to choose whether we take that job or stay on Council. As our Law Director pointed out, it is up to us and the Mayor to make this decision. Mr. Dietrich spoke hypothetically, if the Mayor also wanted to work for the City of Parma, being the Mayor for North Royalton, that everyone in the City would lose their minds. He cannot work for another municipality when he is representing the City of North Royalton, as it should be the same standards for anyone. He agreed there needs to be some guidelines. He reiterated that it is not unheard of. He made mention of Mr. Kelly's son, who is a Council at Large in Bay Village. Bay Village is one of those cities where you cannot work in another municipality. Mr. Kelly interjected that is not exactly what it conveys. He continued that they make a distinction between public office and public employment. Mr. Dietrich explained that they made legislation that works for them, and we could do one that works for us. Mr.

Kelly agreed. Mr. Marnecheck inquired whether Mr. Dietrich supported this change. Mr. Dietrich agreed; yes, he does.

Ms. Krejci pointed out that when she came here, she was Director of Human Resources. She is very familiar with conflicts of interest, codes of conduct, etc. She wanted to know if we are talking about a code of conduct as a broader thing. Mr. Vos felt that was part of it; it plays into it. We discussed a code of conduct as to perhaps, what Council members should or should not do; it is all part of ethics. Ms. Krejci noted that we must not have anything on the books currently, that prohibits someone from working in one city and being an elected official. Mr. Vos believed the only prevention is that none of us could have a direct family member. Mr. Kelly clarified there are nepotism ordinances that are in play or policies perhaps; he was uncertain. Ms. Krejci wanted to know if we are certain that this is a Charter Amendment; something that must go to the voters. Mr. Dietrich was unsure. Mr. Kelly was also not certain without being able to study it. However, he was happy to do so and could share his view. There is a distinction that must be drawn to qualifications to hold a public office, which is what is being discussed; elected officials. Mr. Vos concurred. Mr. Kelly noted that is public office and those qualifications are largely set forth in the Charter. A code of conduct theoretically, could be adopted by ordinance; a codified. He explained that disqualification from office is also essentially part of a qualification provision. If you wish to add disqualification provisions to the opportunity to hold office under the Charter, then it is a Charter Amendment; at least that portion, which would not necessarily impair your ability to impose a code of conduct by ordinance. Mr. Dietrich wanted more clarification; he felt it made sense. Mr. Kelly explained further that you cannot disqualify people from running for public office by ordinance alone.

Mr. Marnecheck questioned if that was the difference, when we did not change the amount of time. He went on to say that we must fill a vacancy. He stated that we just put into place twenty-one days to accept resumes, and then we had nine days to meet. To clarify, we did not change the total from thirty, we just specified how we would allocate the thirty. He wanted to know if that is the distinction. Mr. Kelly explained that you could look at it that way; it could be. However, the example you are using is not a qualification for office or a disqualification. Mr. Nickell pointed out that what we propose does not take effect until January. Mr. Dietrich concurred, stating that it has nothing to do with this election. Mr. Marnecheck asked for clarification on what year Mr. Nickell was referring to. Mr. Nickell explained that anything we do would take effect January 1, 2024. If it is by Charter, it does not happen until 2024 anyhow. Mr. Kelly noted he had asked Ms. Schroeder about the deadline for Charter Amendments, in which she believed it is September 2023. He was not 100% certain.

Mr. Marnecheck pointed out that he is the Council member who works for another city. He stated that he has been open with this and the Royalton Recorder did an article as well. He was downsized from the Cleveland Partnership in December of 2021 and he gained employment in February of 2022. He recalled when he was the Ward 4 Councilman, where at one point, it was held by somebody that held some sort of public employment in addition to being on Council. He has had perhaps three employers in his time on Council. When he has consulted with the Law Department, there have been times he abstained from voting on things. He believed that all his colleagues at one time or another, may have done the same. He has served with people who have served with the School District, as well as the Police. There were members that worked for the County prosecutor's office or the judicial branch, and possibly the VA. We had a wide cross section of individuals that were on City Council who held public employment; there were times they would have excused themselves. Mr. Marnecheck realized there have been many times he has consulted with the Law Department over the years and asked for their guidance. He spoke of an instance that was so tenuous, whereas he had a conflict when he worked for the Greater Cleveland Partnership. He continued that the City was potentially going with a health care plan, COSE; the sister organization. To his recollection, the Law Department had conveyed that it was his decision, in which he did abstain from that vote; he felt it was potentially a conflict. He provided examples of Councilmen having done the same, such as Councilman Gary Petrusky, because of where he worked. He went on to say Mr. Petrusky needed to abstain every year when we passed the alternative tax budget, or something similar. Mr. Marnecheck stated that he wished he had known this discussion was taking place. To him, it sounded like this was something that has been percolating. He reiterated that he wished he had known this was a concern ahead of time. He would have liked to have met

with the Law Department perhaps, to discuss his situation. He asked if anyone went to the Law Department regarding this topic and whether there have been concerns.

