

City of Phoenix to pay Jack Harris' legal fees

by Lynh Bui - Sept. 16, 2010 08:40 AM
The Arizona Republic

Phoenix will pay up to \$49,000 for Public Safety Manager Jack Harris' legal defense in a lawsuit that claims he is illegally drawing pension benefits while working for the city.

The Phoenix City Council voted 5-3 to hire a law firm that specializes in pension law and cover Harris' legal defense, which he has been paying.

Elected officials and the public grappled over the issue Wednesday afternoon. Those against the city paying Harris' bill say he is being sued as a private individual and should be responsible for the legal costs.

But others say Harris is being sued in his capacity as a public official and it is the city's policy to provide defense and indemnity for its employees.

Mayor Phil Gordon, Vice Mayor Michael Nowakowski, and council members Michael Johnson, Claude Mattox and Tom Simplot voted in favor of paying for Harris' defense, with council members Sal DiCiccio, Bill Gates and Thelda Williams dissenting. Peggy Neely was not present for the vote.

"While some claims have been made that Jack Harris is being sued as a private person, it is the advice of the City Attorney that the suit is filed against Jack Harris as the public safety manager, a position created by the city of Phoenix," according to a memo

Assistant City Manager Ed Zuercher sent to the mayor and council.

This summer, Harris requested that Phoenix cover his legal defense in a case brought last October by Judicial Watch, an anti-corruption group based in Washington, D.C. That suit is pending.

The suit claims Harris is "double dipping" and violating the Arizona law that prevents public employees from drawing pension benefits while working in the same position from which they retired.

Harris told *The Republic* Wednesday that he felt the city had handled his request appropriately.

"If those weren't my job duties, this suit wouldn't have happened," Harris said. "They created the position and they're supporting the position."

Gates said it wasn't the right time to pay up to \$49,000 for the legal defense in light of the city's current financial struggles, and he had other objections.

"I do not believe that this lawsuit is related to

Advertisement



GET
SUNDAY
HOME DELIVERY FOR ONLY
\$1 PER
WEEK

PLUS NOW GET WEDNESDAY INCLUDED FOR **NO ADDITIONAL COST!**
Visit AZAD.AZCENTRAL.COM or call us at **602-444-4444** and mention promo code **AZAD**. Offer expires 12/31/10. Offer valid for new subscribers only.

his action or inaction in the course and scope related to his appointment," Gates said.

In January 2007, Harris retired as the city's chief of police and accepted a job two weeks later as Phoenix's public-safety manager. Some argue the new role is different because he has duties covering homeland-security issues on top of the responsibilities of the chief. But Judicial Watch and others say he is still the police chief though his title is different.

Mattox said the city has an obligation to support its employees.

"This is not about double dipping," Mattox said. "It's about employees who are being sued over things that, in my opinion, have to do with their job."

According to A.R.S. §38-849 in 2007, "same position means the member is in a position where the member performs duties and exercises authority that are the same duties that were performed and the same authority that was exercised by the member before the member's retirement." The statute has been changed since then.

The lawsuit asks that Harris' monthly pension be suspended until he retires.

Harris earns a base annual salary of \$193,378 as public-safety manager in addition to receiving \$90,000 a year from the state Public Safety Personnel Retirement System. Harris also took a lump sum of more than \$562,900 from the state's Deferred Retirement Option Plan.

The Phoenix Police Pension Board has ruled that Harris' pension payments were within the law.

Judicial Watch filed the suit on behalf of five current or former police officers who are current or former union board members for the Phoenix Law Enforcement Association. PLEA represents more than 2,400 officers and its board of trustees has been critical of Harris.

Current PLEA President Mark Spencer said having Phoenix foot the bill for a "personal financial decision" on Harris' behalf ignores the needs of "the community as a whole" in favor of "the needs of the one."

Republic reporter Michael Ferraresi contributed to this article.

Copyright © 2010, azcentral.com. All rights reserved. Users of this site agree to the Terms of Service and Privacy Policy/Your California Privacy Rights

Advertisement



GET SUNDAY HOME DELIVERY FOR ONLY \$1 PER WEEK

PLUS NOW GET WEDNESDAY INCLUDED FOR **NO ADDITIONAL COST!**

Visit AZAD.AZCENTRAL.COM or call us at 602-444-4444 and mention promo. code AZAD. Offer expires 12/31/10. Offer valid for new subscribers only.