

Summary

The RTM Ad Hoc Committee was given the charge of looking into the events surrounding the physical, financial and legal state of the Stony Creek Quarry and how these developments led to a meeting between a police detective and a former First Selectman at his place of business. The Ad Hoc Committee conducted its inquiry through public hearings and written questions to gather information and find out how this had come about. The Committee's investigation revealed that a legitimate process to find facts and bring a chaotic situation at the Stony Creek Quarry under control resulted in controversy. Some members of the committee came to have serious questions about the methods used to find irregularities in Quarry Royalty payments, as well as the motives behind them.

According to testimony, soon after the inauguration of the Morris administration, Town Counsel had received a file from Peter Berdon, an attorney who had worked for the Opie administration, about a suit against Stony Creek Granite Company that had been begun under the DaRos administration. This did not receive much attention until it came to the attention of Town Hall that a letter had been received from a Canadian company with the unfamiliar name of "Granicor," asking where the check for the Stony Creek Quarry yearly rent should be sent. Town Counsel began an investigation into legal and financial conditions at the quarry. This revealed that SCGC was in shaky financial shape which might have undesirable consequences for the Town: There was a real danger that SCGC could default on its loans, and the town could find itself with a new tenant, one that had been chosen by the bank that held SCGC's loan.

The Administration came to believe it might well be in the town's best interest to have a different tenant at the quarry. The Administration began an investigation to see if it could build a case with which it could evict the Stony Creek Granite Company. When visits by Administration officials to the quarry revealed that the physical condition of the quarry was a cause for concern as well, the police were brought in to look into possible safety violations, such as improper handling of explosives.

Some have questioned the use of the Branford Police in the course of this investigation, but not this committee. No other town agency was as well prepared through training and availability to do a rapid and thorough gathering of information related to the physical condition of the Quarry, especially in light of potential danger there.

It is the conclusion of this Ad Hoc committee that it was not a good choice to extend the use of the police to try to gather financial information relative to whether or not the quarry operators were paying royalties to the town for material that was being sold by the quarry. This decision to extend the police investigation into quarry royalties came out of the staff meeting at Town Hall on April 26.

The police investigation of conditions at the quarry was well under way prior to the meeting between Atty. Edward L. Marcus and Detective Duncan Ayr that occurred on

Friday, April 28 2006. Detectives Ayr and Perrotti and Officer Kaufman had begun their investigation earlier that week.

There has been speculation that the photographs of granite in the yard of Anthony DaRos's shop that were received from Michael Milici by Attorney Marcus were provided to Mr. Marcus in the hope that they could be used to embarrass Mr. DaRos. This committee would not have been formed unless there had been questions about why Mr. DaRos was the only one outside the quarry to be visited by the police. Mr. Marcus denies any such intent, and this is not contradicted by Detective Ayr's police report. Since Mr. Milici declined to appear before the Committee or to respond to written questions, people have to come to their own conclusions as to why he provided these photos. If the intent had been to embarrass Mr. DaRos through bad publicity, the result was the opposite.

It was a mistake to meet in the First Selectwoman's office while she was not present, and without her permission, and she has expressly forbidden this ever happening again. Mr. Marcus has expressed his regrets, and Mrs. Morris has extended her apology to Mr. DaRos on behalf of the administration.

Mr. Marcus and Chief Gill have told us that the involvement of the Police Department did not automatically make it a criminal investigation. Much has been made of Mr. DaRos's account of the end of his meeting with Detective Ayr. Mr. DaRos said that he asked the detective what he was being accused of, and that Ayr replied "Theft of town services." Naturally this is grounds for the conclusion that Mr. DaRos was the subject of a criminal investigation. If Detective Ayr had appeared before us, we could have asked him if this was what he meant or if he was referring to the possibility of "Theft of town services" by someone other than Mr. DaRos. Since Detective Ayr chose not to appear before the Committee or respond to our written questions, people are left to come to their own conclusions. This could have resolved the question that gave rise to the creation of this committee – "Why was there a criminal investigation of a former First Selectman?" Detective Ayr would not appear to tell us if he felt it was a criminal investigation or not.

It made it difficult for this Committee that Mr. Milici and Det. Ayr did not appear or answer written questions. Mr. Milici was not available to answer why or how the photos were taken. Det. Ayr was not available to give us his input on his meeting at Town Hall with Mr. Marcus on Friday PM, April 28, or his interview on Monday, May 1st with Mr. DaRos. Leno Torelli did not appear before the Committee or respond to written questions as well.

