

**THE WORKSESSION
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD JUNE 28, 2010 AT 6:00 P.M.
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

CALL TO ORDER:

Mayor Fenn called the meeting to order at 6:00 p.m. with the pledge of allegiance.

ROLL CALL:

Present were: Mayor Fenn, Vice Mayor Toney King, Sr., Councilmembers Jo Deen Boncquet, David Lambert, John Lodzinski, Lori McGoffin (arriving at 6:13 p.m.) and Al Sacco.

NEW BUSINESS:

1. **Consideration of proposals for Property & Casualty and Workers' Compensation Insurance for Fiscal Year 2010-2011 from Jones-Wilson Insurance Agency, representing Travelers Insurance, the Arizona Municipal Risk Retention Pool (AMRRP) and SCF Western**

Mayor Fenn stated the purpose of the worksession was to discuss the proposals for general liability and workers' compensation insurance and then turned the item over to Finance Director Jim Cox. Mr. Cox stated the proposals for Property & Casualty Insurance were from the Arizona Municipal Risk Retention Pool (AMMRP) and that Mr. Ed Bantel was present from AMMRP and from Travelers Insurance with Mr. Troy Jones of Jones-Wilson present. Mr. Cox then stated he would give a brief introduction to each insurance area and will then turn the time over to the insurance specialists to answer any questions they may have. Mr. Cox then began starting with the types of entities each proposal was presented by, and then spoke about the size and strength of both AMRRP and Travelers before moving into the municipal property and liability elements.

Mr. Cox then began with the limits for liability insurance and stated he would let the insurance representatives discuss "claims made" vs. "occurrence", stating it was an important difference and is important that the difference is understood. Mr. Cox then discussed differences in coverage in the two proposals and stated in reviewing the two, he discovered the skateboard park was not covered under the schedule, but was covered by endorsement only and if the City remained with AMRRP, it would be added. Mr. Cox stated two other differences were the coverage for a City Attorney and Fireworks which are both available by endorsement from AMRRP, but were included in the Travelers policy. Mr. Cox stated the City has worked with a very reputable fireworks provider, who has a \$10 million policy that they list the City of Benson as an additional insured on, so the City has annually declined to take advantage of that endorsement. Mr. Cox then spoke about Inland Marine coverage, stating Council needed to refer to his memo instead of the slide in the presentation and that the coverages were very comparable. Mr. Cox then went over more elements in the policies such as crime and bond and auto, stating they were comparable. Mr. Cox then gave the coverages in the proposals for workers' compensation. Mr. Cox then addressed the costs of the proposals before giving his recommendation that the City remain with AMRRP, stating the cost for both the property & casualty and workers' compensation is approximately \$20,000 less, that their service has always been excellent, that 75 of the 79 smaller cities in Arizona are with AMRRP and that the City has been working with them for the past 7 years and have been very pleased with what we have. Mr. Cox then turned the time back to Council for questions and discussion.

Councilmember Lambert asked who the City is currently with for both insurances with Mr. Cox stating for property & casualty, the City has been with AMRRP since 2004 and for workers' compensation, the City has been with SCF Arizona for 7 years, noting that the past year we went with SCF Western, which was a subsidiary of SCF Arizona, since it had a lower premium cost. Mr. Cox stated they submitted a proposal for workers' compensation, but the premium was rather high. Councilmember Lambert asked when the

City switched from Travelers to AMRRP with Mr. Cox stating the City went to AMRRP in 2004, but that he was not aware of the provider, since he was not here at that time. Mr. Jones stated the coverage prior to the City switching to AMRRP was with Travelers through Jones-Wilson Insurance.

Mayor Fenn asked about coverage of the skate park with Mr. Bantel stating there is an Errors & Omissions clause in the policy that states clerical oversight does not bar recovery and that with just a phone call, the skate park would have been added and would have been covered, if needed, with the premium being backdated.

