City of Willoughby Hills

Interoffice Memo

Date: April 22, 2016

To: Nancy Fellows, President of City Council and Members of City Council

From: Frank J. Brichacek, Director of Finance FJB

Subject: Request for Ordinance – Amending Section 157.05 To Provide for Payment of Unused Vacation Time to Retiring Employees

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Pursuant to Section 2.22 of the City Charter, the Mayor will be introducing legislation at the April 28th Regular Council Meeting to amend Section 157.05 of the Codified Ordinances of the City of Willoughby Hills to authorize the payment of accrued but unused vacation time to City employees who leave the employment of the City and are eligible to retire from either the Ohio Public Employee's Retirement System (OPERS) or the Ohio Police and Fire Pension Fund (OPFPF). I am requesting that the Clerk of Council prepare legislation to amend Section 157.05 as follows:

> **157.05 VACATIONS .**
> (i) Eligible employees who leave the employment of the City, are in good standing and are eligible to retire from either the Ohio Public Employees Retirement System (OPERS) or the Ohio Police and Fire Pension Fund (OPFPF) shall be eligible to receive payment at the employee's current rate of pay for the employee's accumulated but unused vacation time subject to approval by the Mayor after considering the staffing needs of the City. The Mayor shall have the right to require any employee to use his/her vacation time when the Mayor deems such use to be in the best interest of the City.

Discussion

The City currently has two employees who have notified the City that they plan to retire in the near future. As of right now, both employees will have unused vacation time due to them on their projected last days of work. Both have requested that they be paid for their unused vacation time. Unfortunately, Section 157.05 does not grant the authority to make such a payment. In fact, it seems to forbid such payment.

157.05 VACATIONS.

(g) Employees may not waive their vacations and draw extra pay for working during their vacation.

(h) Eligible employees who resign or are discharged for cause shall not be entitled to vacation or vacation pay.

Neither section 157.05 or any other section of the codified ordinances addresses retirement. It is my opinion that a retirement is a resignation and therefore unused vacation time cannot be paid out to a retiring employee. The employee has two options:

1. Retire on the date planned and forfeit any unused vacation time as of that date; or
2. Extend the retirement date out and use up any vacation time to which the employee may be eligible.

Financially, it is in the best interest of the City to pay a retiring employee for the employee's unused vacation time for the following reasons:

1. If the employee uses his/her vacation time to extend their service, the City must make a pension contribution (14.0% OPERS employees, 19.5% for full-time police or 24.0% for full-time firefighters). Under the rules of the pension systems, lump sum payouts of vacation time are not subject to employer pension charges.
2. Extending the employee's service time will make the employee eligible for holiday pay for any legal holiday that occurs while they are on vacation. In addition, if the employee is active on the first of the next month, the City will also incur another month, possibly two, of health insurance expense. Both of these expenses would be avoided if the vacation time could be paid out in a lump sum.
3. The retiring employee's position will be vacated earlier avoiding a vacancy in the position while the employee is on vacation. This will allow the City to fill critical positions at the earliest date possible.

The City's contract with its police officers currently provides vacation payouts to retiring police officers. This change would bring consistency to the City's treatment of all its other employees. As such, and given the fact that two employees plan to retire in May, I would request that this ordinance contain an emergency clause and be passed on either its first reading or its second reading on May 12th. If you have any questions on this matter do not hesitate to contact me.

C: Mayor Robert Weger
Vicky Savage, Clerk of Council
Tom Lobe, Director of Law
Debbie Doles, Assistant Finance Director