



STAFF MEMORANDUM
City Council Meeting - April 16, 2018

Date: April 15, 2018
To: City Council
From: Matthew H. Greeson, City Manager
Subject: **Discussion Regarding Gun Control Legislative Positions**

EXECUTIVE SUMMARY

Discussion regarding letter on state legislative gun control issues

BACKGROUND/DESCRIPTION

At the last City Council meeting, Council Member Myers asked that the attached letter be placed on the agenda for discussion.

Additionally, I have attached the latest Ohio Municipal League (OML) Legislative Bulletin which provides a number of updates on gun control related legislation.

ATTACHMENTS

Draft Letter
OML Legislative Bulletin

DRAFT

The Honorable Mike Duffey
Ohio House of Representatives
77 S. High Street, 13th Floor
Columbus, Ohio 43215

The Honorable Stephanie Kunze
Ohio Senate
1 Capital Square, 1st Floor
Columbus, Ohio 43215

Dear Representative Duffey,

In an age of increasing violence and animosity amongst people, sometimes we must remind ourselves that as elected officials our primary goal is to protect the health, safety and welfare of those who put us in positions of leadership. This is one of those times.

In this year alone there have been 58 mass shootings, 694 police involved shootings resulting in the death of 71 uniformed officers and 917 children killed, all from gun violence¹.

As the elected leaders of Worthington, we take an oath to uphold the Constitution of the United States. We therefore, acknowledge the right of law-abiding citizens to keep and bear arms as set forth in the Second Amendment. However, the right to bear arms is not limitless.

In the seminal case of *D.C. v. Heller*², Justice Scalia acknowledged that the right to bear arms was not absolute. He wrote the right is “not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” *Heller* at 626. More recently, last term the Supreme Court denied jurisdiction in a case involving an assault style weapons ban and just last week the United States District Court of the District of Massachusetts

¹ Gun Violence Archive, 2018. www.gunviolencearchive.org.

² *District of Columbia v. Heller*, 554 U.S. 570, 128 S.Ct. 2783, 171 L.Ed. 2d 637 (2008)

upheld a state ban on assault style weapons and large capacity magazines.³ In so holding the Court wrote “The AR-15 and its analogs, along with large capacity magazines, are simply not weapons within the original meaning of the individual constitutional right to “bear Arms.” In fact Congress itself passed a ban on assault weapons in 1994 only to have it expire of its own terms. Accordingly, reasonable, fair gun control legislation is not a matter of law but rather of political will.

Given this backdrop and at the urging of our constituents, we, the elected representatives of the Citizens of Worthington, ask that you take meaningful steps to enact responsible, reasonable gun control legislation. Specifically we ask:

- For the ban of assault style weapons such as the AR-15. Of the ten deadliest shootings over the last decade, seven involved the use of assault style weapons.
- A prohibition on the sale of high-capacity magazines. States that ban such magazines have half as many shootings involving three or more victims as states that allow them.
- Require universal background checks for the purchase of guns eliminating the “gun-show” loophole. 97% of Americans support such action.
- Enacting a red flag law that will allow weapons to be confiscated from individuals exhibiting defined warning signs until the individual can show-cause why the weapons should be returned.

If the General Assembly is unwilling or unable to advance this simple request then at a minimum appreciate that not all citizens support an unfettered right to carry any type of weapon in any place at any time and restore each city’s ability to carry out the wishes of their

³ *Worman v. Healey*, 2018 U.S. Dist. Lexis 59357 (U.S. Dist. Mass. 2018)

constituents by amending R.C. 9.86 and legislatively overturning *Ohioans for Concealed Carry v. Clyde*. The citizens of Worthington see no reason why it is necessary or permissible for an individual to openly carry an AR-15 into a Worthington Park where our children play. However, that is precisely what Ohio law currently allows. It is our responsibility to speak not only for the rights of law abiding gun owners but also for those who believe that reasonable restrictions are both appropriate and necessary.

We therefore, ask for your support in advancing reasonable, rational, fair gun control legislation.

