

Daily Record (Morristown, NJ)
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How much do 2 councilmen owe Mt. Olive?

Judge will determine reimbursement amount for their health benefits

By Peggy Wright

A judge who ruled that a current and a former Mount Olive council member were not entitled to taxpayer-funded health benefits will be asked to review how much of \$95,854 that the pair received should be reimbursed.

Superior Court Judge Stephen F. Smith Jr., sitting in Morristown, ruled on Nov. 4 that Councilman Bernie Guenther and former Councilman David M. Scapicchio were not entitled to health benefits through the township because the council had no ordinance granting medical benefits to the part-time elected officials.

The judge's decision was a victory for township residents H. Scott Uhrmann and his wife, Charlene "Charlie" Uhrmann.

The couple sued to have the council members ruled ineligible and to have them repay Mount Olive the \$95,854 that was spent on their health insurance premiums.

Attorney Robert Russell, who is representing the Uhrmanns, said he has asked the couple to gather financial data from the township on exactly how much was spent on the two councilmen. He said he then will ask Smith for a so-called "proof hearing" at which a reimbursement amount could be set.

Attorney Ronald Heymann, a former councilman who is defending the pair, said he would oppose a proof hearing. He said that township administrations over the years allowed council members to receive benefits, and that Guenther and Scapicchio should not be penalized for a policy that was permitted.

Heymann said he is awaiting a transcript of the judge's reasons for his decision and expects to appeal.

The Uhrmanns contend that the township paid \$72,050 to provide Scapicchio with health coverage between 1996 and 2003, and paid \$23,804 for Guenther to receive coverage between 2002 and February 2004, when he voluntarily stopped accepting medical benefits.

Russell said the Uhrmanns offered to settle with the council members before the judge's ruling, believing compensation could come in the form of money toward a memorial or monument dedicated to veterans. Heymann said his clients were not interested in a settlement because they believe they did nothing wrong.

Heymann added that he is trying to get the state League of Municipalities to join in an appeal, since other communities in New Jersey give health benefits to elected officials without an enabling ordinance. Russell agreed, saying that Smith's ruling potentially has statewide implications.

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Daily Record (Morristown, NJ)
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Judge: Benefits of Morristown mayor, council not a voter issue

By Andrew Nynka

MORRISTOWN -- A Superior Court judge on Friday ruled against a group of Morristown residents who petitioned to have voters decide whether the mayor and council should receive health benefits paid for by the town.

Superior Court Judge Theodore Bozonelis ruled in favor of Morristown's mayor and town council, which approved an ordinance in December 2005 giving council members free health benefits.

Six town residents, who were listed as plaintiffs in the suit, took umbrage with the council's ordinance and in January sent a petition to the town clerk. They argued that the issue should be decided by town residents and drew up a petition, with 767 signatures, to place the issue on a November referendum.

Town attorney Jonathan L. Williams rejected their petition on technical grounds, saying that, according to state statute, such a petition was only applicable if the council had decided to increase their salaries, wages or compensation.

Lack of merit

Bozonelis said the town was correct in rejecting the petition because, while the health benefits can certainly be characterized as compensation, there was no increase that would merit a ballot referendum.

"The reality today is that benefits are extensive," Bozonelis said, adding that, when compared to salaries, the benefits "have real value." The judge said that while Morristown council members make \$8,000 as part-time employees, they get approximately \$7,000 in individual medical benefits.

William S. Ruggiero, an attorney representing the plaintiffs in the case, said the mayor and council approved the ordinance in response to a Superior Court decision in December 2005. The decision ruled that two Mount Olive councilmen wrongly took advantage of similar benefits because there was no ordinance that allowed the move.

A language issue

Ruggiero argued that previous language in the statute provided Morristown council members with a monetary salary, but there was no language granting health benefits. He argued that by creating the ordinance for health benefits, the council had in effect increased their compensation.

Benjamin Clarke, an attorney representing the defendants, said that argument was "not a sound proposition." The addition of language did not prove an increase had occurred, said Clarke, who represented Morristown and Matthew Stechauner, the town clerk.

Bozonelis also rejected the plaintiff's argument, but said if such an increase, even to health benefits, took place in the future, the public would have the right to petition for a referendum.

"If there is a substantial increase, then there has to be a point in time that voters can challenge the move," Bozonelis said.

Barney Arntz, a plaintiff, said the health benefits are "an outrageous expense that the town should not be burdened with."

Ruggiero said the group could appeal the decision, but added that "there are always other options." He said the group would meet to discuss its next move.

"We're going to continue to meet. We're not finished," Linda Carrington, a plaintiff, said after the ruling. "We have a plan A, a plan B and a plan C." She said the group would meet to discuss an option under the Faulkner Act. That option, a ballot initiative, would allow a new ordinance prepared by residents to bypass local government.

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