

# The Daily Record

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## Dover paid almost \$250K to buy out official

### Daily Record obtains records after 15-month effort

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DOVER -- Former town administrator Bibi Stewart Garvin received a buyout package worth nearly \$250,000 to resign her position before her contract expired, according to a settlement agreement obtained by the Daily Record after a 15-month effort through the Open Public Records Act.

The agreement, approved by the town board of aldermen in June 2008, provided for Dover to pay Garvin her full 2008 salary, a lump sum payment for 2009, and to cover the cost of her health benefits through 2009.

She received her full salary of \$139,259 for 2008, despite resigning effective June 11. Based on her annual salary, that means she was paid \$77,663 for the six-and-a-half months she did not work in 2008. She also received \$25,460 for accumulated sick leave and vacation time she accrued during her 2 1/2 year tenure with the town. In addition, Garvin was paid \$129,719 for 2009, although she was no longer an employee, according to the agreement.

The total monetary payout was \$232,843, according to the Daily Record's calculation.

Besides the salary payout, the town also agreed to pay the monthly cost of her COBRA health benefits for parent and child coverage through 2009. The coverage has cost the town a total of \$14,912 to date: \$5,592 for 2008 and \$9,320 so far in 2009, said town administrator William Close.

Garvin's settlement agreement has cost the town a total of \$247,755 so far.

The town had declined the Daily Record's request for a copy of the buyout in June 2008, citing a confidentiality clause in the agreement. The Daily Record filed a complaint with the state Government Records Council, or GRC, on June 27, 2008, maintaining that the agreement is a public record because it involved a severance package being paid with public funds.

The town administration argued to the GRC that the agreement was a personnel record exempt from public access.

The GRC, which hears disputes regarding OPRA requests, determined in a ruling dated Sept. 30, 2009, that the confidentiality clause "does not override the public's right to access under OPRA."

But because OPRA does not specifically exempt access to records based on confidentiality clauses, Dover had no legal authority to deny access to the settlement, according to the ruling signed by the council's executive director, Catherine Starghill.

"The GRC ruling is a victory for all citizens," said Daily Record Executive Editor James Flachsenhaar. "The council agreed that simply stamping a document 'confidential' doesn't make it confidential -- especially when it contains a severance package paid by taxpayer dollars."

Stewart Garvin did not return a call seeking comment.

Mayor James Dodd said Tuesday that he still could not comment on the agreement based on the advice of town attorney David Pennella. Even though the document was released, Dodd said, he is still bound by the confidentiality clause.

Dodd said "no comment" when asked to explain why he and a majority of the board sought Stewart Garvin's removal.

In May 2008, the board decided not to reappoint Stewart Garvin to another term as administrator. Dodd has said the agreement would "prevent a potential litigation situation" by guaranteeing that neither the town nor Stewart Garvin would sue the other party.

Stewart Garvin was hired Jan. 1, 2006, and secured a \$25,000 raise in April 2006 to keep her from accepting an offer to become Morristown's business administrator. The town renegotiated her contract at that time, extending her term of service to two, three-year consecutive terms, through Dec. 31, 2012.

Only two alderman voted against approving the settlement agreement -- Patrick Donofrio and Patrick Fahy. Donofrio said Tuesday that he "applauded" the Daily Record for pursuing public access to the settlement and said he was "ashamed" the newspaper had to go through the OPRA process.

"It's a raw issue still to this day," Donofrio said of the settlement.

At the time of the vote on the agreement, Donofrio said he felt Stewart Garvin was unfairly forced out of her job.

Donofrio declined to comment further Tuesday, saying he had received several e-mails from the town administration reminding aldermen that they remain honor-bound by the confidentiality clause.