Respectfully,

On Behalf The Citizens of Worthington

By: _____
Bonnie Michael
President
Worthington City Counsel



April 13, 2018

OML UPDATE AT-A-GLANCE

Here are the top three things you need to know from this past week:

- House Speaker Cliff Rosenberger (R - Clarksville) announced this week he will be resigning effective immediately. His resignation comes in the wake of the revelation of an FBI inquiry into travel and expenses.
- "The American Society of Civil Engineers estimates that Ohio will require more than \$12 billion to be invested in water systems and more than \$14 billion in waste water infrastructure over the next 20 years." Rep. Tim Ginter (R - Salem) shared this information through his sponsor testimony to a senate committee studying HB 422, legislation he co-sponsored with Rep. John Rogers (D - Mentor-on-the-Lake) providing for the acquisitions of municipal waterworks and sewage systems.
- The Ohio Department of Transportation announced it will spend \$2.5 billion on approximately 1,000 construction projects, mainly preserving existing roads and bridges, in 2018. The department plans to replace or repair 5,645 miles of road and work on 1,040 bridges throughout the state.

OML REGIONAL CONFERENCES COMING SOON

In the next few months, the OML will be holding regional conferences throughout the state to bring important elements of our Annual Conference right to the doorstep of the local leaders who serve Ohio's cities and villages.

The goal of these Regional Conferences is to provide an opportunity for League members prevented from attending our three-day Annual Conference held in downtown Columbus by either distance or time constraints but know it is important to receive the timely information and access to resources that the conference provides. In an attempt to reach our members unable to attend the Annual Conference, we have put

together a single day program of general session topics with presentations by featured speakers who are experts in their municipal sectors.

The regional conferences are an invaluable opportunity for municipal officials statewide to have the ability to be presented with critical information directly related to the success of their own communities, as well as connect and network with other local leaders in their area. This opportunity is not limited to League members who cannot come to Columbus but is a great opportunity for all municipal and local government officials to refresh their skill sets and get the most recent information on critical topics.

Registration information including the conference agenda can be accessed [HERE](#).

The dates and locations for the four Regional Conferences are as follows:

- Southeast: Friday, May 18th at the Ohio University Conference Center in Athens.
- Southwest: Friday, June 8th at the Manor House Banquet Center in Mason.
- Northeast: Friday, June 29th at the Pro Football Hall of Fame in Canton.
- Northwest: Friday, August 17th at the Hancock Hotel in Findlay.

We encourage you to sign up as soon as possible, as space will be limited, and we look forward to seeing you there!

SMALL CELL INFRASTRUCTURE BILL HEADS TO GOVERNOR'S DESK FOR SIGNATURE

This week marked the end of a months-long collaboration between municipal leaders and the telecommunications industry to create legislation governing the deployment of small cell wireless infrastructure within a municipality's right-of-way. HB 478, sponsored by Rep. Smith (R - Bidwell) and Rep. LaTourette (R - Chesterland), passed out of Senate committee this week and headed before the full chamber, where it was voted out 26-7. The bill then went back to the House that same day, where it was concurred upon 72-17. HB 478 now heads to the desk of Governor Kasich for his signature. A copy of the most recent legislative analysis for the bill can be found [HERE](#).

While the bill was in the Senate Public Utilities Committee, several amendments were added, including clarifying the definition of a small cell facility operator; ensuring that an organization who doesn't meet that definition is still allowed to request municipal consent to either build a wireless support structure, collocate on or alter an existing one; and requiring that a municipality include a line disclosing who owns a

facility or structure on both the license and the application. The League is neutral regarding these changes.

Although the legislation is not perfect, the predictable and orderly deployment and implementation of new technologies is crucial to promoting economic development in cities and villages and enhances the quality of life for municipal residents. The municipal representatives who worked long hours to craft the legislation remained focused on respecting the operational processes, capabilities and capacities of cities and villages as the new technologies are being deployed. Great attention was given to make sure that the billions of municipal taxpayer dollars that has been invested in local infrastructure was protected, preserving the local character of neighborhoods and historic districts.

The League wants to thank all who were involved in the creation and passage of this legislation, from the Representatives and Senators whose involvement and votes were crucial, to the municipal coalitions and telecommunication industry representatives who spent many long hours these past several months working towards a viable compromise.

