

City of Willoughby Hills

ORDINANCE NO. 2018-2

AN ORDINANCE ENGAGING STEPHEN L. BYRON AND THE LAW FIRM OF SINGERMAN, MILLS, DESBERG & KAUNTZ, CO., L.P.A., AS ACTING LAW DIRECTOR FOR THE CITY OF WILLOUGHBY HILLS TO PERFORM THE DUTIES, AND EXERCISE THE AUTHORITY OF, THE CITY'S LAW DIRECTOR, AND DECLARING AN EMERGENCY.

WHEREAS, the position of Law Director for the City of Willoughby Hills is vacant and Stephen L. Byron and Walter | Haverfield LLP have been engaged by the City to perform the services of the Law Director as the "Acting Law Director;" and

WHEREAS, Stephen L. Byron has advised the City that he is joining the law firm of Singerman, Mills, Desberg & Kauntz, Co., L.P.A.; and

WHEREAS, Council desires to continue to engage Mr. Byron, and to engage the law firm of Singerman, Mills, Desberg & Kauntz, Co., L.P.A., as special legal counsel for the City of Willoughby Hills, to perform the duties and exercise the authority of the Law Director as the "Acting Law Director," until such time a Law Director is nominated by the Mayor and confirmed by Council; and

WHEREAS, Council desires to request Walter | Haverfield LLP to transfer all paper and electronic files of the City of Willoughby Hills in its possession to Singerman Mills Desberg & Kauntz, Co. L.P.A.

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

SECTION 1. Effective as of February 1, 2018, Stephen L. Byron and the law firm of Singerman, Mills, Desberg & Kauntz, Co., L.P.A. (the "Singerman Mills") are hereby engaged to perform the duties and exercise the authority of the Law Director for the City of Willoughby Hills, and shall be denominated the "Acting Law Director."

SECTION 2. The authority vested by this ordinance shall terminate immediately upon the appointment and confirmation of the Law Director, subject to the obligation to pay compensation pursuant to this Ordinance. Council may terminate the provision of legal services authorized under this Ordinance for any reason or no reason, and immediately, by motion made and passed by a majority vote of Council, without prior notice to the Acting Law Director. The Acting Law Director may terminate its provision of legal services to the City upon thirty (30) days prior written notice to the Council President with a copy to the Mayor.

SECTION 3. Except as otherwise provided herein, Stephen L. Byron, or his/her designee from Singerman Mills, as Acting Law Director, shall provide the following Routine Services:

- a. Attend all regular and special meetings of Council and Council work sessions, except as otherwise directed by the Council President.
- b. Attend other board and commission meetings, and one monthly administrative staff meeting, upon the request of the Mayor.

- c. Drafting ordinances and resolutions upon request of the Mayor, the Council President or a majority of Council.
- d. Researching and drafting legal memoranda as requested by the Mayor, the Council President or a majority of Council.
- e. Providing legal advice to City officials as necessary.
- f. Responding to inquiries regarding City matters.
- g. Attending meetings and discussions with City, County, State, and Federal officials and other governmental officials.
- h. Reviewing and approving contracts and any other written documents, as requested by the Mayor or the Council President. This shall not encompass significant revisions of such documents or significant negotiations regarding the subject of such documents (e.g. negotiation work that exceeds approximately five (5) hours).

SECTION 4. The City shall pay Singerman Mills the amount of ten thousand dollars (\$10,000.00) for the services provided Sections 1 and 3. Singerman Mills shall send a monthly invoice to the Finance Director detailing the services performed, the amount of time involved in the performance of the service (in tenth of an hour increments), and the member of Singerman Mills who is performing the services. The explanation of the services provided under this agreement, which will be included in the invoice (but not the amount of the invoice), shall be kept by the City pursuant to the attorney/client privilege, which may not be waived except by the passage of a motion of Council. The invoice shall be paid within fifteen (15) days of receipt. Any compensation for the legal services under the monthly retainer amount where there is not a complete calendar month of service provided pursuant to this Ordinance shall be pro-rated for the days in that calendar month that services have been under this agreement.

SECTION 5. Subject to agreement of both Parties confirmed by the passage of an ordinance, Singerman Mills may charge a flat fee or on an hourly basis for special services not the subject of Section 3, above, such as litigation, negotiations with City union workers, or other matter requiring more than 10 hours of work per month. For projects that are billed hourly, Singerman Mills will offer an hourly rate of two hundred and fifty dollars (\$250.00) per hour for the services in, unless a different rate is agreed upon by Singerman Mills and the City. The invoices sent pursuant to this section shall be treated in the same fashion as the invoices identified in Section 4. The City shall retain its authority to engage special legal counsel other than the Acting Law Director and Singerman Mills for such special services.

SECTION 6. Singerman Mills shall obtain reimbursement for expenses related to the legal services being provided hereunder. Authorized expenses shall include, without limitation: court filing fees, expert witness fees, court reporter fees, photocopies, legal research, and mileage for provision of legal services at the current IRS mileage rate.

SECTION 7. No person performing legal services under this Ordinance shall be considered to be an employee of the City or to be covered by the Ohio Public Employee Retirement System or other employee benefits paid for by the City.

SECTION 8. Stephen L. Byron from Singerman Mills shall sign where indicated below to evidence the acceptance and approval of the terms of this Ordinance.

SECTION 9. The City formally requests Walter|Haverfield, LLC to transfer all paper and electronic files of the City of Willoughby Hills in its possession to Singerman, Mills, Desberg & Kauntz, Co., L.P.A. The

City also affirms the obligation to pay to Walter I Haverfield LLP, \$36,129.00, pursuant to Ordinance No. 2017-70, and directs the Finance Director to pay that amount within fifteen (15) days of receipt of a final invoice for the amount stated in this section.

SECTION 10. 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 11. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the City in that the City must have ongoing legal advice, counsel, and services on a daily basis for the purpose of continued operation of the municipal government and the continuation of necessary legal services. 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 law, provided that obligation to compensate Singerman Mills shall commence February 1, 2018.

PASSED: January 11, 2018

Submitted to the Mayor for his approval
on this 10 day of January, 2018

ATTEST:

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

Nancy E. Fellows
Nancy E. Fellows
President of Council

Approved by the Mayor

_____, 2018

Robert M. Weger
Robert M. Weger
Mayor

Accepted and Approved by

Stephen L. Byron and
Singerman, Mills, Desberg & Kauntz, Co., L.P.A.

By: _____ Date: _____
Stephen L. Byron

At the Regular Council Meeting held on January 25, 2018, Council received the Mayor's veto of Ordinance No. 2018-2. Thereupon, Council by a 5-1 vote, set aside the Mayor's veto and enacted Ordinance No. 2018-2.

Date: January 25, 2018

Attest:

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

Nancy E. Fellows
Nancy E. Fellows
Council President

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PASSED: January 11, 2018

Submitted to the Mayor for his approval
on this 10 day of July, 2018

ATTEST:

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

Nancy E. Fellows
Nancy E. Fellows
President of Council

Approved by the Mayor

_____, 2018

Robert M. Weger
Robert M. Weger
Mayor

Accepted and Approved by

Stephen L. Byron and
Singerman, Mills, Desberg & Kauntz, Co., L.P.A.

By: Stephen L. Byron Date: 2/28/2018

At the Regular Council Meeting held on January 25, 2018, Council received the Mayor's veto of Ordinance No. 2018-2. Thereupon, Council by a 5-1 vote, set aside the Mayor's veto and enacted Ordinance No. 2018-2.

Date: January 25, 2018

Attest:

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

Nancy E. Fellows
Nancy E. Fellows
Council President