

NANCY E. FELLOWS
President of Council

JOHN PLECNIK
Vice President of Council

VICTORIA ANN SAVAGE, CMC
Clerk of Council

City of Willoughby Hills

Council
CHRISTOPHER L. BIRO
DAVID M. FIEBIG
CHRISTOPHER HALLUM
JANET MAJKA
LAURA PIZMOHT

ORDINANCE NO. 2017-75

AN ORDINANCE RETAINING THE ACTING LAW DIRECTOR STEPHEN L. BYRON AND THE LAW FIRM OF WALTER | HAVERFIELD, LLP, TO REPRESENT THE CITY OF WILLOUGHBY HILLS AND ANY PUBLIC OFFICIALS OF THE CITY IN ANY LITIGATION CHALLENGING THE VALIDITY OF ORDINANCE NO. 2017-70 AND DECLARING AN EMERGENCY.

WHEREAS, the office of the Law Director for the City of Willoughby Hills has been vacant since September 22, 2017, when the previous Law Director resigned; and

WHEREAS, on September 28, 2017, Council enacted Ordinance No. 2017-70, which engaged the services of Stephen L. Byron and Walter | Haverfield LLP to perform the services and exercise the authority of the Law Director of the City of Willoughby Hills as Acting Law Director, and established compensation for those services; and

WHEREAS, Mayor Robert M. Weger vetoed Ordinance No. 2017-70; and

WHEREAS, the Council of the City of Willoughby Hills set aside the Mayor's veto of Ordinance No. 2017-70, making that ordinance the law of the City; and

WHEREAS, the City has received threats of litigation from Joseph R. (Randy) Klammer, who purports to represent Robert M. Weger, in both his capacity as Mayor of Willoughby Hills and as a taxpayer; and

WHEREAS, the Council is very concerned that the Mayor's threatened litigation will cause the City of Willoughby Hills to pay two sets of lawyers to establish what the Charter of Willoughby Hills unambiguously provides: that if a manner of exercise of the City's authority is not established by the Charter, the Council of the City of Willoughby Hills has the legislative authority to provide for that manner of exercise, and as the Charter of the City of Willoughby Hills does not have a procedure for the engagement of an acting Law Director, so Council has the authority to enact legislation on the issue; and

WHEREAS, Robert M. Weger and his lawyer Joseph R. (Randy) Klammer appear unwilling or unable to recognize the authority of the Charter of the City of Willoughby Hills has vested the Council with the legislative authority to enact Ordinance No. 2017-70; and

WHEREAS, Robert M. Weger and his lawyer Joseph R. (Randy) Klammer have, instead, cited irrelevant Ohio Attorney General Opinions that address statutory cities, not a chartered municipality, and have made specious and frivolous arguments regarding the Council's authority to take the actions that it has taken; and

WHEREAS, Robert M. Weger, was unable to persuade other in the Council chambers of the merits of his arguments, where Council overrode the Mayor's veto and established the law of the City (Ordinance No. 2017-70); and

WHEREAS, Robert M. Weger has now threatened to sue the City of which he is Mayor in order to maintain his desired dictatorial control of all levers of the City government, putting his own perceived interests ahead of the City's; and

WHEREAS, Council, pursuant to Article IV, Section 4.3, desires to direct the Acting Law Director to represent the City of Willoughby Hills in any litigation that is initiated by Robert M. Weger and/or Joseph R. (Randy) Klammer, and/or any other party who challenges Ordinance No. 2017-70; and

WHEREAS, Council desires to authorize and direct the Acting Law Director to raise all claims and assert all defenses against Robert M. Weger, individually and as Mayor, if he asserts (without authority to do so) a claim as Mayor; and

WHEREAS, the Council finds and determines that Robert M. Weger is not acting in the course and scope of his authority as Mayor, because the Mayor of the City of Willoughby Hills does not have the authority to file a lawsuit on behalf of the City, as that authority is vested in the Council of the City of Willoughby Hills, pursuant to Article IV, Section 4.3 of the Charter of the City of Willoughby Hills; and

WHEREAS, Robert M. Weger is not entitled to defense or indemnification from the City for action taken outside the course and scope of his authority as Mayor; and

WHEREAS, this Council calls upon Robert M. Weger to resign from office if he is unable or unwilling to follow the laws of the City of Willoughby Hills, and urges him not to subject the City to further embarrassment because of his obsession to exercise power that is not vested in him by law.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOUGHBY HILLS, COUNTY OF LAKE, STATE OF OHIO THAT:

SECTION 1. Pursuant to Article IV, Section 2, of the Charter of the City of Willoughby Hills, Acting Law Director Stephen L. Byron and Walter | Haverfield LLP are hereby retained to represent the City of Willoughby Hills and any public officials of the City in any litigation challenging the validity of Ordinance No. 2017-70.

SECTION 2. The Acting Law Director is authorized to pursue any counterclaims, claims for frivolous conduct or violations of Ohio Civil Rule 11 that may be manifested in a challenge to Ordinance No. 2017-70.

SECTION 3. The Acting Law Director shall be paid in accordance with Section 5 of Ordinance No. 2017-70.

SECTION 4. This Ordinance is intended to authorize activity taken on or after October 26, 2017, pursuant hereto, irrespective of the date that the Council may set aside any veto of this Ordinance.

SECTION 5. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were held in compliance with all legal requirements, including Chapter 107 of the Codified Ordinances of the City of Willoughby Hills.

SECTION 6. This Ordinance constitutes an emergency measure in that the same provides for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the City of Willoughby Hills, and further, so that the City's interests may be immediately protected from frivolous litigation initiated by Robert M. Weger. Wherefore, this Ordinance shall take effect and be in force effective immediately, after its passage by Council and signature of the Mayor, or as otherwise provided by the Charter of the City of Willoughby Hills.

PASSED: October 26, 2017

Nancy E. Fellows
Nancy E. Fellows
President of Council

Submitted to the Mayor for his approval
on this 21 day of October, 2017

Approved by the Mayor
_____, 2017

ATTEST: Victoria Ann Savage
Victoria Ann Savage, CMC
Clerk of Council

Robert M. Weger
Mayor

Council received the Mayor's veto of Ordinance No. 2017-75. Thereupon, at the Special Council meeting held on November 22, 2017, Council, by the 5 members present, voted to set aside the Mayor's veto and enacted Ordinance No. 2017-75.

Date: November 22, 2017

Attest: Victoria Ann Savage
Victoria Ann Savage, CMC
Clerk of Council

Nancy E. Fellows
Nancy E. Fellows
Council President