"STAND-YOUR-GROUND" GUN BILL ADDS LOCAL PREEMPTION

This week, HB 228, legislation sponsored by Rep. Johnson (R - McDermott) and Rep. LaTourette (R - Chesterland), which would assign to the prosecution the burden of disproving a self-defense or related claim, expand the locations at which a person has no duty to retreat before using force under both civil and criminal law, and modify the Concealed Handgun Licensing Law regarding a licensee's duty to keep the licensee's hands in plain sight, change the penalties for illegally carrying a concealed firearm or improperly handling firearms in a motor vehicle, and amend laws regarding the posting of warning signs regarding the possession of weapons on specified premises was amended to include the preemption of local firearm regulations. During the fourth hearing Tuesday, the amendment was added which states that if any local firearm regulation interferes with an individual's right to bear arms; inhibits their ability to protect themselves, their families or others from intruders and attackers; or inhibits the legitimate use of firearms, then that regulation is preempted by the state.

Additionally, the substitute bill states any person or group or entity that claims to be adversely affected by a local ordinance or rule that a local government exacts or enforces in violation of this preemption, may sue that local government and be awarded actual damages and declaratory or injunctive relief. Those damages would be paid by that local government.

The amendment, which was part of a larger substitute bill offered by Rep. Merrin (R - Monclova Township), was adopted in this week's House Federalism and Interstate Relations Committee. No testimony was heard on either the bill or the substitute bill.

At this moment, the League is working to get a better understanding of how expansive the language is and will provide greater detail on the liabilities the new language would present to Ohio municipalities in future legislative bulletins.

TAX EXPENDITURE REVIEW COMMITTEE MEETS TO DISCUSS SALES TAX EXEMPTIONS

Members of the Tax Expenditure Review Committee met this week to discuss tax credits and exemptions in the Ohio Revised Code, which totals roughly \$9 billion annually. Of the 5 tax breaks up for discussion and testimony during committee, the ones that received proponent testimony were the exemptions for manufacturing and packaging tangible personal property, which is the single largest tax expenditure listed in the report. The Legislative Service Commission (LSC) compiled a memo and chart [HERE](#) of the five first exemptions of the report and the amount of tax revenue deferred by exemptions extended to churches, the state, political subdivisions and manufacturing.

According to the Ohio Department of Taxation's Tax Expenditure Report, manufacturers did not pay \$2.2 billion in taxes last year due to a sale tax exemption dealing with equipment and machinery. An additional \$255.2 million in sales tax on packaging and packaging equipment was exempted. In testimony, representatives from the Ohio Manufacturers' Association, the Ohio Chamber of Commerce and the Manufacturers Policy Alliance testified that these tax breaks in turn generate revenue for the state because they keep manufacturing companies in Ohio instead of neighboring states.

The League will continue to report on the discussions and findings of the Tax Expenditure Review Committee as they continue to meet.

MUNICIPAL BILLS ON THE MOVE THROUGH THE OHIO GENERAL ASSEMBLY

It was another busy week in the legislature for municipal issues. The Ohio House will not be in session next week so there will be no committee meetings and is not scheduled to have another session date until May 16th. The schedule may change as the situation warrants due to the appointment of a new Speaker of the House. The House is scheduled to be in session May 16th, 23rd and 24th and on an "if needed" basis May 30th, 31st, June 6th, 7th, 13th and 14th. The Senate will hold committee meetings next

week but will not hold a voting session. Before the senate takes their legislative recess for the summer, Senators are scheduled to be in session April 25th, May 16th & 23rd. Session dates are scheduled on an "if needed" basis for May 9th, 22nd, June 6th, 13th and 27th.

The following are the bills that were passed out of either the full House or Senate chambers this week.

