MINUTES OF THE
RISK MANAGEMENT TRUST FUND BOARD SPECIAL MEETING

November 29, 2012 – 6:00 p.m.
City Hall Complex – B-3 Room
5850 W. Glendale Ave.
Glendale, AZ

MEMBERS PRESENT:	Councilmember Joyce Clark, Trustee and Chair John Stern, Trustee Diane Goke, Chief Financial Officer and Trustee
STAFF PRESENT:	Jim Brown, Interim Human Resources & Risk Management Executive Director Andy Jennings, Risk Manager Dianne Shoemake, Risk & Safety Analyst Pat McPherson, Risk & Safety Analyst
MEMBERS ABSENT:	Sandra Oates, Trustee Julie Stiak, Trustee

Call to Order

Councilmember Joyce Clark, Chair, called the Risk Management Trust Fund Board meeting to order at 6:00 p.m.

Review and Approval of the May 23, 2012 Risk Management Trust Fund Board Meeting Minutes

The minutes of the May 23, 2012 Risk Management Trust Fund Board meeting were reviewed. Mr. John Stern moved to accept the minutes as presented. Ms. Diane Goke seconded the motion. The Board voted and passed the motion unanimously.

Review and Approval of the October 4, 2012 Risk Management Trust Fund Board Meeting Minutes

The minutes of the October 4, 2012 Risk Management Trust Fund Board meeting were reviewed. Mr. Andy Jennings asked that one correction be noted in the meeting minutes. He stated that when he originally posted the Agenda for this meeting, he had the correct date, October 4, 2012, but had listed the day as Wednesday instead of Thursday. Chairperson Clark asked if there were any other additions, corrections, or deletions. Since there were none, she asked for a motion to approve the minutes.

Ms. Goke moved to accept the minutes as presented. Mr. Stern seconded the motion. The Board voted and passed the motion unanimously.

Risk Management Trust Fund Audit Responses Update

Mr. Jennings presented some of the major changes between past practices and the new current practices.

- In the past, transfers were made between the Risk Management Trust Fund and the Worker's Compensation Trust Fund in order to maintain the proper actuary balance levels. This had been done as far back as we know of since 2004. The trust fund transfers were identified in the annual Risk Management Trust Fund Board meetings and in the clean-up ordinances to the City Council. However, because this board only met annually, there were times when these transfers would not show up until the next year. Our current practice will be to have each trust fund stand alone and there will be no transfers between the funds. We will ensure that both funds meet with City ordinances and statutes. All the Trustees will be kept informed of the balances of the trust funds at each of the trust fund meetings.

- Currently, the salaries of the three (3) full-time employees in the Risk Management Division of Human Resources are funded out of the Risk Management Trust Fund. These salaries will be moved from this trust fund and put back into the Human Resources Risk Management Division budget.

Mr. Stern asked what the status is of the very large transfer made for the payment to the State of Arizona. Mr. Jennings advised that the transfer took place in the financial year 2010 and the money was moved out of the Risk Management Trust Fund in conjunction with the City of Glendale's Finance Department to pay for the Arizona State Retirement System (ASRS) penalties. Mr. Stern asked if there had been any movement on how that money is to be returned to the Trust Fund. Mr. Brown responded by stating that, as far as what has been communicated from the City Attorney, the requirement is not necessarily to return those monies to the fund. Chairperson Clark, along with Mr. Stern, noted that both the City Attorney and the City Auditor stated, at the Risk Management Trust Fund Board meeting and again at the City Council meeting, that the funds were illegally taken from the Risk Management Fund. Chairperson Clark & Mr. Stern stated that there is a need to clarify where the City Attorney stands regarding this money, and if he still stands by his original statement that the money was taken illegally. They noted that the City may not have the money to return to the fund, but the Trustees should be asking for the money back, and the City Council would then need to waive it rather than the City Attorney.

After the discussion, Chairperson Clark believed that direction should be given to Mr. Jennings and Mr. Brown to contact the City Attorney and (A) get his formal written opinion with regard to the legality of the transfer of the $3.2M, and (B) to make a formal request of the City Council to take up the issue of repayment of these monies back into the trust fund. The Council can either create some kind of payments over time or waive the requirement to replace the funds, but it will be their decision and not a decision made by the City Attorney. Mr. Stern made the motion as outlined by Chairperson Clark. Chairperson Clark seconded the motion. The motion passed unanimously.

