

City of Willoughby Hills

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Robert M. Weger, Mayor

June 20, 2016

Council President Nancy Fellows
Council Clerk Victoria Savage
Council Members
City of Willoughby Hills
35405 Chardon Road
Willoughby Hills, OH 44094

RE: Veto on Ordinance 2016-26

Dear Council President Fellows, Council Clerk Savage, and Council Members:

In accordance with Section 2.23 of our City Charter, I am exercising my privilege to veto Council Ordinance 2016-26, an ordinance providing for a 3% pay increase to the City's Part-time Members of the Fire Department. This matter was considered and voted upon by the Willoughby Hills City Council on Thursday, June 9, 2016.

Before I outline my reasons for submitting this veto, I need to acknowledge receipt of the June 15, 2016, resignation letter of Mrs. Pam Kurt, who had been unanimously voted by Council to serve on the Personnel Relations Committee. In Pam's letter, she cites her "strong concerns on the direction" of the Committee, "vetting" representations, and "potential Sunshine Law violations." All of these statements make me very concerned about the direction and fairness of the Committee's decision as it pertains to our employees and the City's liability. Having previously vetoed Ordinance 2016-25 for a 3% increase for the Part-time Police Department members, I am even more confident of my decision after reading Mrs. Kurt's letter. As I stated previously, I wholeheartedly support the part-time members of our Police and Fire Departments, as I do ALL of our City Hall employees, but will not support the actions of this Committee or Council when I learn of such serious concerns as we have been advised by Mrs. Kurt's letter. See attached).

My reasons for vetoing this ordinance are as follows:

- Errors in Section 2 Regarding Assistant Fire Chief Uniform Allowance
Section 2 of this ordinance outlines the uniform allowance benefit that is offered to the Part-time Fire Department Personnel. The first line pertaining to the Assistant Fire Chief reads, "Uniform Allowance of up to five hundred dollars and in accordance with City and Fire Department requisition and purchase policies." Unfortunately, the words "per year"

we omitted from this line to indicate that the five hundred dollars is a yearly benefit. This needs to be corrected to avoid any future issues or concerns. In Section 1.2 of the previous ordinance governing this benefit (2012-23), it was clearly outlined and the recommendation came from the Fire Chief's discretion and upon the approval of the Mayor. It read as follows:

"1.2 Upon recommendation of the Fire Chief and at his discretion, and approval of the Mayor, part time members of the Fire Department shall receive an annual uniform allowance in accordance with Fire Department Directives and the following schedule."

Council obviously omitted this clause to take away discretions previously afforded the Fire Chief and Mayor. By doing so, the "annual" reference was inadvertently omitted.

- Uniform Allowance Discretion was Eliminated (as was previously written in Ordinance 2012-23):
Ordinance 2016-26 denies the discretion of the Fire Chief (with Mayor's approval) for part-time members of the Fire Department to receive their uniform allowance. It gives an across the board amount for all members. This was not written this way in the past for a very specific reason.....there are part-time members who work many shifts and others who work hardly any. The discretion of the Fire Chief (with Mayor's approval) allows for a review of how many hours the individual will be working and makes the uniform allowance allocations accordingly. I do not agree that this should have been omitted from our current ordinance.
- Jobs Not Properly Vetted:
Councilman Plecnik stated at the 5/12/16 and 5/26/16 Council meetings that these positions were "fully vetted." The vetting of a job description should include a salary analysis comparing the positions with positions with the same or similar duties in other comparable area communities. I do not believe Mr. Plecnik was truthful in his remark as no written or verbal salary analysis comparing the positions listed in this ordinance to other similar positions in the area was provided to either Council, any Council committee or the Administration lawfully. After reading former Personnel Relations Committee member Pam Kurt's resignation letter dated 6/15/16 (second and third bullet points), I tend to wonder if some job descriptions were discussed between Committee members in violation of the Sunshine Law. I do not consider these unlawful discussions fair to our employees or our residents and will not support any ordinance that may have come to conclusions or decisions in an unlawful or untruthful manner. The Personnel Relations Committee has indicated on numerous occasions that all employees would be interviewed to assess the pay ranges for each position. Council also stated job description reviews would be forthcoming at the 12/11/14 Council meeting; however, to date none has been presented.

