

Council heads to appeal court; Holyday 'amazed' colleagues still fighting to get legal fees covered

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Byline: David Rider Toronto Star

Councillor Doug Holyday says he shouldn't be shocked at the actions of colleagues hell-bent on paying the election legal bills of two of their own - but he is.

After a closed-door debate Wednesday night, councillors voted to pay about \$140,000 in "grants" to cover the legal expenses of Adrian Heaps and Giorgio Mammoliti.

That despite a Divisional Court ruling last month that council has no authority to cover costs incurred by councillors when they were candidates.

They got the same advice from the city's lawyer, plus a confidential outside legal opinion that said going against the court put the lawmakers at risk of being "scofflaws."

Heaps and Mammoliti spent \$45,330.40 and \$52,081.37 respectively on lawyers when they faced "compliance audits" over campaign spending in 2006. Council compensated them in 2008, including more than \$50,000 to cover taxes on what was deemed a benefit.

Holyday has, with his own money, been fighting the "outrageous and illegal" payments in court and - winning. On Thursday, he said he was "amazed" council would continue with a fight nobody else has said it can win.

"I shouldn't be surprised, but I am. We're going to have to fight an appeal and it's going to mean more costs to me, more costs to the city, and it's totally unnecessary," he said. "The audacity of it is breathtaking."

Mayor David Miller led the charge for approval in the closed-door meeting, arguing the grants are in the public interest.

"This is to protect people who aren't rich being able to run for office," Miller later told reporters. "Nobody in this city, unless you're really rich, can afford to run for public office and be subjected to \$70,000 in legal fees. No reasonable person can afford that. It's a way to drive people out of public office."

The grants were passed 24 to 14. Council also voted to seek leave from the Ontario Court of Appeal to overturn the Divisional Court ruling.

George Rust-D'Eye, a legal expert on municipal affairs representing Holyday, said council - which hired prominent lawyer Alan Lenczner to argue its case - has "ramped up" the fight and risks a "much

more serious response" from the courts.

Last month, after the court said city council has no authority to make the payments, deputy mayor Joe Pantalone said the fight to preserve them "wasn't working" and council should "get on with life."

But Pantalone, who is running for mayor, voted Wednesday night in favour of the grants.

In an interview Thursday, he said there is a "loophole" in Ontario's municipal affairs legislation that leaves local candidates exposed to crippling legal costs. Toronto should make one more court bid to protect those who run, he said.

If Holyday prevails again, the city could be on the hook for his legal costs as well as its own.

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