

https://www.clevelandjewishnews.com/news/local_news/beachwood-retains-outside-counsel-faces-more-claims/article_aa9ef87a-3b0c-11eb-9338-5fe3fa12b477.html

Beachwood retains outside counsel, faces more claims

JANE KAUFMAN | STAFF REPORTER

jkaufman@cjn.org

Dec 10, 2020



Burkons



Calta



Pasch



Pattakos



Scalise

On the eve of the filing of a taxpayer's lawsuit that challenges the authorization of a special prosecutor to pursue a criminal case against a Beachwood city councilman, council voted to retain another lawyer to defend the city.

Beachwood Law Director Diane A. Calta told council it was necessary to retain Kenneth J. Fisher of Cleveland as special counsel because Beachwood's insurance agency won't cover a taxpayer's lawsuit and she expects the costs to rise above the \$5,000 she is authorized to spend without council approval. She said there could be other claims as well.

At the Dec. 7 council meeting held virtually, council president James Pasch and councilman Mike Burkons recused themselves. Burkons is the plaintiff in the lawsuit.

Referring to Burkons, Pasch said he was threatened with litigation by a member of council in a related matter. Five members of council then voted to appoint Fisher as special counsel to defend the city. Fisher will be paid \$250 per hour.

Burkons is charged with interfering in the civil rights of Beachwood resident Alex Nouredine. Burkons was censured by council Aug. 17 in the same matter after contacting the city of Cleveland Heights, the employer of Nouredine, who is that city's prosecutor.

The lawsuit filed Dec. 8 in the Ohio 8th District Court of Appeals followed two demand letters from Burkons' attorney, Peter Pattakos: one to Beachwood's Calta, another to Mayor Martin S. Horwitz and members of Beachwood City Council.

Pattakos argued Stephanie B. Scalise did not have legal authorization to represent Beachwood as a special prosecutor in the case against Burkons because city council did not vote to appoint her according to city charter. Scalise, the University Heights city prosecutor, is not being paid. Pattakos

is seeking Burkons' costs, attorney's fees and other relief.

Nathalie Supler, Beachwood city prosecutor withdrew as counsel because she had said she had a conflict of interest because city council appoints the city prosecutor.

Pattakos wrote Scalise's hiring was done, "to secretly engineer politically motivated and retaliatory criminal proceedings," he wrote in the complaint.

In an Oct. 16 interview, Scalise told the CJN she has received no direction in her work for Beachwood.

"As far as my involvement, I know of no such conspiracy, and I have not been asked to do anything one way or the other," she said.

Council's step in hiring Fisher was at the request of Calta. He had already drafted a response to Pattakos' Oct. 22 demand letter on behalf of the city of Beachwood Nov. 2.

In an email to the Cleveland Jewish News Dec. 8, Calta said she researched the matter prior to bringing it to city council, reviewing both Beachwood's insurance policy with Wichert Insurance of Cuyahoga Falls and the bylaws of the Northern Ohio Risk Management Association, a self-insurance pool to which Beachwood belongs.

"I could not find any language in the NORMA bylaws nor the existing insurance policy that provides for a defense of a taxpayer action," Calta wrote.

In addition, Calta called the taxpayer's lawsuit unnecessary and avoidable.

“Without coverage, his actions in bringing a taxpayer lawsuit against the city, which I might add is for his own personal benefit, will likely in the least, cost the city tens of thousands of dollars,” she wrote.

Burkons’ criminal case is being heard in Chardon because Shaker Heights Municipal Court Judge K.J. Montgomery ordered the venue changed to Chardon Municipal Court based on Burkons’ status as a city councilman in Beachwood.

Pattakos says the case should be returned to Shaker Heights Municipal Court. A hearing on his motion is set for Dec. 11 in Chardon Municipal Court before Judge Terri L. Stupica.

Burkons was charged Sept. 25 with interfering with civil rights, a first-degree misdemeanor punishable by 180 days in jail, a fine of up to \$1,000 or both.

RELATED CONTENT



Burkons' attorney: Council leader involved in prosecution

Beachwood seeks to gag council members, keep information confidential

Attorney wants Burkons' case returned to Shaker Heights Municipal Court

Burkons' attorney wants special prosecutor 'terminated'

Lawyer: Councilman plans to sue Beachwood law director, council president

Special prosecutor files charge against Burkons

Councilwoman: Burkons should resign if fake social media accounts used

Beachwood council members discuss censure of Mike Burkons

Beachwood City Council censures one of its own

Jane Kaufman