Mr. Dietrich commented that this is not solely a situation with Mr. Marnecheck. Mr. Marnecheck reiterated his question whether anyone has gone to the Law Department regarding this. Mr. Nickell stated that Mr. Kelly is there for merely a legal opinion. He spoke of when Mr. Marnecheck took the job when there was nothing in force. He pointed out that the situation with Mr. Marnecheck and Mr. Kasaris were the result of Cuyahoga County's decision that you could not do both; whether Mr. Marnecheck resigned or happened to find another job. Mr. Marnecheck clarified that he changed his full-time job. He commented that, to the example of Mayor Antoskiewicz, he is a full-time employee and Council is part time. He believed in our Charter, that position is designated as full time; for the Mayor. Mr. Marnecheck expressed that his concern was this could have a chilling effect on those seeking office. We should not be making it more difficult for individuals to contribute to public service. He was aware that the individuals he has worked with bring something to the table. He continued that the City is better off by having those individuals in being able to run for office, or if they are successful, holding office.

Mr. Wos felt that there is too much risk. Mr. Marnecheck brought up an instance roughly a month ago, whereas he did abstain from voting on something. The City of Brook Park was involved and it entailed perhaps, the jail contract. Mr. Wos reiterated that this was not about Mr. Marnecheck and the possibility always exists with anyone. Mr. Marnecheck agreed that the possibility exists for anybody. Mr. Dietrich concurred, stating that is why we all have restrictions. Mr. Wos expressed that the risk of it happening would be much higher. He pointed out that his concern is potential influence-peddling, because we all campaign and fundraise. He went on to say that you could have the possibility of having groups and organizations that are backing you, merely because of another job, or working for another city. You may be steering business or contracts to them, and also, they may pressure people in the City a certain way; these things are possible. Mr. Marnecheck commented that is a general statement when it comes to campaign fundraising. Mr. Dietrich spoke of the law of contracts, etc., stating that Mr. Marnecheck is in a position of power ten miles down the road. He went on to say you could easily give contracts to big union jobs. Mr. Marnecheck felt the question should be, whether he has that ability to do that in Brook Park and the answer is no. Mr. Dietrich pointed out Mr. Nickell's point, whereas on their city website, Mr. Marnecheck is a point of contact for any new land development.

Mr. Marnecheck reiterated that he wished he had known this was coming; he may have been able to reflect on it. He continued that he did not want to make this about himself. Again, there are individuals that better the community with what they bring to the table from their life and work experience. He expressed his concern that this would have a chilling effect on individuals. He spoke of a previous Councilwoman who was incredibly helpful to him when it came to legal matters. Given her legal background, he felt that it made the community better. Mr. Wos commented that there would not have been a conflict, because she worked for the state level. Mr. Marnecheck added that she worked for the County at one point. There may have been a period where she worked for the County Prosecutor's office. Mr. Dietrich pointed out there is a lot of talent here on Council, in which no one works for another city except Mr. Marnecheck. He brought up ways that Council members have helped with their expertise. For example, Ms. Barath worked for the IRS and is an accountant. He felt that it would not discourage solid people at all and disagreed. He continued that we have an amazing group of people, whereas none of them have worked for another city to his knowledge.

Mr. Marnecheck pointed out that we have a lot of Police and Fire staff that live in North Royalton, but are members of other safety forces. We may be excluding their ability to run for public office. Mr. Wos reiterated that this is just for elected officials in North Royalton. Mr. Marnecheck stated that you could have individuals who are members of Police and Fire for other communities that live in North Royalton, who would not be able to seek Council. Mr. Dietrich expressed that is the whole point of the law. As discussion ensued, Mr. Marnecheck gave an example that if the Chief of Parma Police lived in North Royalton, they are employed by another municipality. If they would like to seek public office in North Royalton, this change would prevent them from being able to seek public office. Mr. Dietrich agreed, stating that you have prevented information on the Safety Committee. He strongly agreed that you should not be able to run; that is the whole point of this.

Again, it is not about Mr. Marnecheck specifically. He commented that the part time or full-time status does not matter, however it is a position of power. Mr. Marnecheck explained that it was from a financial stand point. Mr. Dietrich understood; however, he was speaking from an ethical stance. He pointed out that all of us are important and that is a position of power; regardless of our title. He shared that if you were to put it out there that the Mayor had a job in another city, everybody in this City would lose their minds. Again, if we are of the same importance, and as President of Council, that is a very powerful position; it should be no different.

