

Minutes

Risk Management Trust Board

January 20, 2021

Minutes of the Risk Management Trust Board meeting held virtually via Cisco Webex on January 20, 2021 at 5:00 p.m.

Board Members Present:

Robin Arredondo-Savage
Heather Bilodeau
Bill Goodman
Jerry Hart
Ken Jones

Board Members Absent:

None

City Staff Present:

Tom Duensing, Deputy Internal Services Director-Finance
Chris Hansen, Risk Manager
Nichole Martinez, Workers' Compensation Program Specialist
Susan Buck, Executive Assistant

Guests Present:

Chuck Halsey, Willis Tower Watson
Sharla Kissel, Willis Tower Watson

Agenda Item 1 – Call To Order:

Chair Ken Jones called the meeting to order at 5:04 p.m.

Agenda Item 2 – Approval of Board Meeting Minutes:

Motion by Bill Goodman to approve the June 8, 2020 board meeting minutes; second by Robin Arredondo-Savage. Motion passed on a voice vote 5-0.

Ayes: Chair Jones, Boardmembers Arredondo-Savage, Bilodeau, Goodman and Hart

Nays: None

Absent: None

Agenda Item 3 – City Code Update:

Tom Duensing, Deputy Internal Services Director-Finance, stated that staff is recommending to Tempe City Council a proposed change to the Tempe City Code pertaining to the Risk Management Trust Board. Current city code specifies one member of the Board is a member of City Council and one member is specified as a city employee. Staff is recommending that the "city employee" member be specified as the Chief Financial Officer (CFO) or Designee. Staff is also recommending that the "City Council" member and the "CFO or designee" not be subject to term limits, which is consistent with the recently formed Tempe Audit Committee. The proposed changes will require two public hearings. The first was held at the January 14, 2021 Regular City Council meeting; the second is slated to be held at the February 11, 2021 meeting. There was no further discussion on this item.

Agenda Item 4 – Annual Trends Report

Mr. Duensing stated that one of the duties of the Board is to submit an annual report to City Council. Last year's report was submitted to City Council via their weekly "Friday packet". A draft of this year's report was included in the Board meeting packet for review and comment. Mr. Duensing provided an overview

of the report, noting that it provides background information on the Board and the reporting requirement, an overview of the Risk Management Fund and the Workers' Compensation Fund, an overview of fund activity, and a brief synopsis of the status of both funds. Mr. Duensing noted that all costs incurred are funded through departmental "charge backs". Actual claims costs for each fund are directly allocated to each City department and administrative costs are allocated based on historical claims history by each department.

Mr. Duensing provided a graph reflecting total Risk and Workers' Compensation costs noting that in FY 19-20 there was an increase due to the Sandra Gonzalez and Juan Antonio Arce claim settled by Council approval on June 25, 2020. Overall trends reflect an increase in Workers' Compensation expenses. Chair Jones asked for comments from the Board. Boardmember Robin Arredondo-Savage requested the two slides presented regarding costs be merged to have all information presented on one slide.

Mr. Duensing noted the Board previously requested that staff discuss trend information with the impacted departments. Staff has started that process, but the workload caused for Risk Management staff by the pandemic has impacted their ability to address the issue.

The Board generally discussed the claim settlement process. Risk Manager Chris Hansen stated that claims under \$25,000 can be settled by the Risk Manager; claims \$25,000-\$75,000 can be settled via a joint process with the City Attorney, Risk Management, and the involved department. Claims over \$75,000 require City Council approval.

Chair Jones asked for any other questions or comments; there were none. Chair Jones stated that the report would be submitted to City Council with the changes recommended by the Board and noted that any additional comments could be submitted directly to Mr. Duensing.

Agenda Item 5 – Workers' Compensation – Full and Final Settlement Discussion

Mr. Duensing provided background on the information included in the Board meeting packet, noting that the State of Arizona recently passed a law allowing Arizona claimants and employers the option to settle certain Workers' Compensation claims that previously would have been paid out year after year. Mr. Duensing stated that staff wants to ensure is that the settlement is a benefit to employees and wanted the Board to provide some feedback on the concept.

