

## Judge gives OK; vote on chief tonight

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The board was cautioned to avoid a decision that would expose it to more "turmoil."

Bucks County Judge Clyde Waite won't stop the Middletown supervisors from switching back to a police chief system or hiring a chief this year, but his ruling after a hearing in Doylestown on Monday came with some cautions for the board.

Waite denied a permanent injunction sought by Republican supervisors-elect Pat Mallon and Drew Kreiling that would have prevented the switch or hiring a chief until a new board takes office next month. He said the court has no right to prevent the approval of the ordinance switching back to a chief system or hiring a chief before the new board takes office.

A vote on the chief ordinance is on the agenda for tonight's supervisors meeting.

However, Waite added that hiring a new chief for any term extending beyond this year could expose the township to more legal action and what he called its resulting "turmoil." The present board majority of Democrats Chuck Thompson, Robert McMonagle and Kathy Heuer told the newspaper several weeks ago they intended to vote to hire acting Public Safety Director Patrick McGinty as the new police chief once the ordinance switching back to a chief system was approved.

The Democratic majority has since backed off those statements to a degree. Thompson said he would vote to switch back to police chief but didn't know if he would move to appoint McGinty chief.

Heuer, contacted Monday after the hearing, said she didn't know yet how she would vote on either measure. The newspaper was unsuccessful in its attempts Monday to reach McMonagle for comment.

"The Board of Supervisors has discretion to enter into and enact whatever ordinance they choose and there really is no issue with that," said Waite in his ruling. "It is likewise allowed to appoint a chief of police, but doing so beyond their term could be viewed as an unauthorized attempt to bind a future board. I presume the present board will act responsibly and prevent citizens from any turmoil, cost and expense that could attend such a decision [appointing a new chief]."

Outgoing board members could be held personally responsible for legal costs that result from them naming a new police chief before leaving office, Waite added.

The board will go from 3-2 Democrat to 4-1 Republican next month and the new majority members have said a decision on a new police chief should be theirs. They want to advertise for and interview candidates for the position, and have said McGinty and any other candidates who consider themselves qualified would be welcome to apply.

Thompson, who attended Monday's court hearing, said he was pleased with Waite's decision and again criticized Mallon and Kreiling for using the legal system as a "sledgehammer" to stop the present board from doing its job. However, Thompson also said he didn't know whether he would move to appoint McGinty police chief.

"I'll have to consider it, and I'll guess I'll have to consider it pretty quickly," he said.

Any ordinance passed by the present board could be repealed by the new board. However, hiring McGinty as the new police chief with no conditions attached would give him all the protections of the police tenure act and make it extremely difficult for the new board to do anything about the appointment. It would be an improper "binding" of the new board by an outgoing, lame duck board, William Bolla, the attorney for Mallon and Kreiling, said before Waite's ruling.

Thompson, Heuer and McMonagle all favor the public safety director position in principle. However, after the Nov. 3 election made it clear a change back to a police chief would be made next year, the three supervisors said they figured it would be better to do it now so they could hire the person they considered best for the job (McGinty) as chief.

Mallon said Monday he appreciated Waite's words of caution to the current board.

"The judge said very clearly the present board can move to create the position of police chief, which I'm fine with," said Mallon. "That's never really been the issue all along. It's been the present board's stated intention to actually hire a new police chief and circumvent the will of the voters and due process. The judge said any decision encumbering the incoming board could result in present board members being held personally liable for any damages or court costs."

Mallon declined to comment on whether further legal action would be taken by the Republicans if a new police chief is appointed this year.

"I'm going to be an optimist and suggest the present board majority will take the high road and do the right thing," he said. "I'll see what further steps are taken [tonight]. I'd prefer not to speculate."

After Monday's hearing, McGinty said he didn't know whether he would accept the police chief's job if the present board voted to appoint him.

"The judge pointed out some ramifications I will have to think about," he said.

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