

# City of Willoughby Hills

## Interoffice Memo

**Date:** January 24, 2018

**To:** Council President Fellows, Council Members and Council Clerk

**From:** Robert M. Weger, Mayor/Safety Director

**Subject:** Veto on Ordinance 2018-1 (Indemnification)

I believe that for thirty-four years, Chapter 111 worked well without debate or controversy. Only under this Council, do we now have controversy. I would recommend keeping intact Section 111 because it has gone through five administrations and countless Councils since 1984. Only now, with all of the political turmoil created by this Council is there an attempt to alter, modify and change what has been fully operational for the past four decades. If Council truly wants to change the law, then please eliminate the entire section and allow State law to control and avoid all of this improper political warfare. Ordinances should not be drafted under the circumstances at hand.

I hereby veto Ordinance 2018-1 which was approved by Council on January 11, 2018, for the following reasons:

- Exclusions listed in Ordinance's Section 1(b) are not current exclusions in State law as outlined in ORC 2744.07.
- Exclusion (b)(1) in Section 1 of this Ordinance uses the words "dishonest, fraudulent, willful, intentional or malicious" (referring to act or course of conduct of an official or employee). Until an official or employee is tried in a court of law, there cannot be a determination of these intentions.
- Exclusion (b)(5) of Section 1 of this Ordinance does not provide for "any officer or employee being investigated for or charged with a crime." While I agree that we should not provide for indemnification for a criminal act, until the officer or employee is charged with the crime, the allegation of a crime should not in and of itself disqualify an officer or employee from seeking indemnification. This attempt is

politically motivated and it is ironic that the potential criminal conduct is so assessed by Council. Council is presuming and ignoring the constitutional provision of a presumption of innocence.

- This Ordinance provides Council for making the determination as to whether or not to provide indemnification. State Law provides for a remedy through court as to whether or not the subdivision has a duty to defend.
- Section 3 of the Ordinance states that “No City funds shall be expended or paid to any official or employee for the purpose of indemnifying him or her for attorney fees or expenses.” This conflicts with Section 1(a) which provides for such expenditure (adding only the word “civil” as it appears to liability with no proof of guilt of a criminal offense until judged by a court of law.

I hereby veto Ordinance 2018-1 and ask Council’s reconsideration in this piece of legislation.