

REPORT OF THE CITIZENS' COMMITTEE OF SEABROOK

Monday, 19 August 1968

On 23 July 1968, a committee was selected by a group of citizens of Seabrook assembled in the Seabrook Community Center. Members of that committee are Richard A. Colonna, Fred B. Machol, James H. Oldenkamp, Roger Wesolic, Joe Pirtle, and R. E. Barnum. The services of Patricia C. Strybos, as secretary, were obtained by the committee. Mr. Barnum's work made it impossible for him to meet with the committee.

The purpose of this committee was to investigate and report back to the same group of citizens on 5 August 1968, on the removal of Police Chief Leroy Wilcox on 13 July 1968, and the circumstances leading up to and surrounding that removal; the reasons for the Seabrook City Council refusing to move the council meeting of 23 July 1968, from the City Hall to a larger forum so that more citizens might hear the proceedings, as requested in a petition presented by H. C. Boykin.

Due to the necessity for several members of the committee to be away from the vicinity for varying lengths of time during the investigation, the date of this report was extended from 5 August to 19 August 1968.

Let it first be made clear that this committee's only consideration in its investigation was to establish the facts in the situations noted. This committee does not represent Mr. Wilcox, Mayor Robinson or members of the city council, present or past, any defeated candidates or prospective candidates for political office. This committee has remained as neutral as possible throughout this investigation.

This committee has no legal authority and is solely the representative of the said group of Seabrook citizens. The committee has no power to issue summons, administer oaths, or otherwise compel appearance before or compliance with its wishes.

All persons interviewed appeared before the committee voluntarily and all testimony was unsworn. Although there was some understandable initial reluctance on the part of some witnesses, once they were assured of the committee's impartiality, all were cooperative. Due to the nature of this committee, its lack of legal authority, and its parttime non-professional approach, this report does not claim to be an absolute and final resolution of the issues, but merely the best development of the facts that this committee could make under the circumstances and in the time allotted.

During the course of the investigation, the committee interviewed former Police Chief Leroy Wilcox, Mayor Robinson, all members of the city council, and various other city officials and employees.

The first person interviewed was former Police Chief Wilcox, who stated that he was no longer interested in the position of Police Chief in Seabrook, and would not accept the position if it were offered to him. No consideration, therefore, was given to the restoration of Mr. Wilcox to his former position.

At no time has this committee questioned the authority of the Seabrook City Council to remove, discharge, fire, or seek the resignation of, any city employee. Further, the committee does not question the propriety and, in fact, endorses the practice, of dealing with personnel matters in closed session. However, when a personnel action has achieved the notoriety of the Wilcox removal, this committee feels that the voters are entitled to the full facts in order to determine the propriety of the actions of its elected officials; particularly as allegations of the commission of illegal acts by a city councilman have been raised.

REASONS FOR DISCHARGE

The reasons given by the mayor and councilmen who supported the removal of Police Chief Wilcox were:

- 1 He had repeatedly made unfounded statements that Councilman Ray Stamper was taking water from the Seabrook water system.
- 2 Repeated threats by Police Chief Wilcox that he was going to resign if certain conditions were not met by the council. (These conditions included hiring another policeman and the purchase of a new patrol car.)
- 3 Inefficiency in the operation of the Police Department as evidenced by a decrease in the number of tickets written and the improper execution of paper work by members of the department.
- 4 Poor morale in the Police Department as evidenced by a high turnover rate in patrolmen.
- 5 Refusal by Police Chief Wilcox to comply with the city's purchasing procedure.
- 6 Failure to obtain a satisfactory bond from a resident of Seabrook for violation of a city ordinance.
- 7 Political activity during the last city election and failure to adjust to the new city council.)
- 8 Destruction by Wilcox of a new lock placed on emergency generator unit at City Hall.

- 9 The council thought it inappropriate for Wilcox to report his suspicions regarding Stamper's use of water to Corporation Court Judge Neal Duvall, rather than to Mayor Robinson.
- 10 Failure on the part of Wilcox to take action on equipment missing from the water department.
- 11 Failure to enforce truck overload ordinance.
- 12 Favoritism was suspected in Wilcox's providing protection to certain business houses, to the neglect of others.

