



**MURRAY CITY MUNICIPAL COUNCIL  
COMMITTEE OF THE WHOLE**

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The Murray City Municipal Council met as a Committee of the Whole on Tuesday, May 18, 2010, in the Murray City Center, Conference Room #107, 5025 South State Street, Murray, Utah.

**Members in Attendance:**

Jeff Dredge	Council Chairman
Darren V. Stam	Council Vice Chairman
Jim Brass	Council Member
Jared A. Shaver	Council Member
Krista Dunn	Council Member

**Others in Attendance:**

Daniel Snarr	Mayor
Jan Wells	Mayor's Chief of Staff
Frank Nakamura	City Attorney
Michael D. Wagstaff	Council Executive Director
Janet M. Lopez	Council Office
Peri Kinder	Valley Journals
Diane Turner	Citizen
Tim Tingey	Comm Econ Dev Director
Carol Heales	City Recorder
Doug Hill	Public Service Director
Pat Wilson	Finance Director
Michael Kaddatz	Bickmore Risk Services

Chairman Dredge called the meeting to order at 5:32 p.m. and welcomed those in attendance.

Mr. Dredge called for substantive changes on the minutes from the Committee of the Whole meeting held on April 27, 2010. Ms. Dunn moved approval as written. Mr. Shaver seconded the motion. The motion carried 5-0.

**Business: Risk Management Study Report - Pat Wilson**

Ms. Wilson confirmed the Council's knowledge of the risk management study, and stated that the presentation of the results would be given by Michael Kaddatz, of Bickmore Risk Services & Consulting. Mr. Kaddatz was the main point person of the study, and would share the outcome of his research. She said that the information has been very helpful.

Mr. Kaddatz expressed his pleasure in being in Utah with great, hardworking, values and family oriented, courteous people.

Mr. Kaddatz told of a city client defending a claim, after being sued by a young lady who became a paraplegic following an accident on a city street. The woman was an occupant in a car that hit a parked vehicle. The city client decided to settle the claim for \$4.2 million. He expressed the fault being, one, the lanes were one inch too narrow, according to Cal/Trans standards; two, the parked truck was parked illegally, and the city had not enforced the parking ordinance; and, three, some of the dots that separate the lanes were broken, and had not been repaired. There was not a major theory of negligence, but the city was the only one with pockets deep enough to pay damages estimated to be \$13 million to \$18 million. He declared Utah as a saner world than that, and commissioned those present to keep it that way so that he may retreat here, when needed.

Regarding the risk management study for Murray, Mr. Kaddatz stated that it was a few months prior that his firm was commissioned by the City to determine:

- If property & liability insurance was adequate: Were the coverage of limits high enough to protect the City? Is the wording expansive enough to incorporate the kinds of things that can go wrong, and cause liability to the City or damage to property?
- If deductibles and self insured levels are appropriate for a city such as Murray. Do they fit the financial situation and the pattern of City losses?
- If program costs are reasonable overall. The City spends about \$400,000 per year on property and liability insurance. Do costs

fit the coverage and loss history?

- If the City is organized internally to efficiently manage risk.

These items made up the scope of the study, and Bickmore proceeded with the following consulting activities:

- Reviewed insurance policies, and became familiar with City operations. Review of the budget, and scope of operation within the City.
- Met with more than 15 people involved in City management, and department heads, discussing day to day activities, challenges and risks.
- Spoke with the insurance broker, Olympus Insurance.
- Surveyed 10 other Utah cities as to their insurance practices, for comparative purposes. The cities were bracketed as to size, smaller and larger than Murray.
- Additional research, including looking at Utah's Government Immunity Act,
- Prepared report for City staff.

This presentation is a summary of findings in that report for the administration. Regarding property insurance Bickmore found that:

- Murray has a solid insurance company. It is Travelers Insurance, which is rated A+15. It is known as a company that does well in the public sector.
- The City has solid limits of insurance protection against the values, and the range of perils coverage is broad, including earthquake coverage.
- The program is priced competitively, rates relating well to the marketplace and to the nature of coverage carried.

