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City, officer settle lawsuit over promotion

Staff report

The city has reached an out-of-court settlement with police Sgt. John McCarthy, who sued when he was passed over for promotion to lieutenant.

McCarthy, a former president of the Superior Officers Union, accused the city of violating his First Amendment rights by refusing to promote him in retaliation for his union advocacy.

The settlement was announced in a two-sentence "joint statement" released yesterday by the office of Mayor John Bell.

The statement gave no details of the settlement, including any payment or promotion promised to McCarthy. The lawsuit sought promotion to lieutenant, back pay, compensation for emotional distress, punitive damages, attorney's fees and interest.

Bell did not return a telephone call, and McCarthy was not at the police station yesterday.

The mayor's administrative assistant, Steven Magoon, would not release a copy of the city's agreement with McCarthy, though the courts have ruled such settlements are public record even when both parties agree to keep them confidential.

The statement released yesterday afternoon said McCarthy and the defendants in the case - the city, Bell and police Chief John Beaudette - "have reached a mutually satisfactory resolution of the claims" raised by McCarthy. Beaudette also was unavailable yesterday.

"The parties look forward to working together to improve the already high quality of service the Gloucester Police Department provides to its citizens and community," the statement concluded.

McCarthy filed the federal lawsuit in U.S. District Court in December 2005. At the time, McCarthy had been president of the Superior Officers Association since 1999.

The suit said McCarthy had often been at odds with Bell and Beaudette as a result of his union duties.

The lawsuit said an aide to Bell told McCarthy in the fall of 2005 that he would likely not be promoted, "specifically because of his public advocacy of union issues."

"I think the evidence is pretty overwhelming," McCarthy's attorney, Harold L. Lichten of Boston, said at the time. Lichten did not return a telephone call yesterday.

According to the lawsuit, McCarthy scored an 85 on the exam for the lieutenant's position in 2004, ranking him first on the civil service list and five points ahead of Michael O'Hanley, who was promoted to lieutenant in October 2005.

Lichten said at the time that mayors typically promote the top scorer to avoid a charge of favoritism.

Beaudette has also been accused of playing favorites. In March, the patrolmen's union accused him of doling out lucrative overtime to officers in his good graces while punishing those who questioned his methods.

Union Vice President Shawn Bouchie told the City Council seven officers were "treated like wild animals" and forced to undergo an outdoor firearms training session during a blizzard-like storm.

Not counting Beaudette, the Gloucester department has 13 superior officers and 47 patrolmen.