Mr. Stern asked if there were any funds returned from the airport judgment and asked if the Trust Fund ever got fully compensated. Mr. Jennings advised that almost $3M has been paid to date, and that $2.3M was received back from the General Fund. He also advised that about $180,000 came back from excess insurance, and that we are still in litigation against the airport carrier who has not paid anything as yet. There is still a gap remaining of $700,000 and Mr. Stern stated that until that is resolved, his position would be that, since it was determined to be a contract liability, and not one covered by Risk Management, that money should be returned also. That money was taken out by the City Attorney to pay the judgment and for the defense of the lawsuit. The General Fund gave back to the Risk Management Trust Fund the $2.3M awarded from the verdict, but the Trust Fund has not received the money spent in legal fees, etc.

Chairperson Clark asked for a formal motion concerning the outstanding balance remaining of $700,000. Mr. Stern made a motion that since there is a possible recovery based upon the attorney fees from the airport judgment that was taken out of the Trust Fund, that if and when there is either a payment from the insurance company, or it's determined that the insurance company will not pay, a request for the balance, whatever it is, be returned to the Fund for the attorney fees. Chairperson Clark seconded the motion. The motion passed unanimously.

Mr. Stern also asked about the staff expenses that came out of the Risk Management Trust Fund and whether there has been any discussion about reimbursing the Trust Fund for those costs. Mr. Brown stated that this has been discussed and the result is to return the money for those salaries to the Trust Fund. He noted that this would go to the Council on December 11, 2012 with the cleanup ordinance process. Mr. Stern stated that he did not remember the salary issue being discussed with the Trustees. Mr. Jennings noted that his records show the Administrative Fees for the salaries were in the FY 2011-2012 budget and also in this FY 2012-2013 budget.

Mr. Jennings then addressed communication, specifically relating to the Risk Management Trust Fund Board meetings. The past practice had been for the board to meet once a year to update the Trustees. The current practice which was discussed at the last meeting is for the board to meet four (4) times a year. It was decided that, instead of quarterly meetings, it was left that the board would meet four times but not locked into specific months. Mr. Jennings noted that the Trustees would be notified of any large claims over $50,000 or any other judgments that are made against the City or the Trust Funds. Chairperson Clark agreed with meeting four times a year, and not necessarily on a quarterly basis. However, she would also like to see a meeting included if there were an unusual claim or unusual situation that could not be covered by the four meetings a year, and that there will be the ability to call an extraordinary meeting to cover these circumstances. Mr. Jennings advised that this was something the Risk Management staff was working on regarding the revision for the ordinance. Ms. Shoemake stated that they put 'at least' four meetings per year, leaving it open in case more meetings were needed. Chairperson Clark agreed and reiterated that any unusual or extraordinary claim would prompt a meeting or meetings as needed. Ms. Shoemake stated that she will make sure this will go into the revisions for the ordinance.

Mr. Stern asked about the process used for the City to determine the amount that each City department pays into both the Risk Management Trust Fund and the Workers' Compensation Trust Fund. Mr. Brown advised that the process typically works through both Budget and Finance as a team effort. Mr. Stern requested that the Trustees be provided with the budget information and the actuarial information.

Mr. Jennings then discussed the past practices regarding the Request for Quotations (RFQ) for claims repairs. Previously, and what has been in place for several years, RFQ's were based on less than $50,000 per claim. Ms. McPherson added that if the single incident or event was less than $50,000, we went ahead and did the repair, and it met the contract requirements. Through the recent audit that was completed and the City Attorney's opinion, it's an accumulation of all those repairs which is more than $50,000. Ms. McPherson stated that what they have done is to meet with Materials Management to discuss if we could go out quickly to get a bid, which does not seem likely, or to tack onto the State contract which went out for a bid about six months ago, then determine the amount we need and present it to the City Council for approval.

Mr. Brown asked Ms. Shoemake if she had any information on past experience with cumulative amounts. Ms. Shoemake stated that in the last two years, the cumulative amount has been in the $60,000 to $70,000 range, and if there is a year in which there is a large claim such as a sewer backup, or house flooding, those claims can be expensive and the year's cumulative amount could be as high as $100,000. Ms. Shoemake advised that she would feel secure in asking for $100,000 authority per year for the contract in order to cover all claims, including any large claims. Mr. Stern asked if the City Attorney would review the contract. Ms. Shoemake stated that right now there is not enough time to go out for bids as our contract ends January 1, 2013. However, if we go out for bids, we would review them and then have them reviewed by the City Attorney. There is also the possibility of tacking onto the State's contract which could be done very quickly, and it could be done by January 1st. We would still have the City Attorney review the contract before we move forward.

Chairperson Clark asked if Ms. Shoemake was going to piggyback on the State contract or go after an RFP. Ms. Shoemake advised that since the State went through the RFP process six months ago, she would like to stay with that contract but did advise that we are looking at a higher cost with either the State contract or going out for a bid.

