



MAYOR'S OFFICE
ONE CITY SQUARE, SUITE 215
WARREN, MI 48093-6726
(586) 574-4520
www.cityofwarren.org

November 27, 2020

Ms. Sonja Buffa
Warren City Clerk

**Re: Veto of Council Action at Regular Meeting on Tuesday, November 24, 2020;
Item 12a, *Proposed Settlement and Consent Judgment in the matter of
Pinebrook Warren, LLC, et al v. City of Warren, et al Macomb County Circuit
Court Case No. 2020-004059-CZ***

Dear Ms. Buffa:

Pursuant to Section 6.8 of the Warren City Charter, I veto all action taken by the City Council under the above-noted agenda item. The City Council voted 5:2 to reject the settlement/Consent Judgment.

The City Council rejected a settlement in the above matter that would have attenuated a potential exposure of \$60-\$100 Million should the City of Warren fail to successfully defend this claim. In addition to City Council's attorney, Jeffrey Schroder from Plunkett Cooney, recommending the settlement, the settlement was also recommended by Andrea Pike, the City's attorney in the lawsuit; City Attorney Ethan Vinson; the facilitator, Retired Judge Peter J. Maceroni; and coverage counsel for the City's excess insurance carrier.

The City Council, in an unprecedented move, hired Jeffrey Schroder from Plunkett Cooney as its high-priced attorney (attempting to replace the salaried City Attorney, Ethan Vinson), an unnecessary expense. Mr. Schroder, who the taxpayers are paying, publicly recommended the settlement, twice. And, yet, the City Council has chosen to ignore his very expensive advice which mirrored the advice of the City's duly appointed counsel for this case.

The City's excess insurance carrier has threatened to deny coverage if the settlement, that the insurance company deemed reasonable, was rejected. Now that the City Council has chosen to ignore the expensive advice of Mr. Schroder, rejected the advice of the City's counsel, and chosen to ignore the carrier's credible threats to withhold

coverage, the City Council has left Warren's taxpayers with the responsibility for paying \$60-\$100 Million in potential damage awards plus attorneys' fees of the successful parties (plus costs of defense). By some estimates, Council's actions could expose the average Warren resident to thousands of dollars in a potential judgment levy.

Although I have vetoed all but one decision (by the former City Council and this City Council) relating to marihuana in the City, this is the most important decision because I am not willing to gamble with Warren's taxpayers' hard earned money and risk everything due to the City Council's poor decisions. Rejection of this settlement is a very risky venture, not only to the taxpayers but to the City of Warren. Damage awards against the City in upwards of \$60-\$100 Million would affect the City's fund balance, credit rating, bond payments, and worse-case scenario, bankrupt the City of Warren.

I have been and continue to be opposed to the expansion of marijuana dispensary business in Warren. However, the financial risk that comes with this lawsuit from 31 parties is too serious to push forward with costly litigation and the risk of such large damage awards. I must listen to the recommendations of the attorneys and mitigate risk. I will not condone action that exposes each Warren resident to a special tax levy and exposes the City.

Therefore, I veto the City Council's actions under Agenda Items 12a at its meeting on November 24, 2020. The operation of the Council action is suspended in accordance with City Charter, Section 6.8.

Respectfully,

A handwritten signature in black ink, appearing to read "James R. Fouts". The signature is fluid and cursive, with a large initial "J" and "F".

James R. Fouts, Mayor
City of Warren

cc: City Council