In addition to the above, the council gave the following reasons for removal of Wilcox at a special meeting rather than at a regular meeting:

Wilcox had again on the morning of 10 July, made a derogatory reference to the Stamper-water affair. On this same occasion, Wilcox again threatened to quit. Since the decision was made to discharge Wilcox, and since his vacation began on 14 July, it was decided to remove him immediately in order that he might use his vacation to seek other employment, if he so chose.

In order to determine the validity of the council's stated reasons for removal, the committee examined records and interviewed witnesses. It should be noted that all members of the council did not state all of the above-noted reasons for the removal. Further, Councilman Sydney Brummerhop was not present at the removal meeting.

The committee's opinion concerning the charges are as follows:

- 1 It is the belief of the committee that the most important item covered in this investigation was the statement that Wilcox had repeatedly made unfounded statements concerning Councilman Ray Stamper taking water from the Seabrook water system. The committee found that Chief Wilcox did, on more than one occasion, publicly make such statements. Investigation revealed the following facts:

Seabrook Water Superintendent Ben Felts discovered in March, 1968, that the line supplying water to a house being constructed at 1704 Bimini Way by Ray Stamper, had been connected to the city water main and no meter had been installed. The house was in a state of construction and was unoccupied.

Mr. Felts asked Police Chief Wilcox to come to the scene as a witness, which he did. Mr. Felts and Mr. Wilcox discussed with Corporation Court Judge Neal Duvall the possibility of filing a complaint in this matter. Judge Duvall went to the scene and, after viewing the connection and causing the statutes to be researched, stated that, in his opinion, there was no evidence that Mr. Stamper was violating a city ordinance. In addition, Judge Duvall informed Mr. Felts and Mr. Wilcox that in order to substantiate the complaint, evidence of water usage and responsibility thereof must be obtained.

Records of the Seabrook Water Department reveal that, on 6 February 1968, Ray Stamper took out a building permit for 1704 Dimini Way which included payment of

Water Tap Fee	\$ 95.00
Sewer Tap Fee	7.50
Water Deposit	<u>10.00</u>
Total	<u>\$ 112.50</u>

The records indicate that upon payment of these fees, Stamper stated that he would call when ready for meter installation. The water department procedure does not provide a record of when a meter setting is, in fact, requested. The current procedure is that when the call for a meter is received by an employee at City Hall, the employee verbally notifies the water superintendent, who connects the water line to the city main line and installs the meter. The superintendent then provides the meter number to a clerk in the water department, who prepares a job order which records the meter installation.

It appears in this case that the plumbers completed their installation work and connected to the city main line in order to check for leaks. In the absence of any evidence to the contrary, it here appears that the plumbers failed to disconnect from the city main line after the test. No evidence could be obtained that Mr. Stamper had directed the connection. Judge Duvall advised Mr. Wilcox and Mr. Felts that he could find no statute which this procedure violated.

It should be noted that at the time Mr. Felts discovered the meterless connection, he had already submitted his resignation to the city council as the result of having three times

failed to pass the state examination for a required water and sewage license, and that Mr. Stamper had been instrumental in obtaining the resignation. There is no evidence that Mr. Felts checked the records of the water department, with which he should have been familiar, to determine that the fees had been paid. Records do not show the date of meter request.

There is no question that the house under construction by Mr. Stamper was connected to the city water main and that no meter had been installed when seen by Duvall, Felts and Wilcox. There is no question that Mr. Stamper had paid the necessary fees.

Although rumors of other connections without meters were heard by the committee, nothing definite was established.

It is the belief of this committee that no water connections should be made without meters, and that Mr. Stamper, as a member of the council, should be exemplary in his relations with the city.

Police Chief Wilcox, a law enforcement officer with more than ten years' experience, should have recognized his responsibility to thoroughly investigate the alleged complaint, and not have publicly discussed police matters. The statements made by former Police Chief Wilcox to the effect that Councilman Stamper was taking water were not substantiated and were not in the best interests of the city.

- 2 It was established that Police Chief Wilcox had threatened to resign his position on several occasions. The last occasion was on 10 July, when he told a city employee to make out his paycheck, as he was resigning. He called several hours later and cancelled the request.

One matter over which Wilcox threatened to resign was the failure of the city council to replace a patrolman who had resigned. The mayor had suggested that Wilcox continue to work with two men and split the salary necessary to hire another patrolman among the Chief of Police and the two remaining patrolmen, as overtime pay. The mayor said that this was agreeable to Wilcox and the patrolmen. Wilcox denied that it was agreeable, and further felt the situation had become a critical issue since his vacation was imminent.

