

RESOLUTION NO. 2017-05

**A RESOLUTION OF THE CITY OF NEW PORT RICHEY, FLORIDA
URGING THE FLORIDA LEGISLATURE TO AMEND CHAPTER 440,
FLORIDA STATUTES, TO ADDRESS THE FLORIDA SUPREME
COURT'S RECENT DECISIONS RELATED TO FLORIDA'S
WORKERS' COMPENSATION SYSTEM.**

WHEREAS, the City of New Port Richey has over 200 full time employees, for which the City/County provides workers' compensation insurance; and

WHEREAS, the City has paid an average of fifteen workers' compensation claims annually the last five years; and

WHEREAS, obtaining adequate insurance coverage for municipalities is already difficult given that the employees range from City administration, to fire department, to police, to parks and recreation, and to public works, among many others; and

WHEREAS, this varied employee portfolio provides a diversity of claims and a level of unpredictability that requires higher insurance premium rates than other organizations; and

WHEREAS, despite the difficulty in obtaining workers' compensation coverage for its employees, the City relies on the constructs within Florida Law to avoid the costly tort system to address employee injuries; and

WHEREAS, the City relies on a workers' compensation system that has a cap on attorneys' fees to prevent the unsavory and costly scenarios of paying more for the legal fees for a workers' compensation case than the actual claim itself; and

WHEREAS, businesses of all types and sizes within our City, if faced with significantly higher premiums for their workers compensation rates will be negatively impacted financially which could lead to stagnated growth, hiring freezes, or worse, layoffs; and

WHEREAS, negative impacts to local businesses in the City have an equally negative impact on City revenues and, by extension our ability to provide adequate services to the City's residents; and

WHEREAS, on April 28, 2016, the Florida Supreme Court, in the matter of *Castellanos v. Next Door Company*, held that a strict cap for plaintiff's attorneys' fees provided by section 440.34, *Florida Statutes*, was unconstitutional; and

WHEREAS, on June 9, 2016, the Florida Supreme Court, in the matter of *Westphal v. City of St. Petersburg*, held that a two-year period of temporary total disability benefits in section 440.15, *Florida Statutes*, is unconstitutional; and

WHEREAS, the Florida Legislature has not yet taken any action to address these now-deemed unconstitutional sections of Chapter 440, *Florida Statutes*; and

WHEREAS, the Florida Office of Insurance Regulation has recently approved the proposed workers' compensation premium increase of 14.5 percent effective December 1, 2016; and

WHEREAS, any workers' compensation rate increase above normal annual growth or transition into a tort system for workers' injuries would negatively impact the City of New Port Richey's budget and, by extension, services to the community.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA, AS FOLLOWS:

The foregoing recitals (whereas clauses) are incorporated herein by reference and adopted in support of the matters set forth in this Resolution and made part hereof.

The City of New Port Richey implores the Legislature to amend Chapter 440, *Florida Statutes*, to ensure that it is constitutionally valid, including: creating a cap on attorneys' fees for workers compensation claims that, if necessary, allows limited judicial discretion; and

BE IT FURTHER RESOLVED, that the City of New Port Richey, Florida implores the Florida Legislature to consider the impacts of any modifications to the workers' compensation system on local governments (in addition to the impacts on the private sector) and engage local government leaders in the decision making processes so that the voices of our constituents might be heard in the midst of the debate.

DONE AND RESOLVED THIS 15TH DAY OF NOVEMBER, 2016.

ATTEST:

By: _____
Judy Meyers
City Clerk

By: _____
Robert Marlowe
Mayor-Council Member

(Seal)

APPROVED AS TO FORM AND LEGALITY
FOR THE SOLE USE AND RELIANCE OF THE
CITY OF NEW PORT RICHEY, FLORIDA:

City Attorney, Timothy P. Driscoll