

**AGENDA MEMO**  
**City Council**  
**Meeting Date: November 19, 2018**

**ISSUE STATEMENT**

Consideration of a motion Authorizing the City Attorney to file a *Petition to Intervene* in the Sterigenics case.

**BACKGROUND/HISTORY**

On October 1, 2018, the City Council approved a resolution regarding the Sterigenics issue in the Village of Willowbrook. The focus of the Resolution was:

1. **Sterigenics to Cease Operations.** The City formally requested any agency with the authority to shut down operations at Sterigenics to do so immediately.
2. **Illinois Department of Public Health Testing.** The City formally requested that the Illinois Department of Public Health include the City of Darien in Department's Cancer Incidence Study in a letter dated August 31, 2018, to Mayor Trilla of the Village of Willowbrook.
3. **U.S. EPA and Illinois EPA Testing.** The City formally requested that the Federal and State Agencies of the Environmental Protection Agency require air testing, and other testing as identified, to show the effects Sterigenics on Darien and the entire surrounding area

Since the October 1 Council meeting, Attorney General Lisa Madigan and DuPage County State's Attorney Robert Berlin [filed a lawsuit against Sterigenics U.S. LLC \(Sterigenics\)](#). The City now has the ability to file a *Petition to Intervene* in the Sterigenics lawsuit. In summary, the law allows third parties to join or "intervene" in a lawsuit which is pending between two other parties. This will be accomplished by the filing of a *Petition to Intervene* with the Court. In our case, the municipalities would allege that our residents are adversely affected by the Sterigenics activity and that we have a separate and distinct interest in becoming a part of this lawsuit. The ultimate decision would be made by the Judge.

**STAFF/COMMITTEE RECOMMENDATION**

Staff recommends approval of a motion Authorizing the City Attorney to file a *Petition to Intervene* in the Sterigenics case.

**ALTERNATE CONSIDERATION**

As directed.

**DECISION MODE**

This item will be on the agenda for the November 19, 2018, City Council meeting for formal consideration.

## Rosenthal, Murphey, Coblentz & Donahue

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### Memorandum

VIA E-MAIL

To: Bryon Vana  
Fr: John B. Murphey  
Date: November 14, 2018  
Re: Sterigenics Litigation/Status Update and Request for Council Consideration

When the Sterigenics lawsuit was filed, I reached out to the State's Attorney's office to determine if the State's Attorney thought it would be of value for the City to "intervene" in the lawsuit. I will discuss the concept of intervention below. I have not heard back from the State's Attorney's office.

In the meantime, the Willowbrook Board approved a Resolution directing their Village attorney to file a Petition to Intervene in the case. I spoke with the Willowbrook Village attorney and he indicates that he is looking to get the Petition to Intervene on file within the next week or so.

Let me now explain the concept of intervention. The law allows third parties to join or "intervene" in a lawsuit which is pending between two other parties. This will be accomplished by the filing of a Petition to Intervene with the Court. In our case, the municipalities would allege that our residents are adversely affected by the Sterigenics activity and that we have a separate and distinct interest in becoming a part of this lawsuit. The ultimate decision would be made by the Judge.

By intervening in the case, the City will become an active participant in the litigation and would be actively involved in any settlement negotiations.

This is a policy matter for the Council. Should the Council decide to move forward, it can take the appropriate action by adopting a motion or resolution at your forthcoming meeting. We are still very early in the litigation. Based on what I've reviewed so far, the Attorney General and State's Attorney are not seeking any emergency relief against Sterigenics. Therefore, Sterigenics has the right to formally answer the complaint in the coming weeks.

JBM/sml