

Mayor Kelly Kautz accuses council of acting illegally in court testimony

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FROM TUESDAY

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After Snellville council members rejected a settlement offer from the mayor Wednesday, Mayor Kelly Kautz testified in court that the council acted illegally in approving a new contract for the city manager and ignoring her appointment of a new city clerk.

“Just because they have a majority doesn’t mean they can break the law,” Kautz said during the second day of a trial on those issues. “This is not about winning or losing. This is about doing what is legal and what is not legal and what is in the best interests of the citizens of Snellville. Because of the actions of the council, we’ve all lost. ... Look at the time and the money and the resources that this is costing the citizens of Snellville because you’ve gone back on your legal opinion, your word to me, and because the council members have attempted to take illegal action because they believe that the five of them can do whatever they want, regardless if it’s legal or not.”

Kautz told City Attorney Tony Powell, who is representing the defendants in the case, that she relied on his own legal advice, as well as a city code that says the mayor and council can set the term of the city manager, when she nominated Butch Sanders for a 16-month contract in August of 2012. But in December, she chose not to nominate Sanders for a new contract, so council members voted on a new one without her consent.

As the city charter says the mayor must nominate the city manager, Kautz contends that the contract is illegal, and she refused to sign it. Mayor Pro Tem Tom Witts signed the document, but Kautz’s lawyers said he had no right to do so as the mayor was not disabled or absent.

“I relied on you, and I trusted you,” Kautz said of believing that the first contract set Sanders’ term of office and any renewal would require a new nomination.

The two debated the contents of meeting minutes, with Kautz saying she should have caught an error describing her withdrawing her sponsorship of an agenda item instead of her nomination of Sanders.

The testimony did not get into specifics of allegations made earlier in the trial that Sanders had lied on his resume to get a job as Dalton’s city manager earlier in his career or that he lied during his deposition earlier in the week.

During more than four hours on the stand, Kautz also testified about her attempt to name a new city clerk in January, believing the term of city clerk Melisa Arnold had expired at the end of the year. She described walking in on a majority of the council members in a meeting with Arnold and Sanders, which she contends is a violation of the Open Meetings Act, and said her access to portions of City Hall was restricted the next day.

She also accused officials of continuing to use her electronic signature on checks after she had requested that she hand sign documents out of concern that the electronic signature was being used inappropriately.

“This isn’t about politics for me,” Kautz said of the attempt to bring on a new city clerk while shifting Arnold to another role. “The thing about Snellville is everyone is afraid of change. ... I couldn’t believe what was happening. I knew there was going to be resistance to change, but I didn’t believe it would be like this.”

At the outset of the second day of the trial, Kautz’s attorneys offered a settlement, the terms of which were not disclosed publicly.

But attorneys for the council and officials declined the offering, calling out attorney Michael Clark for making a “threat” against Sanders.

Powell’s cross examination of Kautz is expected to continue Thursday.

During the initial talks, attorneys have taken the offer to the city council members in two groups, as one of Kautz’s allegations involves a possible violation of the Georgia Open Meetings Law.

In January, Kautz attempted to appoint a new city clerk, alleging that the term of Arnold had expired at the end of the year. But in court, officials said Tuesday that the one-year term provision had been deleted from the city charter in 2010.

Kautz also declined to recognize Sanders, after councilmembers approved a new contract without Kautz’s nomination. Lawyers were arguing that the end of Sanders’ first contract represented the end of his term and required a new nomination, but the judge questioned Tuesday whether the contract superseded the charter.

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