



VILLAGE OF SOUTH JACKSONVILLE  
OFFICE OF THE MAYOR

TYSON L MANKER  
MAYOR

May 6, 2021

**VETO of ORDINANCE No. 1103**

Veto message to the Village Clerk, Trustees, and others:

In accordance with Sections 3.1-45-5 and 3.1-40-45 of the Illinois Municipal Code, I hereby Veto Ordinance No. 1103 entitled "AN ORDINANCE PERTAINING TO PERSONNEL ADMINISTRATION OF THE VILLAGE OF SOUTH JACKSONVILLE, ILLINOIS AND TO BE KNOWN AS THE "PERSONNEL ORDINANCE OF THE VILLAGE OF SOUTH JACKSONVILLE, ILLINOIS," passed by the Village Board of Trustees on April 22, 2021.

Section 3-4 (c) of this measure, which attempts to modify the same-numbered section of an identically-named Ordinance No. 748, passed on December 7, 1995, violates the constitutional right of residents to change or alter the Village's form of government by referendum pursuant to Section 7, Article VII of the Illinois Constitution. Therefore, this measure is unconstitutional and legally invalid. While certain Trustees of the Board have resolved to trample on the constitutional right of Village residents, they will not do so without my firm veto opposition. It is an affront to the residents who elected me as Village President to uphold the law.

For more than a century, the Village President of South Jacksonville, as Chief Executive Officer, has had the sole authority to appoint his or her department leaders as part of the President's authority to appoint all officers necessary to execute and enforce the law. The presidential power of appointment is in accord with the Village's long established Trustee-Village form of government. Under the Trustee-Village form of government, appointments to non-elective offices are made by the Village President. 65 ILCS 5/3.1-30-5.

The Illinois Supreme Court explained in 1976 that the Commission form of government is the only form of government whereby council members have the power and authority to make appointments to non-elective offices. 65 ILCS 5/4-5-5. See, Pechous v. Slawko, 64 Ill. 2d 576, 584-85, 357 N.E.2d 1144, 1149 (1976).

The Illinois Supreme Court has also determined that measures such as this one voted on by this board violate the Illinois Constitution when passed without referendum. Id. Pursuant to Section 7, Article VII of the Illinois Constitution, "municipalities which are not home rule units shall have only

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powers granted to them by law,” and only “By referendum, [may] alter or repeal their forms of government provided by law.” The Illinois Supreme Court has interpreted these constitutional provisions to absolutely prohibit a village board’s action vesting the power of appointment with a village board of trustees without a referendum. Pechous, 64 Ill. 2d at 588, 357 N.E.2d at 1151. Any such action is flatly unconstitutional and invalid. Id.

The unconstitutional measure proposed and passed by a majority of the Village Board over the single vote in opposition, cast by Trustee Todd Warrick, unlawfully attempts to vest the power to appoint and remove department heads with the Village Trustees to the exclusion of the Village President. This subversive action attempts to change and alter the Village’s form of government without referendum. This action is unconstitutional, invalid and demonstrates a contempt for the right of Village residents to determine and alter their own form of government.

Certain Trustees have determined that their desire for unilateral control outweighs the constitutional rights of Village residents. I strongly urge the Village Trustees to forego any effort to override my veto so as to avoid a blatant constitutional violation and to avoid further Village embarrassment for engaging in this improper action.

Respectfully submitted,

A handwritten signature in blue ink that reads "Tyson Manker". The signature is written in a cursive style.

Tyson L Manker, Mayor  
Village of South Jacksonville

A handwritten signature in black ink that reads "Krystin Hill". The signature is written in a cursive style.

Cc: Clerk Krystin Hill

Trustees Tom Jordan, Paula Stewart, Jason Hill,  
Stacy Pinkerton, Todd Warrick, Megan Davidson