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Community News

Geauga County prosecutor seeks dismissal of charge against Beachwood Councilman Burkons

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A Geauga County prosecutor is seeking the dismissal of a criminal charge against Beachwood City Councilman Mike Burkons. The City of Beachwood had filed a charge against Burkons alleging that the councilman interfered with the rights of a resident. (Jeff Piorkowski, special to cleveland.com)

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By [Jeff Piorkowski/special to cleveland.com](#)

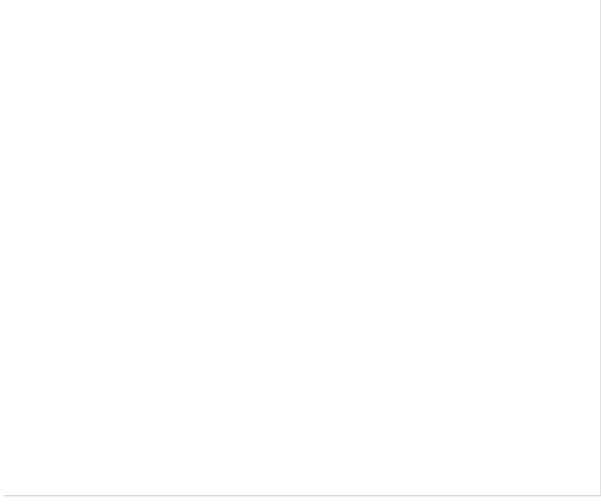
BEACHWOOD, Ohio -- Geauga County Prosecutor James R. Flaiz has filed a motion to dismiss a misdemeanor criminal charge against Beachwood Councilman Mike Burkons.

While the motion is still awaiting a judge's approval, Burkons' lawyer, Peter Pattakos, believes Flaiz's action means that the case against his client "is over."

It has been a case filled with many twists.

The first-degree misdemeanor charge against Burkons dates to 2019, when the councilman wrote an email to Cleveland Heights City Council that expressed disappointment in criticism from Cleveland Heights Assistant Law Director Alix Nouredine, a Beachwood resident.

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Nouredine had been critical of Beachwood City Council for its handling of a situation involving an-off duty Beachwood police officer harassing a Black boy at the basketball courts at the Beachwood Family Aquatic Center in 2018.

In return, in an email to Cleveland Heights City Council, Burkons identified himself as a Beachwood council member and shared his feeling about Nouredine bringing the matter before Cleveland Heights City Council.

When Beachwood City Council President James Pasch learned of Burkons' email to Cleveland Heights City Council, he apologized for Burkons' actions.

In August 2020, Beachwood City Council censured Burkons for criticizing a Beachwood resident at his workplace.

Burkons said he was defending a Beachwood police officer.

Nouredine went on to file a criminal complaint with Beachwood police in regard to Burkons' actions.

The City of Beachwood, on Sept. 25, 2020, filed a charge against Burkons, claiming that he interfered with a resident's rights, a first-degree misdemeanor.

Because Beachwood contributes funding to the Shaker Heights Municipal Court and Burkons is a council member, the Shaker court moved the case in October 2020 to Chardon Municipal Court, where Burkons was arraigned.

Burkons' lawyers, however, filed a writ of prohibition in the Eleventh District Court of Appeals asserting that the Chardon court did not have jurisdiction over the case. The appeals court agreed, and the case was moved back to Shaker Heights Municipal Court.

From there, it was again transferred, this time to Geauga County Common Pleas Court.

In his motion to Geauga County Common Pleas Court Judge David Ondrey, Flaiz wrote that it is his opinion that the matter should be heard in Cuyahoga County Common Pleas Court, not in the Geauga County court. Flaiz added that he "does not pass judgment on the merits of the case."

Because former Beachwood law director Diane Calta and Assistant Law Director Nathalie Supler both believed they had conflicts of interest in prosecuting Burkons, Shaker Heights Municipal Court, at Beachwood's request, appointed University Heights Prosecutor Stephanie Scalise to the case. Scalise took the case at no cost to Beachwood.



Beachwood City Councilman Mike Burkons. (Photo Courtesy of City of Beachwood)

In a March 26 letter to Scalise, Flaiz wrote that it was his belief that Shaker Heights Municipal Court did not have the authority to appoint Scalise as special prosecutor, and that even if the court did have the authority, Scalise was not properly appointed.

Third, Flaiz said, Scalise, as a municipal prosecutor, did not have the authority to prosecute matters in the court of common pleas.

When asked for comment, Burkons' lawyer Pattakos, in an email to cleveland.com, wrote, "Mr. Flaiz has properly made clear to Stephanie Scalise that she not only lacks authority to prosecute Burkons on behalf of the City of Beachwood, but as a municipal prosecutor, she also has no business prosecuting cases in Ohio's common pleas courts. As far as I'm concerned, this case is over.

"I don't think there's another prosecutor in the world -- or not a decent one, anyway -- who would have brought these silly and retaliatory charges against Burkons for his having sent an email criticizing another public official on a matter of public concern.

"James Pasch, Nathalie Supler and Diane Calta are the ones who should really be ashamed here for their efforts to secretly engineer Scalise's unlawful appointment behind the scenes and manipulating Scalise into instituting this farce in the first place," Pattakos said.

Also commenting via email to cleveland.com, Burkons wrote: "As much as certain public officials seem to wish it is illegal to publicly criticize or file complaints about public officials, the First Amendment ensures that it isn't. Imagine if a police officer arresting someone openly admitted it was because he didn't like that this person used their First Amendment free speech rights to file a complaint or openly criticize a fellow police officer.

"If this ever happened, I can't imagine the officer would admit to their true motivation, unlike Stephanie Scalise, who didn't even attempt to hide the motivation and intent behind the charges she filed against me as she wrote in an email to my attorney, 'My big picture goal with this whole case is that I am hoping your client will understand that when you're in public office, you cannot contact people's employers to "tattle" on something that person did that you didn't like.'

"Ms. Scalise brazenly seems to believe she is above the law, can violate people's civil rights if she doesn't approve of how they use them and can file criminal charges against someone if she doesn't like that they used their First Amendment-protected free speech rights to file a complaint, criticize or, as she calls it, 'tattle' on a fellow municipal prosecutor," Burkons wrote.

“This is illegal, specifically a violation of [ORC 2921.45](#), and if public officials can break laws without consequences, there is no deterrence for this type of unabashed abuse of power.”

Burkons went on to state: “Beachwood’s charter and laws are extremely clear that anyone representing the city in a legal capacity, including as a prosecutor or special prosecutor, must be approved by council, so it wasn’t a surprise the Geauga County prosecutor determined Scalise wasn’t appointed properly and kicked her off the case.

“This was pointed out to the rest of Beachwood City Council, and it is disappointing that they still authorized the city to spend over \$8,000 because Diane Calta stubbornly refused to acknowledge that her law department appointed Scalise improperly.”

When contacted, Scalise chose not to respond to Burkons’ or Pattakos’ comments.

Pasch responded to [cleveland.com](#)’s request for comment via an email that stated: “Mr. Burkons’ conspiracy theory simply has no truth to it. I have never been involved in criminal charging decisions in this matter or any other matter.”

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