Mayor Fenn then asked about insurance for the City Attorney, asking Mr. Masee if he carried his own insurance with Mr. Masee stating he did provide his own professional liability insurance as part of his contract with the City. Mr. Jones then stated the City has more than one attorney and is not sure if AMRRP would cover the prosecutor, but that the Travelers policy would cover both. Councilmember Lodzinski stated the prosecutor is different in that she is an employee with Mr. Bantel stating all employees are covered with AMRRP, but they did offer an endorsement, if the City would like it added. Mayor Fenn asked if the City stayed with AMRRP, should they seek the endorsement for the City Attorney or have the City Attorney continue to carry his own with Mr. Cox stating he would like to consult with Mr. Bantel, but that his inclination would be to add the endorsement for the City Attorney to our coverage because the premium was approximately \$500.00 per year and it would provide the City one more layer of protection.

Mayor Fenn then stated he had a question on the treasurer and tax collector asking if they were excluded from Travelers because it was a commercial policy with Mr. Troy Jones asking to address Council on this issue. Mr. Jones then stated the City has a legal requirement to bond the City Clerk's position and the City has that bond with Jones-Wilson, adding that AMRRP and Travelers have both excluded this coverage, noting once again, the City is statutorily required to maintain that bond and has always maintained it separately with Jones-Wilson Insurance. Mr. Bantel stated that was correct and that they also offer the same bonding that Jones-Wilson Insurance offers, adding they do it for other cities and can do it for Benson as well.

Mayor Fenn then asked about the workers' compensation policy quotes and the emod rates used with Mr. Jones stating Travelers rerated the policy with the proper emod rate changing the quoted premium from \$73,000 to \$85,000 but added that in order to offset that cost, Travelers credited the property & casualty side and they were now lower than the previous proposal.

Mr. Bantel stated AMRRP quoted the workers' compensation policy premium with the data that was available and if the emod changes, they simply update it, so they updated the quote to reflect the correct emod rating, but the premium remained at \$65,000. Mayor Fenn then stated this will allow the Council to compare apples to apples on the workers' compensation policies.

Vice Mayor King asked about the skate park and how much it would add to the premium to cover the skate park with Mr. Bantel stating the premium would be approximately \$2,500.00 per year. Vice Mayor King then asked about other activities such as a BMX bike activity and if it would be covered and how much additional premium there would be.

Mr. Jones asked Council if he could also address the skate park, stating this is an example of having someone look out for the City's interests on a day to day basis, adding the same is true for the City pool, which is not on the property schedule. Mr. Jones stated the City went a couple of years without coverage on the skate park and got lucky and that he discovered the skate park and the pool while trying to look around like a local agent would. Mr. Jones then stated he thinks the City does need fireworks coverage to provide their own insurance and defense instead of relying on someone else's coverage.

Vice Mayor King then asked again about another event, like the bike rodeo, with Mr. Jones stating the bike rodeo would be covered, with the exception of the fact that there are always going to be exclusions in any policy, which AMRRP has. Mr. Jones then stated in the Travelers policy, he is not aware of exclusionary

language for a bike activity or the 4th of July activities other than the fireworks, for specific events.

Mr. Bantel then stated AMRRP has those exclusions since they only write cities and towns and most cities and towns they insure don't have skate parks, attorneys, and fireworks. Mr. Bantel then stated for those cities and towns that do have those things, AMRRP endorses those coverages back on, which not only leaves no doubt that these things are covered, but saves other cities money on their base policy, keeping them from paying for coverage they don't need. Mr. Bantel then stated the City can also purchase additional fireworks insurance from AMRRP.

Vice Mayor King then compared the coverages in the workers' compensation policies for diseases or accidents and asked for explanations as to why there was such a difference with Mr. Jones stating the Travelers policy was matching what the City had with SCF, stating there was no doubt Travelers did not quote the higher limits, but that it was important to note that this coverage was not for the employees' medical, lost income or disability, but were the amounts the City was covered for if they are sued by the employee. Mr. Jones then stated he will concede that AMRRP quoted better coverage in that area.

Mayor Fenn then asked Mr. Bantel if AMRRP relied on staff for property to insure or if they did an assessment with Mr. Bantel stating when a city first comes into AMRRP, someone from AMRRP comes out and evaluates the City's buildings, etc. and monitor it every quarter, stating he doesn't know how the pool or skate park got left off, but would add it immediately.

Vice Mayor King asked for an explanation in the difference between "claims made" vs. "occurrence".