Another matter was when the city council refused to purchase a patrol car as Wilcox had requested. According to the council, Wilcox was asked to obtain bids. He obtained but one bid, which was \$ 300 higher than the cost of the last patrol car purchased. Other automobile dealers contacted by the council because they had not submitted bids indicated

they had not done so as they were uncertain they could deliver this late in the model year. The council refused to purchase a patrol car based upon the one bid.

- 3,4 These items deal with inefficiency and poor morale in the police department. This committee refuses to accept the fact that the issuance of fewer tickets is, in itself, a criteria of inefficiency. However, statements by other witnesses have supported the fact that fewer tickets were issued. This reduction was due largely to one patrolman, Mr. Blasingame, who quit when Chief Wilcox was removed.

The city attorney stated that paperwork, such as complaints, had been so poorly executed in recent months that no legal action could be taken on many as a result. As head of the police department, Police Chief Wilcox was held responsible. However, Corporation Court Judge Duvall stated he was not aware that this condition had existed.

There is no doubt that morale was bad in the police department. The committee did not determine if the turn-over rate was higher than in other departments of equal size and pay scale. The committee does not feel that Wilcox alone should be held responsible for the poor morale in the police department, although there can be little doubt that his threats to quit and his general attitude of dissatisfaction affected morale.

The mayor and members of the council told the committee that the department heads run the departments and, that while the council does the hiring and firing, they normally follow the recommendations of these department heads. Yet, a patrolman was hired at the insistence of the mayor and a former councilman over the objections of Police Chief Wilcox and Councilman Brummerhop. There are strong indications that this patrolman dealt in some instances directly with the mayor, rather than with Wilcox as department head, and that there were difficulties between this patrolman and other patrolmen. There is also evidence indicating that a recent attempt by Wilcox to discipline a member of his department was overruled by Mayor Robinson. Actions such as these undermined the authority of the police chief as a department head and undoubtedly were contributing factors to the poor morale of the police department.

- 5 It was established to the satisfaction of this committee that Police Chief Wilcox was remiss in following the purchasing procedures of the city and this after requests by the mayor that he adhere to the system.
- 6 On this item, the failure of Wilcox to obtain a satisfactory bond from a Seabrook resident upon whom a complaint had been filed, the committee found the statements of witnesses so contradictory and procedures so lax, that no definite conclusion could be reached. However, it is the feeling of the committee that if all legal procedures involved had been strictly adhered to by the parties involved, the situation would not have arisen.

If, in fact, Police Chief Wilcox was negligent in his duty, so were the other principles involved.

- 7 Police Chief Wilcox is charged with taking part in the last political campaign for council positions and not adjusting to the new council. It does appear that Wilcox made public statements favorable to certain candidates and not favorable to others. It also appears that Wilcox made the unfortunate mistake of becoming too close to certain members of the majority group of the city council prior to the last election, and he may have had some difficulty in adjusting to the new majority. It was unwise, though not illegal, for Wilcox to publicly express political opinions. The difficulty in Wilcox's adjusting to the new city council was not entirely a one-sided affair, as evidenced by the fact that two "factions" within the city council could not even adjust to each other.
- 8 The locks on the emergency power generator located at the City Hall were changed by order of Mayor Robinson. Although a key for Wilcox allegedly had been left with the dispatcher, the police chief had not received it when he attempted to open the door to the generator. Whereupon, he removed the lock and replaced it with one of his own. Here was a classic "failure to communicate". The committee feels that Wilcox acted in intemperate haste in this matter and that the mayor was negligent in failing to contact Wilcox directly.
- 9 Regarding the suitability of Felts and Wilcox contacting Duvall in lieu of Mayor Robinson, Duvall stated that this was not an irregular procedure. This committee believes that Duvall was an appropriate first point of contact for assessment of the alleged complaint. It further believes that this is an example of the confusion and disagreement resulting from ill-defined procedures.

10,11,12 No attempt was made by the committee to investigate these items.