Mr. Jennings then addressed the insurance policies. He advised that Risk Management purchases all of the policies with the exception of Benefits for the City. The past practice was to keep the policies internally, and if another department wanted a policy, we would send it to them. The current practice is to send the policy to the City Attorney's Office to obtain their input. As of yet, Mr. Jennings advised that he had not gotten a response back from the City Attorney but plans to continue sending everything to them. He will then obtain any further guidance from the City Clerk's Office or from the City Council. Mr. Stern asked if the policies are annual or three-year policies. Mr. Jennings stated that almost all of our policies are annual: excess liability, excess Workers' Comp, and property insurance. The crime insurance is three years. The annual policies are procured every year through our insurance broker, Alliance. That broker was chosen two years ago through an RFP.

Chairperson Clark reiterated that at the last Risk Management Trust Fund Board meeting direction was given to issue another RFP for a broker to ensure all policies were covered. She stated that it is time to review the work of the broker and to clean up this area. Ms. Shoemake advised that it is being done and it is on the schedule to be completed in the Spring.

Mr. Jennings then addressed external audits which, in the past, were done annually as required by City ordinance and were satisfied by our external Comprehensive Annual Financial Report (CAFR) audit. He stated that, in our current practice, we are working with the Finance Department, Diane Goke, and the Budget Office to determine if the scope of the external audit can be done as part of the CAFR, and he believes that it is possible. There may be some additional costs and there are still some things to resolve. The auditors may test transactions as part of the Trust Funds but that is part of their normal audit work. They would also be looking at minutes of past meetings and Council meetings, to make sure that transfers were done and approved by Council in the cleanup ordinance. He noted that the financial statements and the CAFR in the external audit are really in the financial statements as a whole. The entire City is included in that audit. This audit is published every year and is available to the public. Mr. Stern requested that Mr. Brown provide the Trustees with that portion of the audit that deals with the Risk Management Trust Fund and the Workers' Compensation Trust Fund. Mr. Stern stated that he doesn't need the entire City audit, just the two Trust Fund audits. Mr. Stern asked if the City Attorney had made a determination that this audit would cover the CAFR audit. Ms. Shoemake stated that the City Attorney did say that it could be a part of the CAFR, however he did feel that a separate document setting forth the scope of the portion that involves Risk Management Trust should be done, so he is asking for a little broader scope. Ms. Goke advised that we receive a management letter as part of our audit, and if there are any findings from the audit about the Risk Management, then those would be automatically forwarded to this board.

Chairperson Clark asked about a previous discussion of peer-review groups and a performance audit every five years, and if that is done to satisfy this peer-review situation. She stated that in the last discussion, several suggestions were offered. One suggestion made was that there be a performance audit done by a peer group, and another suggestion was that an independent external audit be made of the Risk Management Trust Fund or of both funds periodically. Mr. Stern concurred that a discussion was held because he raised a question that clearly shows the City ordinance set an external audit, and that there is now an opinion from the City Attorney that this qualifies as the external audit that's needed. Chairperson Clark stated that she still does not feel the CAFR will qualify and that we need to look at the issue of hiring and doing our own independent audit periodically, maybe every five years.

Chairperson Clark advised that a commitment be made to do our own external financial audit periodically, and commit to doing our own external peer review audit of practices, performance, procedures, and policies.

Mr. Jennings then reviewed other audit items that have been completed over the last couple of months. He advised that the Risk Management staff worked together as a team and came up with tentative revisions for the City ordinance that sets up both Trust Funds. They met with staff from the Finance and Budget Department to obtain their input, and also had invited a representative from the City Attorney's Office. The draft documents have been sent to the City Attorney's Office for review and he is awaiting their input.

Mr. Jennings advised that we did receive our bonding for the Trust Board which was effective November 1, 2012 and will be good until November 1, 2013, so this is in place for the $10,000 amount that's in the current ordinance.

Mr. Jennings reiterated for the board, that they will meet at least four (4) times a year. He also advised that the Risk Management database passwords were updated and a backup system was purchased which cost $41.00. There are two (2) Procurement Cards in the Risk Management Division at this time. Mr. Jennings advised that one belonged to him but that he would be turning it in next week because he will be leaving the City. The second belongs to Dianne Shoemake who will be assuming the Risk Manager duties when Mr. Jennings leaves. Chairperson Clark asked what the process is for using the card and Ms. Shoemake advised that there is a detailed City policy on the use of these cards and that you have to attest to and sign. Mr. Jennings added that he has to sign off on everything and then they go to Mr. Brown for his signature. Chairperson Clark asked what the cards are used for in the Risk Management Division and Mr. Jennings stated that he only used his card for purchases such as the $41.00 backup system; however, Ms. Shoemake uses her card for claims and invoices.