- SB 208 - WEAPON POSSESSION. Sponsored by Sen. Terhar (R - Cincinnati), this bill would allow a law enforcement officer or investigator, whether on or off duty, to carry a weapon on certain premises open to the public. During its fourth hearing before the Senate Judiciary Committee, it was amended to include measures like allowing law enforcement to carry weapons when consuming alcohol if it is part of their duties - for example, when an officer is undercover. It was then voted out and sent before the entire Senate chamber where it was voted out 30-3. The bill will now head to the House. The League is neutral on this legislation.
- SB 239 - REGIONAL COUNCILS OF GOVERNMENT. This bill, sponsored by Rep. Dolan (R - Chagrin Falls), would modify the law concerning regional councils of governments. During its sixth hearing before the Senate Government Oversight and Reform Committee, no testimony was given on this bill. The bill moved out of committee and sent to the Senate chamber, where it was voted out unanimously. The bill will now head to the House. The League is supportive of this legislation.
- HB 251 - SUBDIVISION INVESTMENTS. Sponsored by Rep Greenspan (R - Westlake), this bill would increase from five to ten years the maturity period of other political subdivision's bonds and obligations eligible for investment of a subdivision's interim moneys, a county's inactive moneys, and money in the county public library fund. It was voted unanimously out of the full Senate Chamber and will head to the desk of the Governor. The League is supportive of this legislation.
- HB 122 - ECONOMIC STUDY COMMITTEE. Sponsored by Rep. Hambley (R - Brunswick) and Rep. Rogers (D - Mentor-on-the-Lake), this bill would establish a Regional Economic Development Alliance Study Committee to study the benefits and challenges involved in creating regional economic development alliances. During its fourth hearing before the Senate Government Oversight and Reform Committee, four amendments were added: changing the length of the committee from 5 to 10 years; adding 5 non-voting members; allowing municipalities to put in joint police and fire levies on the ballot and allows three municipalities to create certified entertainment districts by modifying the definition a historic district. It then went before the full Senate Chamber, where it was voted out 89-2. The League is supportive of this legislation.
- HB 378 - OHIO BROADBAND DEVELOPMENT. Sponsored by Rep. Smith (R - Bidwell) and Rep. Cera (D - Bellaire), this bill would create the Ohio Broadband

Development Grant Program, to encourage the Department of Transportation to work with telecommunications providers to lay fiber optic cable and make an appropriation. It was passed out of the full House chamber 85-11 and will now head before the Senate. The League is supportive of this legislation.

- HB 263 - DOGS ON PATIOS. This bill, sponsored by Rep. Lanese (R - Grove City), this bill would generally allow an owner, keeper, or harbinger of a dog to take the dog in an outdoor dining area of a retail food establishment or food service operation. This bill was voted out of the full House chamber 86-10 and will now head to the Senate. The League is neutral on this legislation.

COMMITTEE RECAP: HEARINGS FOR BILLS OF MUNICIPAL INTEREST

Here are the bills that impact municipalities that received committee hearings this week:

- HB 38 - CRIMINAL OFFENSES. This bill, sponsored by Rep. Greenspan (R - Westlake), would provide that purposely causing the death of a first responder or military member is aggravated murder and to require an offender to serve the prison term imposed for felonious assault on a peace officer, investigator, first responder, or military member consecutively to the prison term imposed for any related offense. During its fourth hearing before the Senate Judiciary Committee, a representative from the Fraternal Order of Police testified saying retired police officers deserved to have these same protections extended to them as well. The North Ohio Fire Fighters and the Ohio Association of Fire Chiefs spoke to firefighters targeted for violence when responding to the call of duty. The League is supportive of this bill.
- SB 180 - FIREARM LAWS. This bill, sponsored by Sen. Uecker (R - Loveland) and Sen. Hottinger (R - Newark), this bill would assign to the prosecution the burden of disproving a self-defense or related claim, expand the locations at which a person has no duty to retreat before using force under both civil and criminal law, and modify the Concealed Handgun Licensing Law regarding a licensee's duty to keep the licensee's hands in plain sight, the penalties for illegally carrying a concealed firearm or improperly handling firearms in a motor vehicle, and the posting of warning signs regarding the possession of weapons on specified premises. During its fourth hearing before the Senate Judiciary Committee, opponents testified against the bill, including

the State Highway Patrol, the League of Woman Voters, the Ohio Coalition Against Gun Violence and other. The League is neutral on this bill.

- HB 422 - MUNICIPAL WATER-WORKS. Sponsored by Rep. Ginter (R - Salem) and Rep. Rogers (D - Mentor-on-the-Lake), this bill would govern the acquisitions of municipal water-works and sewage disposal system companies by certain larger nonmunicipal water-works or sewage disposal system companies. During its first hearing before the Senate Public Utilities Committee, the sponsors spoke to the bill's alternative solution to the lack of funding facing much of Ohio's municipal infrastructure. The League is supportive of this legislation.

