

Lawsuit Seeks Halt to Raises for Grafton Officials

By JOHN P. GREGG

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NORTH HAVERHILL — Two Grafton residents challenging the legality of a key meeting that led to approval of a new \$38 million Grafton County jail are now contesting a May vote held in Concord where county delegates approved pay raises for four elected officials.

Robert Hull, a Republican candidate for the New Hampshire House, and John Babiarz, a prominent Libertarian in New Hampshire, argued in a lawsuit filed in Grafton County Superior Court last week

that the May 21 meeting of the Grafton County delegation was improperly warned and therefore invalid.

A later meeting in which the delegates voted to "ratify" the May 21 vote, the lawsuit alleges, came after the date state law allows compensation to be set for elected county officials.

As a result, Hull and Babiarz are seeking to have the both raises and salaries, and other compensation for the affected positions, along with those of county commissioners who are also elected, cut off temporarily. The plaintiffs contend that the salaries of elected officials must be set

every year, so that any pay now going to the those officials is invalid.

They also want a court monitor established to review meetings of the delegation. County delegations in New Hampshire are comprised of county members of the New Hampshire House. They approve the county budget.

"There's a real issue here, and the issue is government has to be conducted out in the open," William O'Brien, a former Republican lawmaker from Mont Vernon, N.H., who is representing Hull and Babiarz, said yesterday. "Look at what happened here. They gave no notice to the pub-

lic that (business about) elected officials' salaries would be conducted, and held it in Concord, and decided what it was going to be."

Liz Bailey, the Manchester-based attorney representing the county, declined to comment yesterday, saying it is her policy not to discuss pending cases.

A preliminary hearing on the lawsuit is to be held on Nov. 19 at 9 a.m. at Grafton County Superior Court in North Haverhill.

According to the lawsuit, the Grafton County lawmakers/delegates met May 21 in a legislative meeting room in Concord,

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where lawmakers were in session, after posting notice only in the *House Record*, which includes the calendar of events and meetings for lawmakers. State law requires that notice be posted in two appropriate places or printed in a newspaper of general circulation at least 24 hours beforehand, according to the lawsuit.

At the meeting, attended by 18 of the 26 lawmakers from Grafton County, the delegates voted to approve a 2.3 percent pay increase for the county attorney, high sheriff, register of deeds and treasurer, and took no action on salaries for the three county commissioners, who are also elected, according to the lawsuit.

The meeting came to light, O'Brien said, when he was deposing state Rep. Catherine Mulholland, D-Grafton, the chairwoman of the county delegation, in the jail lawsuit.

Hull and Babiarz had earlier sued in an attempt to halt construction of a new jail, contending that a February meeting county delegates maintained was just a "Democratic caucus" involved county business that should have been conducted in public. Shortly after that meeting, delegates revoked and approved the jail after it initially failed by one vote.

In a phone interview yesterday, Mulholland, who is in the same three-seat Mascoma-area district where Hull is seeking a spot in the Legisla-

ture, acknowledged that the May 21 meeting was warned only once in the House calendar and called it an oversight "for which I take full responsibility."

She also said the second vote to ratify the raises took place in July, which was after Hull had sought minutes for the May 21 meeting.

State law requires that salaries for elected county officials must be set before the filing deadline to run for such offices, which this year was on June 13.

Rep. Catherine Mulholland, D-Grafton, says she takes "full responsibility" for warning the meeting only once.

On that basis, the plaintiffs contend that the second, ratifying vote was also invalid, and are seeking to halt salary payments to elected county officials.

O'Brien said they are not seeking a return of the raises or salary received thus far, even if they are shown to have been invalid.

Hull, who owns an Internet service provider and moved to Grafton as part of the Libertarian "Free State Project," said he is interested in open government and would have filed the lawsuit regardless of the fact that he is running against Mulholland.

"The Grafton County delegation has a problem, it seems, following the open public meetings law, and this is another example of it," Hull said. "While they are defending the lawsuit dealing with the jail vote, they do the

same thing again."

Besides the county itself, Mulholland, the three county commissioners, the county treasurer and state Rep. Susan Almy, D-Lebanon, the clerk for the delegation meeting, are named as defendants.

Michael Cryans, a Hanover Democrat who is chairman of the Grafton County commissioners, referred questions to Bailey, the attorney, and Almy said she had not yet had a chance to discuss the case with the attorney.

But Almy, the chairwoman of the House Ways and Means Committee, also said the litigation was not in keeping with county tradition.

"This kind of thing, at least in Grafton County, has always been dealt with by asking to fix things first, rather than litigating first, but we're dealing with 150-year-old statutes," she said.

Mulholland said the first lawsuit on the jail approval is likely to cost the county more than \$300,000 and said she was surprised by the filing of the new case.

But O'Brien, the plaintiffs' attorney, said, "Open government is very important to these individuals, and they are at a loss as to how to get it to be respected by the Grafton County government, unless they bring these lawsuits."

Final arguments have been submitted in the jail lawsuit, and a ruling on that case is expected soon.

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