- Unilateral Action By Personnel Relations Committee Chairman:
This ordinance, along with Ordinances 2016-25 and 2016-27, was not discussed in any Committee meeting (i.e. Rules, Finance or Personal Relations) prior to or since its introduction. At the 5/26/16 Council meeting, Council President Fellows alluded to the fact that she was under the impression that the four ordinances had been vetted at a meeting, but they were not. At the April 14, 2016, Council meeting, Councilman Plecnik reported on his recent Personnel Relations meeting: “Although no formal consensus was asked for or reached by Personnel Relations, it was expressed by many people on both sides of the debate that there simply wasn’t enough information to reach a conclusion on that night.” Why then were ordinances prepared and presented for adoption by Council without committee input? Why was the public denied the opportunity to read the ordinances and have input into them as the three reading rule provides for? I believe this represents a unilateral decision by the Personnel Relations Committee Chairman; accordingly, I ask Council to review this Committee’s actions. In summary, there is no evidence that any member of the Personnel Relations Committee reviewed any of the four proposed ordinances unless their review was done privately in violation of the Sunshine Law. Former Committee Member Pam Kurt’s letter dated 6/16/16 certainly raises the suspicion that these “private discussions” were held and I find these actions to be reckless and irresponsible.
- Department Director Did Not Weigh in to Support This Ordinance:
Chief Harmon was not consulted regarding this ordinance affecting the Fire Department personnel, even though it has an impact on his budget. Our new Fire Chief, Bobby DiSanto, was also not consulted and may have a different opinion that should at least be heard before making these budget expenditures.
- Failure to Respect Chief Collins’ Request for Unified Wage Fairness:
Chief Collins had advised Council in his 5/10/16 email to Councilman Plecnik (with copy to all Council members) “a unified call for wage fairness for all non-union employees” was in order, and he would “rather decline such action (of a pay increase) if it is not shared with the rest of these hard-working and deserving employees.” I respect and support Chief Collins’ position on this. He understands my attempt to equalize what the Union employees received nearly one and a half years ago, as approved by Council when the Union contracts were approved. He also agrees and has expressed his views about equality, asking credit be given to ALL employees, not just Police, Fire and Service, as they all contribute to the day to day success of our financial success and excellent service to our residents.

Chief Collins recognizes the fact that the non-union employees did not get a raise in 2015, and now for six months into 2016. Yet, the Union employees have received their raises, without any type of merit analysis or review of their job descriptions.

I am in favor of the raises given to our Union employees by the contract we ratified. We knew it was something that we had budgeted for and we knew it was fair to our employees. My proposal of Ordinance 2016-20 provided the same provisions for our non-Union employees. These pay increases have been budgeted and are fair to offer to our non-Union employees. They have worked hard for our residents and should be rewarded for it. We have survived the past days of doom and gloom when we only had \$20,000 in our carryover, as noted by our State auditors. We are fortunate to have the non-Union employees in our employ. Many do the work of two people when we had cutbacks.

- Council's Discrimination Against Employees:

Former Personnel Relations Member Pam Kurt cites the liability placed on the Committee based on the perceived political/age discrimination concerns and suggests that a "review and legal opinion be set forth as to the proper standing of the Committee to ensure that Committee stays within any legal guidelines." I had expressed the same concerns with my previous veto of 2016-25, yet have not seen any Committee action to address these concerns.

The discrimination of employees has never been tolerated by The City of Willoughby Hills and I certainly have no intention to support any legislation that would leave out three employees. The four ordinances that Council has prepared provides a 3% pay increase to all but three employees. Two of the excluded employees are our oldest employees in City Hall. The City Charter requires the Mayor to review wages and make recommendations to City Council. Council, (with input from the Personnel Relations Committee) has the responsibility to consider the Mayor's recommendations and set pay ranges consistent with job descriptions. At the December 11, 2014, Council meeting (the date of the last pay increase authorized by Council), Council discussed reviewing the current job descriptions. To date, this has not been done. Councilman Plecnik received all updated Job Descriptions from my Executive Assistant in response to his February 2016 Public Records Request, but no meetings have been arranged to discuss these positions.

The three positions that have been overlooked in the four proposed ordinances have been termed "controversial" by Councilman Plecnik. Why are they "controversial" if the duties, responsibilities and the qualifications of these three positions have never been publicly discussed?

In my opinion, Mr. Plecnik continues to "punish" certain employees whom he believes are not politically aligned with him. After a failed attempt to bring Ohio Elections charges against my Executive Assistant, he continues to bully/intimidate her by:

- Promising to review her job description, yet has not done so even after nearly two years

- Chairs a Committee that controls her pay range, and has put it on record that she is “overpaid”, despite not truly knowing what she does.

This is the same employee that has brought in approximately \$100,000 during the first five months of this year with her assistance to bring a negative two percent increase in health care insurance, sale of vehicles on internet auction and grant acquisition.

The City Building Commissioner had served Mr. Plecnik with a maintenance violation on his property some time ago. It appears that Mr. Plecnik is now utilizing Council’s power to review and set pay ranges to retaliate against Mr. Wyss for performing his sworn duty. Mr. Wyss’s position, too, has never been reviewed by Council or Personnel Relations Committee.

