

Issue 52

Ohio top court says no to vote on trash

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Although Upper Arlington residents won't have the opportunity to vote on the city's trash collection system following last week's Ohio Supreme Court ruling, city manager Virginia Barney local officials still want to hear concerns about trash and stand ready to respond. The Ohio Supreme Court ruled Oct. 2 that the solid waste initiative petition, Issue 52, will not appear on the Nov. 4 ballot.

The initiative would have given Upper Arlington voters the option to overturn or uphold the city's decision last December to dismantle its solid waste division and contract with Texas-based Inland Service Corp. to collect trash and recycling. Inland took over solid waste collection in April.

City attorney Jeanine Amid Hummer filed a motion on Aug. 29 with the Franklin County Board of Elections protesting the initiative, which the board had certified to appear on the Nov. 4 ballot.

After hearing arguments from Dan McTigue, an outside counsel representing the city, and Jim Becker, an attorney and local resident representing petitioner Mike Schadek, the board voted on Sept. 12 to allow Issue 52 to remain on the ballot.

Hummer challenged the board's decision with the Supreme Court, which issued its decision on Oct. 2 after accepting briefs from both sides.

The city contested Issue 52 on three major points: the initiative did not propose a law and "would result only in a public preference poll of voters;" the initiative doesn't contain the required number of signatures of registered voters; and the decision to contract with Inland was administrative and not legislative in nature and therefore not subject to referendum.

"Our code, the law, allowed the city manager to into contract with certain types of services," Hummer said. "They're very specific and they're narrow."

The city manager, without seeking council approval, can contract for services for less than \$15,000, Hummer said, as well as services that are essential to the community.

"There's already a law that allows her to do it. Because this was a public issue, the city manager decided to bring the piece of legislation before council," Hummer said. "But taking it before council doesn't make it legislative and not administrative. All council said was, 'Go ahead and do it,' falling under that same law that already existed."

Barney said the city is receptive to any concerns residents may have about trash service.

"We always encourage residents to share their concerns and beliefs, and we hear from them regularly," Barney said. "This particular (issue) was not appropriate for the community."

Schadek said he's disappointed with the court's decision but does not plan to file a motion for the court to reconsider the case.

"We don't want to waste the resources," he said. "With a six to zero decision, we think it would be futile to ask for the motion to reconsider."

Despite the court's decision, Schadek said he appreciates the work of dozens of volunteers who collected signatures and helped get the word out about the petition.