Mr. Wos felt it was important to keep in mind that we have all sat through Executive Sessions, whereas we may discuss the sale or purchase of property; as an example of something that could be going on. Such as Planning, in which one could have knowledge about those things that nobody else does initially. Mr. Nickell spoke hypothetically, if we are going for a grant and Mr. Marnecheck is going for a grant, he is aware of what we are doing, and he also has knowledge of what Brook Park is planning. He continued that a person could change something on the grant to make it more favorable. It is unfortunate, but not unusual. He brought up the state of Ohio, as to their section 124.57; Ohio classified employees. Mr. Dietrich agreed that we are part time, and whatever position someone has in another city, that is their 'bread and butter'. Therefore, if it came down to a conflict of interest in decisioning making, one is going to go with the thing that provides for their family. Mr. Dietrich expressed that if you are in a position where you have sworn an oath to have the community's best interests in mind, and you also swore an oath to another city to have their best interests in mind, this is a massive conflict. He agreed with Mr. Wos. We should discuss it more and seriously consider it.

Ms. Webber raised question whether anybody has received feedback from residents, in which she has not. Mr. Dietrich agreed that he has. He referred to the Royalton Recorder, in which residents came up to him and asked about it. They wanted to know how it was allowed for Mr. Marnecheck to work for another city. There is no current law that prohibits him from doing so. Mr. Wos agreed that he also had people inquire. Ms. Krejci agreed; she did as well. Mr. Marnecheck questioned again, whether anyone asked the Law Department for a clarification or an explanation. Ms. Krejci agreed, stating that we were told there is nothing in the City Charter that prevents it. As discussion ensued, Mr. Dietrich pointed out that we have received a lot of feedback from residents that they are upset. Mr. Wos pointed out that he had a member of the press ask him how was it possible. Ms. Webber mentioned that we are public servants and we are governed by ethics laws. She went on to say that we need to be aware of that and residents need to be able to come to us and ask those types of questions. Mr. Dietrich reiterated that he has had multiple residents yell about this and approach him.

Mr. Nickell inquired about what Mr. Wos' desire was at this time. Mr. Dietrich asked for a consensus. He wanted to know how everyone felt about it. Mr. Nickell also spoke of people that had been concerned about how Mr. Marnecheck could hold that position for Brook Park and be on Council. He pointed out that nothing would take place until 2024. He knew people that have had to decide on things similar to this. Ms. Krejci did not have a problem looking into what constitutes a conflict of interest, and perhaps defining it better, or looking into a code of conduct. However, she was not ready at this time; we are not voting right now. Mr. Dietrich agreed, stating that the question is whether we want to move forward and take Mr. Wos' draft to give to the Law Department. Ms. Krejci felt it was something we should look at and ensure that there are other potential conflicts that we should be including in something like this. Mr. Dietrich and Mr. Wos concurred. Ms. Krejci felt that we need to be careful. We have rules in place and if there is a conflict, then we must plan how we are going to handle that; whether abstaining from a vote, etc. She did not have a problem looking into it further and having more discussion. Mr. Marnecheck shared that he did not have a response at this time; he must think it through. Mr. Dietrich wished to take Mr. Wos' information and have the Law Director review it, see what he comes up with, and bring it back to Council. Ms. Webber was also comfortable with that. She felt that we need some guidance on figuring out what our steps are, our protocol, and being consistent. We have a lot of gray area. Perhaps, we even need instruction about scenarios involving what would be conflicts of interests, what would not be, and taking the appropriate steps. Mr. Dietrich agreed, stating that is why there can always be a situation where it is gray. For him, that is why it is a hard yes or a hard no. He felt that it is a yes in this situation. Unfortunately, if it were to pass, Mr. Marnecheck would have a decision to make and it; again, it has nothing to do with his election. He felt that you cannot work for another city as outlined by Mr. Wos. Ms. Webber agreed with Ms. Krejci that we probably need a little more time. Mr. Wos concurred, as

well as Mr. Dietrich. Mr. Was reiterated that we need to come up with some other rules around code of conduct. Mr. Dietrich noted that we have another Review and Oversight Committee meeting in September. Mr. Was concluded that we should add the topic on the agenda, especially because there have been past incidences pertaining to this subject.

ADJOURNMENT

Moved by Mr. Dietrich, seconded by Mr. Nickell to **adjourn the July 18, 2023 Special Review and Oversight Committee meeting**. Yeas: 3; Nays:0. **Motion Carried.**

Meeting adjourned at 8:31 p.m.