

WILMINGTON



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Gary Hutt meets community leaders for breakfast at Evelyn's Restaurant at 14th and King streets in Wilmington in 2011.

In secret deal, city worker gets life payouts

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THE NEWS JOURNAL

Gary Hutt hasn't worked for the city of Wilmington in over a decade, but he receives a \$2,300 payment every month from the city — and he'll continue to collect until he dies.

The deal with Hutt, the city's former director of risk management and employee benefits, was meant to be kept secret.

The terms — and even the existence — of the separation agreement obtained by The News Journal, as well as the facts and circumstances leading up to Hutt's termination, are "strictly confidential," the contract states. Hutt and the city agreed not to "display, publish, disseminate, or disclose them to any person or entity, including the media," the agreement states.

"What can I say?" said longtime City Councilwoman Loretta Walsh, who said she didn't know about the agreement until this month. "Another really bad decision made by a small group of people who should have shared the information. This is public money. Nothing should be confidential."

Former Mayor Jim Baker said on Monday that he recalls the case but wasn't familiar with the terms of the settlement. Baker did remember a "conflict" in risk management when Hutt was there.

"There was that feeling by the department head that they needed to make a change," he said.

The problem may have been that Hutt was a merit, not appointed, employee, Baker said.

"You can't just get rid of people in the merit system. If you go about it wrong, you pay," he said. "They may have made the mistake of trying to deal with it the same way as an appointed person, and if they did that, they could've gotten themselves in a mess."

The settlement contract, signed on Sept. 22, 2006, indicates that Hutt was fired from his merit-based position, but he appealed. A hearing was scheduled, the contract states, but an agreement was signed before it occurred. Hutt walked away with a lump sum of \$6,000 and a lifetime of cash flow, according to the contract. His lawyers at Biggs & Battaglia received \$20,000, the contract states. The deal also covered three months of "retroactive" \$2,300 payments to Hutt.

Based on the contract, the agreement has cost the city over \$300,000 to date. Another 10 years will cost the city \$276,000. The money comes out of the city's risk management fund, according to a city spokesman. When contacted Wednesday, Hutt, who is now chief deputy sheriff for New Castle County, declined to comment on the circumstances of his termination but said he was proud of his performance as a city employee. "I think my record speaks for itself," he said.

Hutt took the monthly payments, approximately what a City Council member makes, in exchange for dismissing his termination appeal, waiving access to employee retirement benefits and the pension program, and agreeing to the understanding that "his employment relationship with the city has been permanently and irrevocably severed," the contract states.

Mayor Mike Purzycki wasn't pleased to learn of Hutt's contract. "News of these legacy settlements has been all too common since we have taken office," he said. "Unfortunately, there has been a culture of surrender in too many of these cases to either save legal fees or avoid political embarrassment."

Purzycki said he instructed the city law department to "start standing our ground," even if it means fighting in court, before "we surrender tax dollars that are needed to support government services."

"These types of decisions make it very difficult for city government to gain credibility with citizens and with other public officials when we have to explain why someone thought this type of a settlement was a good idea," he said. "This culture of surrender is going to change."

Baker said cities settle in certain lawsuits to avoid long, and potentially more costly, litigation. "You want to get them out of your hair as much as possible," he said. "(The settlement) may seem like a lot but maybe it's not as much as it could've been."

John M. LaRosa, a Wilmington lawyer who specializes in employment cases, said to get a lifetime settlement in a wrongful termination case is unusual. "Typically, the payment is one lump sum or a structured settlement, which consists of a few installments to be paid over a few months or a year or two," he said.

In the contract, Hutt, who worked as the risk manager from 1993 to 2006, forfeited his rights to benefits including retirement and pension plans. LaRosa said it's possible the city determined a lifetime of paychecks would be cheaper than paying a lifetime of Hutt's benefits. Settlements in employment cases usually reflect the compensation that the employee was receiving, the amount of time the employee has been out of work and whether the employee has been able to mitigate damages with new employment, LaRosa said.

"Presumably, the settlement includes damages for economic losses as a result of losing the job," LaRosa said.

The deal states that Hutt filed "no lawsuit, charge of discrimination, or other claims against the city," and that he will dismiss any such claims that "may already have been filed."

A search of chancery, superior and federal district court records yielded no cases related to Hutt and the city.

Hutt was a District 2 City Council member from 1989 to 1992, according to the city. Monica Gonzalez-Gillespie was director of human resources when Hutt was let go. The confidentiality clause of the settlement included only Hutt and "the city," of which Gonzalez-Gillespie is no longer an employee, but she declined to comment on the "confidential personnel matter" nonetheless.

"I'm a professional, and I keep my word," she said.

Gonzalez-Gillespie, who is now the director of labor relations and employment practices for the state of Delaware, couldn't say whether the city had made similar deals during her tenure.

"I don't recall any other settlements like this or any other settlements at all at this point," she said.

Former City Solicitor John Sheridan, who signed the agreement, told The News Journal he couldn't remember the deal but that the terms sounded "unusual."

Baker said the case is a reminder for the city to be wary of firing merit hires.

"You better have your documentation and you better follow the code," he said. "If you don't, you're in trouble."

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MAYOR MIKE PURZYCKI