The reasons given the committee for the hastily called special session to remove Police Chief Wilcox are clearly indicative of subjective thinking. If the council had been considering the removal of Wilcox for some time, there seems to be scant reason to take such hasty action based upon a repetition of an offense which had not brought about his removal or even censure when previously committed. Wilcox's vacation did not happen suddenly, but was part of a vacation schedule posted weeks in advance.

The removal action appeared to be instigated by Messrs. Robinson, Stamper, Porter and Block, or at least one of them who gained the support of the others. Councilman Brummerhop was out of town. Councilman Larrabee opposed the removal.

It has come to the committee's attention that in the past, and with several members of the present council participating, another city employee was removed for reasons far more substantial than those involved in the Wilcox removal. This removal was conducted following procedures consistent with good personnel practices; with an open, proper and complete investigation; with prior notification to the employee that he was under investigation and for what reasons. This prior notification gave him an opportunity to prepare an answer to the charges against him. We feel that such a procedure would have been to the advantage of all concerned in the Wilcox removal.

It is the opinion of this committee that former Police Chief Leroy Wilcox had provided Seabrook with an efficient law enforcement arm for several years. It is obvious to all concerned that Chief Wilcox was held in high esteem by many citizens in the community. Seabrook enjoys a very low rate of crime and juvenile delinquency, in an area and under circumstances where a high crime rate might have been expected; a condition which can be attributed to former Police Chief Wilcox.

It further appears that the morale of the police department had dropped in recent months, and with it some degree of the department's efficiency. While the actions and statements of Wilcox were responsible to some degree for this morale problem, he was not alone in creating the morale problem.

The committee feels that the Seabrook City Council, acting within its authority, was justified in seeking the removal of Police Chief Wilcox because of his statements regarding Mr. Stamper, his repeated threats to resign, his failure to follow purchase procedures, and his general lack of ability or inclination to work with the current city council.

However, the committee also believes that the attitudes and actions of the mayor and council encouraged Wilcox's discontent and caused him to respond to them and to his duties in a hostile manner. The manner in which the removal was handled was most undignified and regrettable; was obviously influenced by strong emotions rather than calm and considered judgement, and was detrimental to all concerned - Police Chief Wilcox, Mayor Robinson, the city councilmen, the City of Seabrook, and its citizens.

COUNCIL MEETING RELOCATION

The second issue considered by this committee was the refusal by the city council to move the 23 July meeting to a larger forum.

The council gave the following reasons:

- 1 The petition was not presented in advance in order to allow the council time to effect a move to a larger arena.
- 2 The petition was presented by a defeated candidate for the city council.
- 3 The council noted the presence at the meeting of another defeated candidate and felt that the crowd present at the City Hall was "his crowd".

The committee does not question the honesty of the council members in stating these reasons. True, the petition was not presented in advance. The committee does not discount the fact that some defeated candidates for the council were present, nor the probability that some of those present were politically motivated.

On the other hand, this committee believes that the council completely failed to assess the nature and makeup of the group of people at the City Hall. It is believed by the committee that these people were largely a representative group of citizens of Seabrook aroused and appalled by the publicity that the City of Seabrook had received as a result of the Wilcox removal and desirous of being informed of the facts in the case; particularly in regard to charges that a councilman was taking water from the city. It is also difficult, in view of the publicity running in all the local news media during the week preceeding 23 July, to understand the council's surprise that so many people showed up for the meeting. This committee is not suggesting that the council explain every action it takes in its official capacity, but we feel that any elected body must respond to the electors when, as in this case, so large a group demands an explanation. The committee does not feel that the council acted wrongfully in refusing to move the meeting; we do feel that they acted unwisely.

When this committee was formed on 23 July, the question was repeatedly raised regarding a recall election. The committee finds that no recall election is warranted in this case. The committee further finds that a recall election is impractical under the laws of Texas (Vernon's statutes, Article 5991) which reads as follows:

The mayor and aldermen of any incorporated town or city may be removed from office for official misconduct, willful violation of any ordinance of such town or city, habitual drunkenness, incompetency, or for other such cause as may be prescribed by the ordinances of such town or city.

