



# COOLIDGE WALL

*A Legal Professional Association*

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Nicholas A. Heppner  
Joshua M. Stolly  
Rena G. Sauer

Suite 600  
33 West First Street  
Dayton, Ohio 45402-1289  
937-223-8177  
Fax: 937-223-6705  
www.coollaw.com

Direct Dial Number  
937-449-5532

E-mail Address:  
chambers@coollaw.com

April 18, 2008

Members of Council  
Village of Yellow Springs  
100 Dayton Street  
Yellow Springs, Ohio 45387

J. Bradford Coolidge  
1886-1965

Hugh E. Wall, Jr.  
1912-2001

**Re: LEGAL OPINION NO. 2008-01 - GREEN SPACE FUND**

Dear Council Members:

As you know, Staff recently discovered that a previous Council had directed that certain amounts annually be placed into the Green Space Fund but that the amounts did not, in fact, get transferred in subsequent years. It appears that the appropriation ordinances adopted in subsequent years failed to reflect this Council directive. The question has now been raised as to whether the Village has an obligation to transfer these funds to the Green Space Fund from the current budget. It is my opinion that the Village does not have a legal requirement to transfer these funds for previous years.

Village Councils may not create obligations for future Councils unless those obligations are in the form of a written contract with a third party. Each Council is free to adopt an appropriate ordinance annually that reflects the priorities of that particular Council. Even a written contract, for example, a lease of equipment or property, can be undone by Council failing to appropriate funds to make the lease payments required under the lease in a later year.

In this case, the prior Council expressed their priority regarding the Green Space Fund. When subsequent Councils approved each annual appropriation ordinance, they had to choose to place this transfer of funds in the budget document approved by the appropriation ordinance. Because those appropriation ordinances did not include these transfers, the effect was that the Council's approving those appropriation ordinances effectively nullified that prior Council direction regarding transferring funds into the

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Green Space Fund. Therefore, this Council has no obligation to restructure the budget for 2008 and make these payments to the Green Space Fund for prior years.

Very truly yours,



John C. Chambers  
Village Solicitor

JCC/wlw

cc: Eric Swansen, Village Manager  
Deborah Benning, Clerk of Council  
Sharon Potter