- It was discovered that the City should keep a close eye on a sub-limit of \$35 million that applies to the earthquake peril. An earthquake that affected both City Hall and Power, for example, would be a concern. Make sure that amounts are adequate. Mr. Kaddatz did find that the broker and City review coverages annually to make sure that values of all properties are matched against coverage to make sure limits are adequate.
- Business interruption needs additional review. Income might be lost due to particular operations that are damaged. However, more important is extra expense, for example, at City Hall. If City Hall were damaged by fire or another peril, there would be a substantial amount of extra expense to set up alternative headquarters, sift through the rubble, salvage what is usable, and pay overtime, etc., which are insurable events. The coverage is currently inadequate, and his recommendation was that coverages be extensively reviewed for all facilities. This is one area that needs to be strengthened.
- Building code coverage is another area reviewed. Insurance pays replacement cost, which means it will replace the building, as is. There are things you might do differently to meet current code, and obligations today. Things to have the building comply with new electric codes or earthquake strengthening, or ADA requirements would not be covered expenses. The City has some of that supplemental coverage, but he questioned whether it is enough. That is something that needs to be reviewed with the City insurance agent.

A subset of property insurance is crime insurance. This insurance would respond if there was an employee dishonesty loss, for example, someone who found a way to extract City funds for their own personal use. There are some notable ways this is done. Typically, it is by a long trusted employee that no one would ever suspect. Despite the best controls these losses happen, and it is usually substantial dollars. It is an important part of the coverage. Another loss due to crime may be by a third party, or robbery of cash. The following terms apply to this coverage:

- The City has a solid insurer - Travelers - with an A+15 A.M.

### Best rating.

- Coverage terms are appropriate.
  - During the course of the study, the renewal period came up. Therefore, working with Ms. Wilson and the broker, a former \$250,000 coverage limit was raised to \$1 million.
  - To help control the premium cost of this program, the deductible was raised from \$2,500 to \$50,000. Small claims are usually not pursued against the insurance company.
  - These steps resulted in a better program, with better protection, with an already solid insurer, and the premium is about the same. Over time, the City might want to strengthen the limit further.

Liability insurance coverage is with an insurer deemed financially acceptable, however, it is a specialty insurance company. It is called States Risk Retention Group. States was formed by a handful of cities across the county who invested in the company. It is owned by the cities they insure and domiciled in Vermont. It is not A.M. Best rated itself, although, it has financial statements that show it has enough assets to handle the level of risks it insures. They have very highly rated reinsurers. As is customary with most insurance companies, they take in risk for a premium, and then pay it out to other insurers who take some of the higher losses, should they occur. The opinions of Bickmore include the following:

- The premium seems to be too high. It needs some competitive bids to come down some. We suggest the City get these bids.
- The coverage is broad and serves the City well. It relates to municipal exposure.
- It has a \$250,000 self insured retention, or deductible. That level fits the City.
- It has a \$5 million limit, which he believes is at the low end of a

prudent range. A higher limit should be considered. Of the cities surveyed, the range was from \$5 million to \$10 million.

- The Utah Governmental Immunity Act, does help to limit the liability amount for Utah torts to roughly \$2 million per occurrence. Not all sources of liability fall under that act. There can be some things subject to federal law, under which there is no limit. Employment practices claims are a possibility, civil rights claims arising out of police actions are another possibility that could escape the protection of the immunity law. A higher insurance limit protects the City against some of these claims.

Mr. Kaddatz described some other sources of liability, and loss that are generally uninsurable or difficult to insure.