We thank the nine individuals who did cooperate with the Committee. Although Jim Finch and Trista Clyne did not appear before us, both sent written replies to our questions. Janice Plaziak, Phil Shook, and Third Selectman John Opie all came before the Committee. Former First Selectman Anthony DaRos, Chief of Police Robert Gill, Attorney Edward L. Marcus, and First Selectwoman Cheryl Morris all appeared more than once.

Members of the Committee have cited a lack of communication between the administration and the public that contributed to a lack of trust of Town government. The fact that Detective Ayr and Mr. Marcus met in the First Selectwoman's office - without her present - only contributed to that perception. Rightly or wrongly, controversy over the Queach property, much of it due to a lack of information about negotiations between the Town and the developer, contributed to an atmosphere of distrust that lent credibility to the accusations and counter-accusations that this committee was charged to investigate. We are disappointed in those individuals who could have assisted the Committee by appearing or answering questions, but chose not to. Some members of the committee feel that some expression of disapproval, such as a reprimand, is called for in the case of town employees who would not appear before the committee, but Representatives Doyle and Thayer feel that it is sufficient that the Committee made the fact that these individuals chose not to appear a matter of public record.

Despite the fact that this committee did not hear sufficient evidence to determine that political motives lay behind Detective Ayr's visit to Mr. DaRos, it is difficult to see any other reason for Mr. Milici to take the trouble to provide the photographs. If there was such a reason, Mr. Milici declined to tell us about it. While a reasonable explanation can be made that the photographs indicated Mr. DaRos could contribute information to the investigation into quarry royalties, the photographs can be seen to lend just as much weight to the suspicion that politics was involved. Mr. Marcus would have done better to recognize this downside potential, thank Mr. Milici for the photos, and put them aside.

There is no argument that the Administration did well by finding out what was - or was not - happening at the quarry, putting a department head in charge of it and getting it cleaned up. Sending a police detective to the premises of someone who could be perceived as a political rival was an act that could easily and very naturally be perceived as an abuse of power. Even if it was done with the best intentions, failure to recognize the potential for the perception of impropriety was an error that should have been avoided. Public servants are held to a standard that requires not only that they avoid impropriety, but that maintaining the trust of the public demands that they avoid doing anything which even appears to be improper. At that point in the investigation, the police had produced about as much information as they could have been expected to produce, and it would have been more appropriate to turn the investigation over to the accountants and the lawyers.

It is unfortunate that this Committee could not reach a definite conclusion because some people chose not to assist us. The Committee had no means of compelling people to testify. Those who testified or submitted written answers to questions did so by their own choice. Other people's own choice led them to decide not to respond to our request for their co-operation. Unfortunately, human nature leads people to suspect that the people in the second group must have something to hide, but at the same time we have to remember the fundamental American principle that people are entitled to the benefit of the doubt - they do not have to prove that they are innocent, either. The Committee gathered as much information as it could. More would have required subpoena power, which the Committee did not have.

The testimony the Committee missed the most was that of Detective Ayr. He declined to appear, saying that his report spoke for itself, but we lost the opportunity to ask him to tell us more about what went on than what was in the police report. Some have said that the report has little to say about quarry royalties, so the inference to be drawn is that it was Mr. DaRos he went to investigate, not Stony Creek Granite Corp. Detective Ayr's reluctance to appear or to answer written questions meant that for the Committee, inferences like these could not be refuted or confirmed.

The Ad Hoc Committee has taken its investigation as far as it is possible for it to go. To proceed further would require subpoena power which the Committee did not have. If the RTM as a whole decides that it wishes to pursue this matter further, it may choose to turn it over to an entity that does have subpoena power.

Some have argued that First Selectwoman Morris should have dismissed Attorney Ed Marcus as Town Counsel because of his role in what has come to be called "Granite-gate." Others, including the First Selectwoman, believe that the benefits of retaining the Marcus Law Firm as Town Counsel outweigh considerations for discontinuing that relationship. On this subject, the members of this committee have to agree to disagree, but we do agree that we have to learn from this experience and avoid making mistakes like this again. One of these lessons is that the people of Branford are tired of all the controversy and contention, and they want their town government to move forward in a spirit of cooperation and openness. They are determined to see that something like this does not happen again.

Respectfully submitted,

Rep. Jan Doyle, RTM 4th District
Rep. John Prete, RTM 4th District
Rep. Frank Twohill, RTM 1st District
Rep. Scott Thayer, RTM 5th District, Chair