Mr. Hansen noted that prior to the 2017 change in Arizona law, it was rare that "full and final" settlements would occur because the employee still had the right to reopen the claim. Under the change in law, in order to settle the claim, the employee, the employee's spouse and employee's dependents waive any future right to the claim or to change the claim. The settlement would be reviewed by a special commission along with an administrative law judge, to make sure that all points of the claim are considered, and the best interests of the employee are taken into account. The City will have to disclose anticipated future medical care, the associated costs, how those costs were calculated and future indemnity. The City would also have to look at Medicare set asides and take those into account. Mr. Hansen noted that not all claims would be presented with this option, it would be dependent upon the situation. Mr. Hansen stated that the City would never enter into one of these agreements without the employee understanding how their future medical bills would be paid and ensuring that there was a plan in place for it.

Nichole Martinez, Workers' Compensation Specialist, provided a summary of City's open indemnity claims. Ms. Martinez also provided an overview of the reasons that the City may want to pursue full and final settlements, including pressure from their excess carriers to settle; lower premiums and taxes; the employee may prefer a lump sum payment; and the employee may want to control their own medical treatment. Ms. Martinez noted that full and final settlements can eliminate a lot of the red tape for employees and can be especially beneficial to employees who have moved out of state or having

problems finding treatment in compliance with Arizona state requirements. Ms. Martinez further noted there are many settlement options, including a structured settlement/annuity where the employee agrees to receive a part of the periodic payments. The City can help facilitate the transition to post-settlement life for the employee using third-party vendors to help the employee with payment options and professional administration of the funds.

Ms. Martinez provided examples of settlement scenarios, noting that settling is an *option* for the employee. The Board generally discussed the scenarios presented, the reasons why an employee would choose to settle and the involvement of excess carriers.

Boardmember Arredondo-Savage noted that a settlement should be beneficial to both the City and the employee. Boardmember Bill Goodman inquired about compliance with the recent law. Mr. Duensing stated that it isn't an issue of compliance, but rather the law just provides another *option* with the *ability* to settle. Ms. Martinez noted that while this is new to Arizona, it happens in other states very successfully.

Boardmember Jerry Hart noted this law provides the City with the ability to settle these claims consistent with the way the City settles other claims. Boardmember Hart inquired if the same approval process/claims settlement limits applied as previously discussed in Item No. 4. Mr. Duensing stated that is to be determined and the City Attorney's Office would review any proposed settlement process before it was implemented. Boardmember Hart noted that the employee would need to understand that any settlement would completely close out their claim.

Boardmember Heather Bilodeau indicated support of this option and noted that depending on how much the person is getting per month, a structured settlement can sometimes give them more money per month for a shorter time.

Chair Jones stated that the City has a responsibility to do something that is fair both to the employee and to the taxpayer and noted that he is willing to explore this further, with the caveat that he doesn't want the City to make money on the settlement. The money savings to the taxpayer should be on premium reductions, not because employees are paid less than they deserve.

The Board generally discussed how the approval process for settlements might work. Mr. Duensing stated that staff would develop a program for Board review before implementation. The role of the Board in that process would need to be determined.

Chair Jones asked for Board comments. Board consensus was to have staff explore this further and come back to the Board with further details on how the process would work.

Agenda Item 6 – FY21-22 Insurance Renewal Program

Sharla Kissel and Chuck Halsey from Willis Towers Watson provided an update on the insurance market and what the City can expect for FY21-22 insurance renewals. Ms. Kissel stated that potential areas of concern will be property insurance and excess umbrella tower. Chuck Halsey of Willis Towers added that law enforcement issues are a hot topic impacting claims. Ms. Kissel summarized that while law enforcement retention was increased last year, recent settlements seems to be under the limit. They currently do not foresee anything major coming that will put numbers from last year out of order.

Chair Jones asked if Tempe's good excess claims history is actively marketed and reflected in the rates offered. Ms. Kissel stated that it is, noting that because Tempe is a large public entity, the biggest issues will be property, law enforcement and workers compensation. Ms. Kissel stated that national loss trends can also be a factor because the impact of the risk is shared by everyone.

Agenda Item 7 - Board Member and Staff Announcements

There were no announcements. Mr. Duensing noted that staff will send a notice out to the Board when the next meeting is scheduled.

Agenda Item 8 – Public Appearances

Executive Assistant Susan Buck stated that there were no requests to address the Board.

Chair Jones adjourned the meeting at 6:04 p.m.

Minutes prepared by: Susan Buck

Minutes reviewed by: Chris Hansen and Tom Duensing