

School

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student in 2012 while River Edge paid \$14,330. Oradell sent fewer students (653) to the school district than River Edge, which sent 1,024 students. North Haledon pays roughly \$12,700 per student while the other two municipalities, Haledon and Prospect Park, pay significantly less.

Wichterman said Campbell opposed Gagliardi in the cases of North Haledon, Oradell and Seaside Park.

Campbell said for a period of time he advised Haledon Borough, but did not represent the borough in the case.

"(Campbell) opposed Gagliardi in North Haledon, where he was not successful, Vito was. He opposed Vito in Riverdell, which is the regional system that Oradell is in, and Vito prevailed in that case also," Wichterman said.

Campbell said in the Oradell case, the Borough of River Edge engaged him to represent them. He said he was not counsel opposing the applicant North Haledon, but he is

familiar with the case, which he said is unlike the Lower Cape May Regional School District case.

According to Campbell, North Haledon had a big get-out-the-vote campaign, and the referendum passed.

"We made it clear that can never happen here," Campbell said.

Campbell said the Appellate Division middle court set aside the referendum saying there would be a 9 percent change in the racial make up of the school district. He said North Haledon is made up of an about 96 percent Caucasian population. The other two members of the Manchester Regional School District, Haledon Borough and Prospect Park, have much higher minority populations.

Campbell said the two municipalities attempted to obtain an injunction before the referendum. He said the court denied the injunction, but said a board of review should have prevented the referendum because of the ethnic and racial issues.

Campbell said the New

Jersey Supreme Court ultimately referred the matter to the Commissioner of Education and asked him to come up with an equitable funding formula. Campbell said the move will ultimately be proven to be unconstitutional. He said Article III of the New Jersey State Constitution, reads, "I. The powers of the government shall be divided among three distinct branches, the legislative, executive, and judicial. No person or persons belonging to or constituting one branch shall exercise any of the powers properly belonging to either of the others, except as expressly provided in this Constitution."

Campbell said the power to legislate or set taxes was given to the legislative branch, and the Commissioner of Education is part of the executive branch. Campbell said in 1975 the state legislature determined municipalities cannot do a head tax (per pupil) and that school taxes have to be based on the value of property.

"It's a uniform tax rate. That doesn't mean actual tax

rate is same but based on the value of property they are the same," Campbell said.

Campbell said the bottom line is this type of court case is a tax case, not an education case, and it is something for the legislature to determine.

Campbell said Gagliardi told him, in North Haledon case, a justice asked the deputy attorney general, "Doesn't the commissioner have the right to set the tax rate in a school district." He said the deputy attorney general replied, "No, and he wouldn't want it."

In another case involving Seaside Park, which is also still in the litigation, paid \$112,000 per student in 2012 sent to the Central Regional School District. According to Gagliardi, this led to a \$4.4 million pay out to send 40 students to the district.

Wichterman said the appellate court upheld the current funding formula for the district, but the case has been appealed to the Supreme Court of New Jersey.

Campbell said in the Central Regional case, the Chancery Division of the

Superior Court denied all claims, so Gagliardi took the case to the Appellate Division. "It's not over with yet," Wichterman said.

Wichterman said the funding formula change for Lower Cape May Regional will "not change overnight" but he remains confident in the city's attempt to make the formula more equitable.

"We think we have a very good attorney. He knows what he's doing," Wichterman said. "We're going to prevail, I think."

Campbell doesn't hold the same opinion, and disputes the claim that Cape May taxpayers will see lower taxes.

"The only thing you will get out of this is a decade of litigation and a big bill, and ultimately there will be a tax increase," Campbell said.

Campbell said Cape May is attempting to make a similar claim as they did in North Haledon, which was "these poor seniors cannot be paying taxes to support a district where they send few kids."

He said in Cape May, at least two-thirds of the residential property owners are second

home owners who live elsewhere and can afford to have a second home in Cape May.