- Pollution liability that causes damage to someone is excluded from coverage. It is typically expensive and difficult to maintain. Pollution damage to City property is not covered.
- A business risk, joint venture assessment, such as, with UTOPIA, UAMPS, or TransJordan Cities could cause liability matters. Obligations in those organizations may go beyond the ability for insurance to respond to them. The city could incur some costs from these ventures.
- Another issue is what Mr. Kaddatz called take or pay power supply agreements. Liability could arise from a contract for power whether it is used or not.
- Imminent domain, condemnation proceedings, and takings could all be situations without protection or insurance. Substantial liability could be incurred.

Mr. Kaddatz explained that for these situations, cities try to make the best business decisions possible. They try to maintain net assets that can respond to financial emergencies when they arise. Occasionally insurance can be used in select areas, but must be anticipated. There are some realities insurance cannot take care of. Ms. Wilson pointed out that is why a pool of money should be set aside. He stated that power also has a fund

set aside for issues such as this.

The last part that Mr. Kaddatz addressed was how the City is organized to take on risk.

- Risk management tasks are now dispersed among:
  - Finance, which does the insurance buying, and does accounting for self insured losses.
  - Human resources, where the safety director sits, to prevent claims from occurring, handle claims management after a loss, and purchase of Workers Compensation.
  - The City Attorney handles the tort claims, investigating and defending.
- Operating departments manage risk by:
  - Training employees, including safe work practices. Power, for example, looks at risk relative to its operation.
  - MIS provides facilities to back up systems, and continue processing if Murray's systems were damaged.
  - Fire and police train extensively.
- A suggestion would be to look at all these functions as a whole, to manage and coordinate risk activities. A larger city might hire a risk manager as a full time position, however, for Murray a task force is recommended. By taking the finance, HR, and attorney's offices, and adding representatives from the operating departments a task force could meet periodically, resolve issues, and review practices. The task force could interview potential insurance brokers, and help the City select one.

Incidental to the study are some matters that were not studied in

depth, however, there are some additional recommendations from Bickmore:

- Workers Compensation purchasing should be transferred to finance, because the other insurance is purchased in that department.
- The safety manager focuses now on worker risks, keeping employees safe. His group feels that the safety officer should have responsibility expanded to also address liability and property risks. For example, keeping the public safe in the library, and parks, as well as, employees. Looking at property risks, this position would consider if fire extinguishers are up to date, or sprinklers in operating order.
- Various City risk management tasks enumerated in the study need some updating and attention, for example, insurance provisions in contracts, and developing a lost data system for tort claims.
- Bickmore recommends the City use an RFP process to select an insurance broker, and the City is underway with that process now.

Ms. Wilson remarked that she is in the process for selection of a broker, and is in the question/answer stage. The RFP has gone out to three people who deal with governmental insurance, Olympus, Morton and Company, and Gallagher. Bids should be back to the City by the first part of June. A task force will meet to look at the proposals, and make a decision. The next insurance is due during September, therefore, a broker is needed to help market for liability, and property insurance.

Mr. Shaver asked who would make up the task force. Ms. Wilson stated she would work the attorney's office, HR, and Jan Wells.

Mr. Shaver mentioned that the City has discussed the possibility of self insuring, and he wondered if that was in the scope of the study. Ms. Wilson said that the study did consider this, and options were presented.



Mr. Kaddatz indicated that the City is now self insured in tort liability to \$250,000 on each and every claim. Based on the level of risk Murray faces and the cost to insure above that there are diminishing returns for higher self insurance. One claim of \$3 million would eliminate 20 years of premiums. He does not recommend self insurance above that level.

Ms. Dunn mentioned that the States group has been a concern, and for him to relate that the City may be paying too much and is insured too low, is an additional concern. Ms. Wilson said that it has not really been marketed in the past, although, with a broker, we will market for that insurance to determine whether the City will stay with States or make a change. The RFP has asked them to reveal to whom, and how they would market for insurance coverage.

Mr. Dredge thanked Mr. Kaddatz for his presentation, and there being no further business, he adjourned the meeting at 6:10 p.m.

Janet M. Lopez  
Council Office Administrator