



M E M O R A N D U M

ATTORNEY OPINION

Date: January 6, 2017
To: City Council
From: Thomas P. Guarino, City Attorney
Re: Notice of Intent to Resign

Tuesday night this week the City Council acted to call a meeting on expedited notice that I told you in an e-mail did not comply with the Cave Springs Municipal Code. I also advised that the budget created and agreed to by the purported "finance committee" should not be considered. I delivered a detailed memorandum on this issue that is in your agenda packet for your meeting next week. I would encourage you to read it.

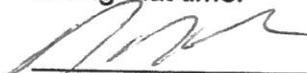
Many of the actions taken by the Council on Tuesday, in my opinion, clearly violate state law and your own rules and ordinances. Some of them are covered in the veto issued by the Mayor. One of the resolutions apparently orders the City Attorney to participate in the termination of employees. This is not a legal request and in fact orders me to do something that is illegal.

As a City Attorney I am bound by the rules of conduct and ethics required of attorneys. I cannot consistent with these obligations continue to serve as your City Attorney if you override the Mayors Veto and attempt to move forward with your actions of Tuesday.

Many of the things you apparently wish to do, reducing expenditures, reducing the Mayors level of purchasing authority, and modifying the budget can be accomplished if done in an appropriate manner. If I had been consulted, in an orderly manner, I could have created the legal documents you needed to act legally. This can still be done, albeit with some added complications, if you wish to do so.

In addition to the ethical and professional restraints on my conduct mentioned above, I am also required to not abandon a client, in this case the City. Accordingly, if the Council overrides the Mayors VETO and persists in pursuing the course of action I have advised is improper, I resign as City Attorney effective close of business February 28, 2017. Until that time I will continue to fulfill my statutory duties, however I will not participate or

advise with regard to any action or matter that perpetuates the improper conduct at issue during that time.



Thomas P. Guarino
Cave Springs City Attorney