- HB 553 - THEFT IN OFFICE. Sponsored by Rep. Cupp (R - Lima), this bill would expand the increased penalties for theft in office based on the amount of property or services stolen and to include as restitution certain audit costs of the entity that suffered the loss involved in the offense. During its first hearing before the House Criminal Justice Committee, the bill's sponsor spoke to the bill's goal of holding those who steal taxpayer dollars accountable. The League is neutral on this legislation.

- HB 171 - EMS WORK HOURS. Sponsored by Rep. Patmon (D - Cleveland), this bill would limit the hours worked in a work shift and to require work breaks for emergency medical service providers. During its first hearing before the House Economic Development Committee, the bill's sponsor explained that the measure seeks to protect EMTs and paramedics as well as private ambulance drivers. A substitute bill was adopted which would also require a CPR-certified additional driver in an ambulance as well as anti-retaliatory provisions for drivers during their shift's last hour. The League is neutral on this legislation.

- HB 522 - LIQUOR PERMITS. Sponsored by Rep. Lanese (R - Grove City), this bill would allow an outdoor refreshment area to include F liquor permit holders. During its third hearing before the House Government Accountability and Oversight Committee, the bill was voted unanimously out of committee. The League is supportive of this legislation.

- HB 342 - LOCAL BALLOTS. This bill, sponsored by Rep. Merrin (R - Monclova Township), this bill would permit local tax-related proposals to appear only on general and primary election ballots and not on an August special election ballot and to modify the information conveyed in election notices and ballot language for property tax levies. During its fifth hearing before the House Government Accountability and Oversight Committee, the bill was not brought up and no testimony was given so the interested parties on the bill could continue to discuss proposed changes. The League is opposed to this bill.

- HB 469 - MIXED-USE TAX CREDITS. Sponsored by Rep. Schuring (R - Canton), this bill would authorize a nonrefundable insurance company tax credit for contributions of capital to transformational mixed-use development projects. During its sixth hearing before the House Government Accountability and Oversight Committee, a substitute bill was adopted which expands the criteria of what qualifies as a "transformational mixed-use development" so more cities across the state would be able to have local development projects that qualify. The League is supportive of this bill and it grateful to Rep. Schuring and the committee for ensuring more local downtowns have the opportunity to encourage development and placemaking within their communities.

- HB 484 - HEALTH DISTRICTS. This bill, sponsored by Rep. Brenner (R - Powell), would authorize city and general health districts to use credit cards in accordance with prescribed requirements. During its fourth hearing before the House State and Local Government Committee, a substitute bill was adopted which aligned large portions of the bill with HB 312, a bill that passed the House last year regulating the use of credit and debit cards by local governments. The League is supportive of this bill.

- HB 530 - LOCAL OFFICIALS. Sponsored by Rep. Hambley (R - Brunswick) and Rep. Arndt (R - Port Clinton), this bill would authorize local elected officers that have levied a hotel lodging excise tax, or a designee of such officers to simultaneously hold the position of officer or member of the board of trustees of a convention and visitors' bureau without constituting incompatible offices. During its fourth hearing before the House State and Local Government Committee, the bill received proponent testimony. The League is neutral on this legislation.
- HB 543 - PROSECUTING ATTORNEYS. This bill, sponsored by Rep. Perales (R - Beaver creek) and Rep. Hambley (R - Brunswick), would allow a county prosecuting

attorney to enter into a contract with a regional airport authority, port authority, or regional planning commission to be its legal adviser. During its second hearing before the House State and Local Government Committee, proponents from the Ohio Aviation Association, the Ohio Association of Regional Councils, and representatives from international and regional airports testified in support of the bill. The League is neutral on this legislation.

