

City of Willoughby Hills

Interoffice Memo

Date: Wednesday, January 24, 2018

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

From: Robert M. Weger, Mayor/Safety Director

Subject: Veto on Ordinance 2018-2 Due to Legal and Ethical Concerns

I hereby veto Ordinance 2018-2 engaging Stephen L. Byron and the Law Firm of Singerman, Mills, Desberg and Kauntz, Co., L.P.A. as Acting Law Director for the City of Willoughby Hills, as approved by Council on January 11, 2018, and effective February 1, 2018.

My reasons for this veto mirror those addressed in my memo dated October 12, 2017, vetoing Ordinance 2017-70, which was passed by Council on September 28, 2017.

Specifically,

- **Section IV of the Charter states:**
SECTION 4.3 THE DEPARTMENT OF LAW.

4.31 The Law Director. The Department of Law shall be administered by a Law Director, who shall be an attorney-at-law admitted to practice in the State of Ohio, and shall be **appointed by the Mayor.**

4.32 Duties and Responsibilities. The Law Director shall prepare all contracts, bonds and other instruments in writing in which the Municipality is concerned, and shall serve the several directors and officers of the Municipality as legal counsel and attorney. Such Law Director shall be prosecuting attorney of the Police or Mayor's Court. Subject to the approval of the Mayor, the Law Director may appoint such assistants as he shall deem necessary.

When required to do so by resolution of Council, the Law Director shall prosecute or defend on behalf of the Municipality, all complaints, suits, and controversies in which the Municipality is a party, and such other suits, matters and controversies as he is directed to prosecute, by resolution or ordinance. He shall not be required to prosecute any action before the Mayor for the violation of an ordinance without first advising such action.

- **Section 731.05 of the Ohio Revised Code states:**

731.05 Powers of legislative authority.

The powers of the legislative authority of a city shall be legislative only, it shall perform no administrative duties, and it shall neither appoint nor confirm any officer or employee in the city government except those of its own body, unless otherwise provided in Title VII [7] of the Revised Code. All contracts requiring the authority of the legislative authority for their execution shall be entered into and conducted to performance by the board or officers having charge of the matters to which they relate. After the authority to make such contracts has been given and the necessary appropriation made, the legislative authority shall take no further action thereon.

Section III of the City Charter States:

SECTION 3.3 POWERS, DUTIES AND RESPONSIBILITIES.

3.31 Powers. The Council shall enact any and all legislation deemed necessary for the preservation of the safety and welfare of the community and provide for the orderly and desirable growth of the community for the efficient and orderly operation of the local government.

The procedures for enacting this legislation **shall follow the laws of the State of Ohio** and any additional stipulations as found in Article **VI** of this Charter, provided, however, that each ordinance or resolution shall be read by title only on three (3) different days unless five (5) members of Council dispense with the rule, and no other provision of this Charter, nor the general laws of Ohio shall impair or limit this rule. (Amended 11-2-82)

3.32 Fixing of Salaries. Council shall by ordinance fix the salary or compensation of every officer and employee of the Municipality.

This Ordinance clearly attempts to exceed the legislative authority as noted in the Ohio Revised Code which specifically states that Council shall perform no administrative duties and, even after contracts are given, the legislative authority shall take no further action.

Council overrode my veto of Steve Byron and hailed his law firm of Walter Haverfield as being eminently qualified in municipal affairs and that we are not “just hiring Steve Byron” but we are getting “the force and experience of his entire firm.” Here we are three months later, and his current law lists no municipal experience whatsoever. How does Council reconcile statements made by them three months ago in their attempt to justify these outrageous legal fees?

A review of Law Directors’ rates in neighboring jurisdictions and jurisdictions of similar status clearly show that the amount in the retainer and hourly are certainly disproportionate and not warranted. The rate is nearly four times what our previous Law Director was paid.

Please note that the legal challenge is still pending and if Council continues its process of usurping executive powers and is overturned by the court, the consequences for the City and this Council will be devastating.