Campbell summed up the Lower Township position saying, "Saying per pupil cost is inaccurate. It's a per pupil tax levy based on the relative value of real property. That is what the legislative formula calls for. It's not unfair for them (Cape May) to be paying (based on the current formula) where they have this huge property wealth with a large group who own property and don't live in Cape May," he said.

During public comment, Bernie Haas of Illinois Avenue, asked, if the 50/50 formula were put in place in the Lower Cape May Regional District, as it was in the Manchester Regional district, who would bear the cost of the \$3 million Cape May saved.

Wichterman said the other two municipalities, Lower Township and West Cape May, would have to cover the cost.

Elec.

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"opt out" of the program at anytime without cancellation fees or fine print stipulations.

"You're not locked in," Fish said during the Sept. 25 meeting, prior to the ordinance

adoption.

According to Fish, once the bid is awarded, Atlantic City Electric would give the energy aggregate a list of customers who are not already on the third party billing list and all eligible customers would

be introduced into the new program. He said those who are already with a third party provider and not automatically inducted into the new program can join at anytime as well.

Fish said within Atlantic City Electric territory, suppliers are the Exelon Corporation, Morgan-Stanley, NextEra Energy and Energy America.

"We are putting together a coop with several accounts that get the buying power

up to a level where we can actually save more substantially," he said. "(The ordinance) does not commit West Cape May to do anything. We would actually even join the coop - that would still not commit West Cape May to do anything, it would just put the group together so we can take it out to auction. When the auction is done, we would report back the numbers."

He said once the figures and rates are compiled, there would be a decision of

whether it makes sense for the borough to commit. Fish said no other coops that he is aware of are ready to go to auction, however, numerous municipalities such as Lower Township, Margate, Linwood, Northfield, Cape May Point and Absecon have expressed interest.

Fish attended the Sept. 25 board meeting to answer any questions the public had before the ordinance was voted upon by commissioners. He said before residents are brought into the program there would be a public information campaign including a public meeting, a website, mailings and an 800 number for questions.

During public comment on the ordinance, John Rowley of Emerald Avenue said he didn't believe the borough had done enough research regarding other energy aggregates to see if there were better options.

"The aggregator here, CUC, is one entity of many that is



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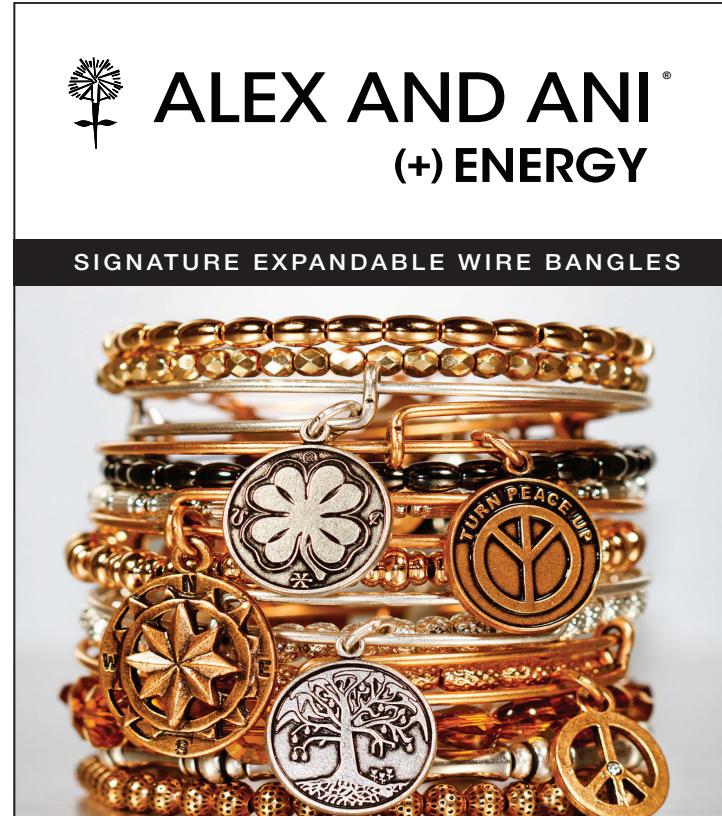
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