

NANCY E. FELLOWS
President of Council

JOHN PLECNIK
Vice President of Council

VICTORIA ANN SAVAGE, CMC
Clerk of Council

City of Willoughby Hills

DAVID M. FIEBIG
CHRISTOPHER HALLUM
LAURA LENZ
JANET MAJKA
LAURA PIZMOHT

ORDINANCE NO. 2018-27

AN ORDINANCE TO REMOVE THE MAYOR AS THE SOLE NEGOTIATING AGENT ACTING ON THE PART OF THE CITY IN ANY MATTER IN CONNECTION WITH THE WILLOUGHBY HILLS AFSCME UNION, PURSUANT TO ORC 4117.20 (B) AND DECLARING AN EMERGENCY.

WHEREAS, on April 23, 2018 the City was notified that the State Employment Relations Board would be investigating an unfair labor practice charge filed by the Ohio Council 8, AFSCME, AFL-CIO against the City of Willoughby Hills on April 19, 2018; and

WHEREAS, said notification requested that the City provide a response to the charge no later than May 14, 2018 and if the City failed to respond, the State Employment Relations Board would assume all of the allegations to be true; and

WHEREAS, ORC 4117.10(C) designates the Mayor or the Mayor's representative as the sole negotiating agent to act on the part of the City in labor negotiations; and

WHEREAS, Mayor Robert M. Weger has repeatedly demonstrated that he "has an interest in the outcome of the bargaining, which interest is in conflict with the interest of the public employer", the City of Willoughby Hills (see Exhibit A: Interoffice Memo to Council President Fellows, Council Members and Council Clerk from Robert M. Weger, Mayor/Safety Director, dated March 31, 2018; Exhibit B: Letter to Mr. Joseph Gross, Attorney at Law, dated April 9, 2018 from Robert M. Weger, Mayor/Safety Director; Exhibit C: Mayor's Report of April 26, 2018; and Exhibit D: Email Automatic Reply, dated May 8, 2018 from Gloria Majeski/Executive Assistant to Mayor Weger); and

WHEREAS, Mayor Robert M. Weger has not taken action to defend the interests of the City of Willoughby Hills as employer against the April 19, 2018 Unfair Labor Practice (SERB Case No. 2018-ULP-04-0066 for he did not respond to the charge; and

WHEREAS, ORC 4117.20(A) states, "no person...who has an interest in the outcome of the bargaining, which interest is in conflict with the interest of the public employer, shall participate on behalf of the public employer in the collective bargaining process; and

WHEREAS, ORC 4117.20(B) states "The public employer shall immediately remove from his role ... in any matter in connection with negotiations any person who violates division (A) of this section; and

WHEREAS, pursuant to Article II, Section 2.4 of the Charter of the City of Willoughby Hills: "When the Mayor is unable to perform his duties for any cause, the Council President shall serve as Acting Mayor".

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 ORC 4117.20 (B) the City hereby immediately removes Mayor Robert M. Weger from serving in his role as the sole negotiating agent acting on the part of the City in any matter in connection with the Willoughby Hills AFSCME Union.

SECTION 2. In accordance with Article II, Section 2.4 of the Charter of the City of Willoughby Hills, Council President Nancy E. Fellows shall serve as Acting Mayor solely for the purpose of representing the City in any matter in connection with negotiations with the AFSCME Union.

SECTION 3. 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 4. 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 in pending administrative action and/or imminent litigation; 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: May 17, 2018

Submitted to the Mayor for his approval
on this 17 day of May, 2018

ATTEST: Victoria Ann Savage
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

On May 24, 2018, Council received the Mayor's veto of Ordinance No. 2018-27. Thereupon, at the Regular Council Meeting held on May 24, 2018, Council by a 6-1 vote, set aside the Mayor's veto and enacted Ordinance No. 2018-27.

Date: May 24, 2018

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

Nancy E. Fellows
Nancy E. Fellows
President of Council