Mr. Jones stated all of the Travelers coverage with the exception of auto and general liability is written on the same claims made basis as AMRRP. Mr. Jones then stated where it becomes an issue is where it relates to general liability, noting that AMRRP calls it all municipal liability, but Travelers separates it into general liability, law enforcement liability, errors & omissions liability and the employment practices liability. Mr. Jones then stated it is only the general liability with Travelers that starts with occurrence and stated that when a change is made from an occurrence policy to a claims made policy, there is the potential for gaps in coverage when you try and switch back. Mr. Jones then stated if the Council selected Travelers, they would be going from a claims made policy to an occurrence policy only in the general liability and that Travelers had extended a 3 year prior injury endorsement to their policy, adding that general liability is only related to bodily and property damage. Mr. Jones stated the 3 year prior endorsement should be sufficient and then stated in looking back at 2004 when the City switched to AMRRP, the City's professional liability had no such extension for prior acts, leaving the City completely exposed.

Mr. Bantel then stated the City's professional liability was on a claims made basis and when you move from claims made to claims made, there is no gap in coverage.

Mayor Fenn then asked Mr. Cox about his comments and if there could be a danger of a gap. Mr. Cox stated the example he used in his previous memo was not a good example and stated there is another case of an alleged error made by Council in 1989; however, there was just recently action brought up on it and stated he would like to ask both carriers, if it would be covered. Mr. Jones stated this type of error would not be considered general liability, but would be an errors & omissions claim, which is addressed on a claims made policy with both Travelers and AMRRP, stating both carriers would cover it.

Mr. Bantel then addressed Council stating the difference between claims made and occurrence is that when you purchase an occurrence policy, the policy will always respond to a claim that occurred in that year even if the claim is made years down the road, but on a claims made policy, the policy you have when the claim is made is the policy that will respond. Mr. Bantel stated AMRRP was set up by cities and towns purposely with a claims made basis. Mr. Bantel stated the advantages of this is that AMRRP is trying to collect as little money as possible from cities and towns and to give as much money back as they can and at the end of the that policy year, it's over and they know there won't be any more claims from that year. Mr. Bantel stated when AMRRP gives dividends back, the only thing they have to consider is the severity of the

existing claims and it is much easier and cleaner for them give back money to its members when they are able to close those years out sooner. Mr. Bantel then stated the only time this becomes an issue is when you leave a claims made policy and go to an occurrence policy, stating this is when there could be a gap in coverage, giving as an example a claims made policy that ran out January 1 and there was a claim that occurred in December but was not reported until the following year. Mr. Bantel stated the occurrence policy wouldn't cover it, since it didn't occur in their policy period and the claims made policy wouldn't cover it because the claim was made after the policy expired. Mr. Bantel then stated all of the AMRRP coverages are on a claims made basis, and they have all the coverages Mr. Jones spoke about, but that it was simplified into one policy, under general liability and errors & omissions which covers all the same coverages as Travelers, in a more concise policy without separate policies for each category.

Councilmember Boncquet stated the way she understands it is that with AMRRP, it's basically our money and with Travelers, we have an agent and bigger company, adding that with AMRRP, fat has been skimmed off resulting in a lower cost and that we're administering it, so we're trying to get the most for our money. Mayor Fenn stated he agrees that it's like a co-op vs. a commercial company, but that there is not a lot of differences in the premiums. Mayor Fenn then stated Council should weigh everything in their decision.

Councilmember Boncquet then stated she has seen the self-insured types of programs and thinks they are better, giving entities the same coverage for less money.

Councilmember Lodzinski asked about the recent BMX event, stating he didn't think it was a City event and wasn't part of the skate park. Vice Mayor King stated it was put on by the group who is pushing for a bike park in the community and was very well-attended. It was noted that if they put it on themselves, they should have had their own insurance.

Mayor Fenn asked if there were any other thoughts or questions from Council. There were none. Mayor Fenn stated this item was on the agenda and if Council had any other questions, they may call on Mr. Jones or Mr. Bantel at that regular meeting.

ADJOURNMENT:

Vice Mayor King moved to adjourn at 6:41 p.m. Seconded by Councilmember McGoffin. Motion passed 7-0.

Mark M. Fenn, Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk