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## Burkons reaches settlement with city of Beachwood

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May 25, 2022



Burkons

Beachwood City Councilman Mike Burkons received a settlement from the city of Beachwood’s insurance carrier, USI Insurance of Cleveland, for an undisclosed amount.

Mayor Justin Berns confirmed to the Cleveland Jewish News that a settlement had taken place, but said he could not disclose details based on a confidentiality clause.

Burkons cited that clause in a May 24 telephone call with the CJN, the day he signed the settlement, as did his lawyer, Peter Pattakos of the Pattakos Law Firm in Fairlawn.

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Pattakos told the CJN in a May 25 email that Burkons placed a demand to Diane Calta, James Pasch, Stephanie Scalise and Nathalie Supler “personally, to pay his attorneys’ fees incurred in defending the malicious, retaliatory and ridiculous prosecution that they conspired to institute against him, which was dismissed.”

Calta is Beachwood’s former law director. Scalise was a special prosecutor in the case and the prosecutor for University Heights at the time of the prosecution of Burkons. Supler is assistant law director and city prosecutor for Beachwood. Pasch is former president of Beachwood City Council.

“This settlement was not the city’s choice as it was handled by our insurance company,” Berns wrote in a May 25 email to the CJN. “The circumstances relating to this case started under the previous administration. Per the agreement, we cannot talk about the terms of the settlement.”

The criminal complaint against Burkons stemmed from his July 13, 2020, email to the employers of Beachwood resident Alix Nouredine, who was the prosecutor of Cleveland Heights. Nouredine had complained about a Beachwood police officer’s treatment of a teenager he witnessed Sept. 20, 2018.

Beachwood City Council censured Burkons for his behavior Aug. 17, 2020, in the same matter.

The criminal case was dismissed May 24, 2021, by the Geauga County Court of Common Pleas following a motion to dismiss by Geauga County Prosecutor James Flaiz.

The case against Burkons had been a legal hot potato, with Judge K.J. Montgomery in Shaker Heights Municipal Court ordering the case to be moved twice out of Shaker Heights because she said Burkons could not get a fair trial in that city as a Beachwood city councilman because jurors could be selected from Beachwood residents. Pattakos filed multiple appeals as well.

Pasch told the CJN May 25 he turned over his demand letter to Stewart Hastings, Beachwood law director, since the matter pertained to his role on city council at the time. He did not seek reelection in the November, 2021 election. He cited the confidentiality clause as well and said he had not seen the final agreement.

Pattakos said he filed the demand letter, "after we pointed out that Calta, Pasch and Supler's secret agreement to retain Scalise as 'pro bono freelance prosecutor' was prohibited by Ohio law and the Beachwood charter, and, unsurprisingly, no court or prosecutor with jurisdiction over Burkons wished to endorse the egregiously unconstitutional notion that he somehow committed a 'crime' by having sent an email expressing opinions to other public officials about a matter of public concern."

The CJN has filed public records requests with the city of Beachwood for the settlement amount, the demand letter and all related documentation.

Stewart Hastings, Beachwood law director, explained the process in a May 25 email to the CJN.

"When the Burkons demand letter was received by our former councilman, former law director, prosecutor, and former special prosecutor, they referred the matter to us as the complaint clearly alleged actions while they were doing their respective jobs for the City of Beachwood," Hastings wrote. "As such, they requested a defense as owed to them by the Ohio Revised Code. The demand letter and their request for defense were referred to the city's insurance company, and the city had no further involvement."

Beachwood's maximum liability is \$5,000 in the form of a deductible payment under its current insurance policy.

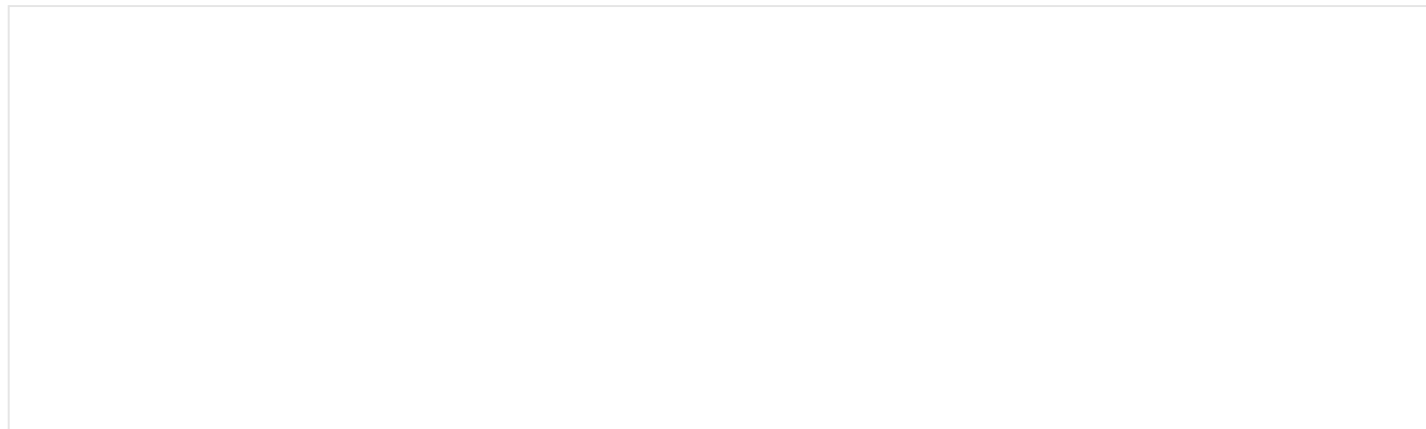
In addition, Hastings wrote, "While we are aware of the settlement reached by the insurance company we do not yet have a complete copy of the signed agreement. At no time was the city asked to sign any document."

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Burkons emailed a statement to the CJN May 25.

"This shouldn't have to be said but the reason why no one in the history of the country has had criminal charges filed against them for the reasons they were filed against me, is the First Amendment assures that anyone can express criticism of anyone, in any way they choose, and municipal prosecutors can't file criminal charges against someone because they didn't approve that they used their free speech rights to criticize a fellow municipal prosecutor," Burkons wrote. "I am glad this is over and this won't prevent me from speaking out, advocating on shining a spotlight on important issues, even if it displeases the status quo."

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