SUMMARY

During the course of this investigation, various matters related and unrelated to the issues at hand came to the committee's attention. The committee believes that some comment is due and that this is an appropriate forum for such comment:

In the past five or six years, Seabrook has grown from a sleepy little fishing village to a city of more than 5,000 population and an annual budget well in excess of a quarter of a million dollars. It is a residential city, composed largely of persons who earn their living elsewhere but who come home a night to Seabrook. It is here that their families are housed and their children are growing up. They are employed at NASA, Bayport, Texas City, Baytown, the Channel Industries, Houston, etc. On a comparative basis, they are a well-educated and intelligent group. Many factors influence their lack of participation in the political life of Seabrook; the transitory nature of many aero-space jobs, the inhibitory effect of prohibited political activity statutes on government employees, the inclination of breadwinners to identify with the locus of their employment rather than their residence. Only slightly over 600 persons voted in the last two city council elections. A member of the council told the committee that it was not necessary to campaign for office, just announce and make a few 'phone calls. To that councilman's credit, he deplored this fact.

As the city has grown, the city government has failed to keep pace. The procedures in some departments are so lax as to be practically non-existent. Most procedures have never been reduced to writing. Certain situations plead for definition, such, for instance, as whether the city police chief is an officer or employee of the city. The following articles are from Vernon's statutes pertaining to general law cities:

Article 1003

No person other than an elector resident of the city shall be appointed to any office by the city council.

Article 1006

The city council has the power to remove any official for incompetence, corruption, misconduct or malfeasance in office, after due notice and an opportunity to be heard in his defence. The city council shall also have the power at any time to remove any officer of the corporation elected by them, by resolution declaratory of its want of confidence in said officer; providing, that two-thirds of the aldermen elected vote in favor of said resolution.

The current city council is so badly split that none of the present membership foresee any putting aside of personal differences in order that the public business may be done. Let it be clearly understood that this committee is not blaming the council as presently constituted for all the problems of the city. They have only sat as a body for four months. The previous council, with the majority on the other side of the table, was not exemplary. That council refused to accept the resignation of a water superintendent who, three times, had failed to pass the state examination for a required water and sewage license, even though his serving in this position was a violation of Texas statutes.

The council members complained to the committee that the citizens of Seabrook do not attend the council meetings and take an active interest in city government until aroused by an emotional issue.

This, to some extent, is true; but on the other hand, if those citizens who attend the council meetings to discuss problems with the council were treated with more respect, maybe the attendance would improve. While it is desirable that citizens take an interest in government and attend council meetings, it should not be necessary for all citizens to attend all council meetings, or otherwise be disenfranchised. We have elected a city government to take care of the city's business, and it should be given the freedom and confidence to do it; but they are the servants of the people and may be taken to task by the citizens when those citizens feel that the government is not acting in the best interest of the community. The mayor and councilmen become candidates, we must assume, of their own volition, and in taking office assumed a public trust. The citizens of Seabrook expect and demand that their elected officials, in return for the confidence and trust placed in them, strictly adhere to the law in their relationship with the city and in conducting its business.

Two current members of the city's governing body have done business with the city while in office. Even though we have no evidence that the city has suffered from these transactions, this practice is prohibited by Texas law and is an obvious conflict of interest. Again, quoting from Vernon's statutes, Article 988 as follows:

No member of the city council, or any other officer of the corporation, shall be directly or indirectly interested in any work, business or contract, the express price or consideration for which is paid from the city treasury or by an assessment levied by an ordinance or resolution of the city council, nor be the surety of any person having a contract, work or business with said city, for the performance of which security might be required, nor be the surety on the official bond of any city officer.

The Supreme Court of the United States has spoken on this subject from time to time; "All officers of the government, from the highest to the lowest, are creatures of the law, and are bound to obey it".

"It is the only supreme power in our system of government, and every man who, by accepting office, participates in its functions is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the exercise of the authority which it gives".
Hepburn vs. Griswold 75 U.S. 603.

Not only is Seabrook growing rapidly, but it is a fragmented city of smaller communities. Among these are Wildwood, Seascape, Miramar, old Seabrook, and several others. Most have their own civic clubs and each has its own interests. There is no cohesion. The citizens of one community do not know the citizens of another. Candidates are usually not widely known and little effort is made by the citizenry to know them and determine their qualifications for office, their platforms, their political philosophy.

So all of us, to some extent, must share the blame and each of us knows his own degree of neglect. Therefore, it is placed upon the voters of Seabrook to right those situations that need righting or ignore them if that is their choice.

George Bernard Shaw once defined Democracy as a system that assures the people they will have no better government than they deserve.

What shall Seabrook deserve?