

Dale,

My opinion on this matter is that the pay increase likely was not properly enacted due to the insufficient notice in the agenda and lack of specific vote on this matter at the Town Meeting. Wis. Stats. § 60.32(1)(a) requires the salaries of elected officials to be established at a Town Meeting. No town resident had any reason to believe that there was going to be a pay raise being discussed or voted on at the 2020 Town meeting due to the lack of notice in the agenda. This would be an open meeting violation because the issue was not properly noticed. It is my opinion that the officials who received the additional payments may be required to pay that salary back to the Town if this matter is ever challenged.

I have attached the case of *Pungnier v. Ramharter*, 275 Wis. 70 (1957). In *Pungnier*, the town chairman had received a \$202 raise for the previous year. At the following meeting of electors, the Town had the electors vote to approve the retroactive pay raise. The Supreme Court found that such retroactive vote to approve a pay raise was not lawful, stating that the statutes "do not expressly, and we cannot find that impliedly authorizes the payment of an increase in salary for any town officer to be paid on a retroactive basis." (at 74). The town chairman was ordered to repay the town for the unauthorized salary increase.

According to the statutes and caselaw, if any taxpayer challenged the increase in salary for last year, it would be likely that a court would rule the pay increase was invalid and order that each elected official is required to return the unlawful salary increase. While I do not know the likelihood that a taxpayer will file an action to enforce this, it is possible that one may.

To remedy this situation moving forward, the Town should put a specific agenda item for the next meeting of electors that calls for a 10% raise on all elected officials.

Please let me know if you need anything further on this.

Thanks,

Max

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