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The City of Upper Arlington has filed a protest against the initiative relative to Solid Waste services with the Franklin County Board of Elections. It is the City Attorney's opinion that the initiative fails to comply with legal requirements set forth in the governing statutes and Ohio Supreme Court cases for proposing legislation by initiative petition.

The City Attorney decided to file the protest after consulting with an independent outside special counsel that specializes in election law. The legal grounds for filing the protest are separate and apart from the actual merits of the initiative. With regards to merits, the City Attorney has the following concerns:

- The initiative language places the City's and resident's assets at great risk on a number of levels, and may result in voter confusion, unintended consequences, and needless and costly litigation.
- The proposed initiative requires the City to pay contract damages to Inland Services Corporation, with no limitation on the dollar amount.
- In addition to paying Inland contract damages it could cost the City significant tax dollars and result in increased service costs to residents to return to the former method of delivery.

One example of voter confusion involves the annual fee. There have been news reports that some residents believe that the initiative will require the City to issue refunds. The actual language of the initiative does not mention anything regarding issuing refunds.

The City Attorney has previously advised earlier this year that this initiative would ultimately be found unconstitutional, because the Ohio Supreme Court has held that an ordinance that impairs the City's contractual obligations is illegal. The City understands and appreciates that some residents wish to bring the issue of Solid Waste services before voters. However, as the primary steward of Upper Arlington's financial assets and welfare, the City is obligated to protect the best interests of the community.

The new Solid Waste service approach is successful. The City's week-to-week monitoring of Inland's performance clearly indicates that collection is consistently occurring on time, with an exceptionally high success rate in achieving an efficient, comprehensive and neat delivery of service. It is saving the City money, which in turn has enabled the City to reduce and hold steady sticker costs for the next several years, allowing residents to maintain a level of control on their Solid Waste expenditures and continuing to encourage good environmental stewardship through recycling.

Members of Upper Arlington City Council understand the necessity of the action being taken by the City Attorney to prevent this poorly drafted and financially irresponsible initiative from proceeding to the ballot. They remain committed that their decision to provide efficient, cost effective Solid Waste services to the Upper Arlington community, in a fashion that is consistent with proven approaches by many other cities, is in the City's best financial interest.

Knowing this issue has the potential to be an ongoing drain on the Upper Arlington community, both financially and through its negative impact on the organization's ability to best serve the decision on a number of levels, City Council stands firmly behind the City Attorney's decision to challenge a flawed initiative petition.

If you have any questions please call the City Attorney's Office at 583-5020.

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