- SB 182 - DOGS ON DINING PATIOS. Sponsored by Sen. Coley (R - Liberty Township), this bill would generally allow an owner, keeper, or harbinger of a dog to take the dog in an outdoor dining area of a retail food establishment or food service operation. During its third hearing before the Senate Health, Human Services and Medicaid Committee, a substitute bill was adopted which, among other changes, clarified that dogs may only exit and enter a patio via a patio gate, not through the restaurant. The League is neutral on this bill.
- HB 253 - CONCEALED WEAPONS. This bill, sponsored by Rep. Householder (R - Glenford) and Rep. Lanese (R - Grove City), would permit law enforcement officers to carry firearms off duty in places otherwise prohibited for concealed handgun licensees. During its fourth hearing before the House Federalism and Interstate Relations Committee, a substitute bill was adopted which prohibits establishments from restricting a peace officer from carrying their gun on the premises, allows them to carry guns in courthouses and allows them to carry guns into liquor establishments if doing so is within the scope of their job. The League is neutral on this legislation.
- HB 133 - DISASTER WORK. Sponsored by Rep. Ryan (R - Newark), this bill would create the Disaster Relief Act to exempt out-of-state disaster businesses and qualifying out-of-state employees from certain taxes and laws with respect to disaster work on critical infrastructure performed in this state during a declared disaster. During its second hearing before the Senate Ways and Means Committee, proponent testimony was given by the Buckeye Institute and the former director of the Emergency Management Agency. The League is neutral on this legislation.
- SB 268 - THEFT IN OFFICE. Sponsored by Sen. Wilson (R - Maineville), this bill would expand the increased penalties for theft in office based on the amount of

property or services stolen and to include as restitution certain audit costs of the entity that suffered the loss involved in the offense. During its first hearing before the Senate Government Oversight and Reform Committee, the bill's sponsor said increased penalties would serve to hold thieves of taxpayer dollars appropriately accountable. The League is neutral on this legislation.

- HB 419 - SOVEREIGN IMMUNITY. Sponsored by Rep. Henne (R - Clayton), this bill would modify the defense to the liability of a member of a police or fire department or emergency medical service of a political subdivision for the negligent operation of a motor vehicle in response to an emergency by requiring that the vehicle has its lights and sirens simultaneously activated. During its third hearing before the House Civil Justice Committee, no testimony was given on this bill. The League is neutral on this legislation.

- HB 585 - FIREARM LAWS. Sponsored by Rep. Henne (R - Clayton), this bill would expand the definition of dangerous ordnance to include armor piercing ammunition and expand the definition of an automatic firearm to include any device within the federal definition of machine gun; create additional conditions under which an individual may not possess a firearm or dangerous ordnance and eliminate the process by which an individual may apply for relief from a weapons disability; generally prohibit a person from buying, purchasing, obtaining, or furnishing a firearm on behalf of a third party; provide for the entry of protection orders into the federal NCIC database and LEADS; and provide for the issuance by a court of an extreme risk protection order. During its first hearing pending referral to the House State and Local Government Committee, the sponsor explained the rationale for the legislation, explained the ongoing process of changing the legislation and fielding questions from several skeptical committee members. The League is currently neutral on this legislation.

NEW LEGISLATION OF MUNICIPAL INTEREST INTRODUCED

- SB 288 - FIREARM LAWS. Sponsored by Rep. Eklund (R - Chardon) and Rep. Kunze (R - Hilliard), this bill would expand the definition of dangerous ordnance to include armor piercing ammunition and expand the definition of an automatic firearm to include any device within the federal definition of machine gun; create additional conditions under which an individual may not possess a firearm or dangerous ordnance and eliminate the process by which an individual may apply for relief from a

weapons disability; generally prohibit a person from buying, purchasing, obtaining, or furnishing a firearm on behalf of a third party; provide for the entry of protection orders into the federal NCIC database and LEADS; and provide for the issuance by a court of an extreme risk protection order.

- HB 583 - OCCUPATIONAL LICENSING. Sponsored by Rep. Henne (R - Clayton), this bill would limit the occupational license and registration requirements and fees that a political subdivision may impose on state-regulated occupations, to establish a waiver exempting certain persons from paying occupational license or registration fees, and to revise the licensing restrictions applicable to individuals convicted of criminal offenses. This bill is another significant preemption of municipal Home Rule rights and local control authorities.

- HB 594 - LOCAL GOVERNMENT PAYMENTS. Sponsored by Rep. Ramos (D - Lorain), this bill would provide for payments to municipalities or school districts for their lost income tax revenue after a business lays off 50 or more employees within their jurisdiction.