Both my Executive Assistant and Building Commissioner are two individuals who will be left out if Council approves Ordinances 2016-25, 2016-26 and 2016-27. They are the two oldest employees working as non-Union employees. Based on the facts listed above, I believe that they are being discriminated against for political/age reasons, particularly given the facts of their recent accomplishments and no record of job description reviews.

Since the beginning of my Administration in 2008, Council has treated all non-Union employees equally, never depriving certain non-Union employees of pay increases. In January 2013, Council members Biro, Fellows and Fiebig voted unanimously to give raises, waiving the three readings. In 2014, Council members Biro and Fellows voted to approve the non-Union raises, making them retroactive to 1/1/14. Councilman Fiebig was absent and did not vote. Councilman Plecnik voted “no”. The employees received their raises, despite no support from Mr. Plecnik for any non-Union employees, including Police, Fire and Service. Ironically, during these years, the City had less funds to administer raises, yet did so and still stayed within budget and there was a resultant substantial year-end carry over.

- Failure by Council to be Consistent with Plan to Expend Funds:

At the April 14, 2016 Council meeting, Councilman Plecnik reported on the recent Finance and Personnel Relations Committee meetings. He recommended not approving any pay increases for non-Union personnel because it would “right on the eve of union negotiations could be problematic” because a 3% increase was more generous than the “going rate.” Personnel Relations Committee Chairman Plecnik has been very vocal about his concerns with a 3% pay increase (specifically indicating that my proposal of Ordinance 2016-20 was “budget busting” and would send us “over the financial cliff”), yet now wants to proceed with four pay increase ordinances that provide wage increases that are larger than the amount that Council approved when it adopted the 2016 operating budget. It is very unfair to present this “Chicken Little approach” when my budget, passed by Council, clearly called to make these expenditures. While Council is attempting to prevent me from rewarding all of our hard-working employees, we are still within the constraints of the approved budget. The State of Ohio Auditor Award that hangs proudly on the wall in Council Chambers should serve as a constant reminder to

Council of our financial stability and the "financial cliff" that we have climbed back from under previous administrations.

You can anticipate that my stand on this issue will be unchanged until there is fairness and equality for all employees and no discrimination, whether it be age or political. I hope Council will agree with the issues I have outlined with this ordinance. Based on these items, I cannot support this legislation and hereby submit this veto.

Sincerely,

A handwritten signature in blue ink that reads "Robert M. Weger". The signature is written in a cursive style.

Robert M. Weger, Mayor

RMW:gm

cc: Finance Director Frank Brichacek

Law Director Tom Lobe

Police Chief Chris Collins

Building Commissioner Fred Wyss

Fire Chief Bobby DiSanto

Attachment (1) – Pam Kurt resignation letter

From the desk of Pamela D. Kurt, Esq.

June 15, 2016

To Chairman Plecnik,
Fellow Personal Committee Members,
City Council of Willoughby Hills,
City Clerk of Willoughby Hills, and
The Administration of the City of Willoughby Hills:

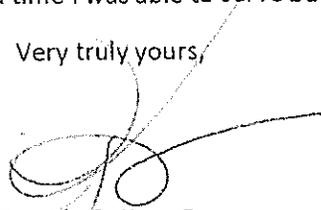
I am in hopes that this letter is properly distributed as set forth above. I am writing to inform that I am submitting my resignation from the Personal Committee for the City of Willoughby Hills.

The following are some of the reasons for my resignation:

- I have strong concerns on the direction and the liability placed on the Committee. It's my understanding the purpose and/or mission of the Committee itself has been questioned. The interpretation of the current statute and ordinance are conflicting with my opinion; employees of the City; and other members of the Committee. As such, there needs to be a review and legal opinion set forth as to the proper standing of the Committee to ensure said Committee stays within any legal guidelines.
- Also, there were representations that the Committee has recently "vetted" some salary/position information. Personally, I have not "vetted" and wish to publicly abstain from any such representation. The Committee needs to acknowledge there are some Union Contracts in place that may prohibit some of the discussions, questioning, etc. that have been discussed. I have chosen not to partake of those discussions until there was a clear legal opinion to advise me accordingly regarding the current Union Contracts with the City.
- Lastly, I have concerns about the formalities. As there is usually no written agenda and it's of my opinion the distribution of information needs to be more formalized. I am concerned about any potential Sunshine Law violations and/or Ethical considerations. While the Committee is NOT elected officials, the Committee is appointed as a public entity. It is of my opinion the operations of said Committee would fall under such laws and standards.

Even if some of my concerns were addressed and/or corrective measures taken I am unavailable to make the time commitment necessary. I feel I have a duty to put all on notice of my concerns as I resign. Again, I am thankful for the limited time I was able to serve but please accept my resignation.

Very truly yours,



Pamela D. Kurt, Esq.