Mr. Jennings then advised that an annual report had been completed and gave each board member a copy. He stated that it is the report that the Trust Board provides to City Council. He will also be sending a copy of his Risk Management Consultant License to the City Council and advised that Ms. Shoemake is awaiting receipt of her Risk Management Consultant License and that will also be sent to the City Council.

Mr. Jennings stated that there had been issues in the past about us not receiving discounts on claims repair contracts but that has been rectified. He noted also that insurance brokerage service agreements had been updated back in August. He noted additionally that there had been a discrepancy to his insurance broker RFP from two years ago. The auditor caught the discrepancy between the actual contract that the City Attorney's Office generated and what the RFP documents contained. The discrepancy was in the number of years for the contract. The RFP documents had the length of the contract as five (5) years renewable annually but in the actual contract it said it was for three (3) year renewable annually. This was corrected to read five (5) years renewable annually and the insurance broker signed off on the change.

Mr. Jennings advised that a settlement procedure for using releases has been developed by Ms. Shoemake and we have all the documentation stating exactly when we need to do a release with the claimant. Chairperson Clark asked if there is the opportunity to sit at the table for settlement discussions and Ms. Shoemake advised that they are including us in the settlement discussions.

Mr. Jennings stated that the Risk Management vehicles will be turned in tomorrow to Equipment Management.

Mr. Jennings advised that, as Risk Manager, his signature authorization has been updated and the level moved up. Mr. Brown's signature authorization was also increased.

Mr. Jennings addressed an action item that was discussed at the October 4th meeting where the Trust Board indicated that they wanted to add some comments to the Trust Fund audit and he was requesting clarification. Chairperson Clark stated that the intent was to be able to have the board provide a formal response to an audit; to either state that we agree with the finding, or that we propose an alternative. Chairperson Clark advised Mr. Jennings to review the minutes of the last board meeting for the board's responses. Mr. Jennings will write up the responses for review at the next meeting.

Mr. Jennings then addressed the copy of the *City of Phoenix Risk Management Trustee Manual* that was given to each board member for review. He advised that he had spoken with Mr. Stern about the manual and Chairperson Clark asked Mr. Stern for his assessment as to whether it could be a basis for this City's manual. Mr. Stern answered that he felt, by and large, it was a good document, and that he could meet with Mr. Brown and Ms. Shoemake to work through the things that might need to be changed. He stated that it would be good for the Trustees to have to sign-off on to be sure that, as Trustees, we understand what our commitment is to the trust and how we are to manage it and perform. Mr. Stern stated that it is a well-done document that was likely prepared by the City Attorney for Phoenix and we will have to pass it in front of our City Attorney to obtain their agreement. He advised that the document would need to be cleaned up a bit and created to be sure it fits our needs.

Chairperson Clark moved that they accept the City of Phoenix Manual as a blueprint for a City of Glendale Risk Management Manual, with any changes or modifications to be made by our designee, Mr. Stern, in conjunction with Mr. Brown and Mr. Craig Tindall, City Attorney. Ms. Goke seconded the motion. The motion passed unanimously.

Mr. Stern then requested that the Trustees, at each board meeting, be provided with information as to the income and the payments made out of the Fund. He asked to see not only the budget but what was actually received. He stated that it does not necessarily need to have a breakdown claim by claim, but a sufficient breakdown so that the board can see what went out. Chairperson Clark asked that this information be sent to the Trust Fund Board at least a week prior to the meeting date. Mr. Brown advised that a report can be created that should satisfy the needs of the board, and he and Ms. Shoemake will provide it a week in advance of the board meeting. Mr. Stern stated that if the two large payments that were made had shown up immediately, the board would have been made aware in a timely manner.

Mr. Jennings then addressed three graphs with information for the board. One was the Trust Fund balance as of yesterday which was $2,215,318. The second was the minimum confidence level which is 55% or $2,028,462 and is the lowest we can go at any one time. He advised however, that we are at $2.2M and the 70% confidence level is $2,332,731. Chairperson Clark stated that we are probably at about a 65% level of confidence and historically used to be at about a 90% confidence level. Mr. Jennings advised that we were at about a 90% confidence level a few years ago, and that we are above the minimum, but not by a lot. Ms. Goke stated that she understood wanting to build a very healthy fund balance but questioned why they would want to go to 90%.

Chairperson Clark advised that it is political motivation at this time to build up the fund balance, and that she does not expect the level to go up overnight, but that it should be our goal.

Mr. Jennings then presented the report that the Risk Manager had sent the City Council in the past. He advised that it was typically done between August and December of the calendar year and it was for the prior budget year so that the one they now have is for the last budget year 2012. He stated that an updated version was created and asked that the board review and advise of any changes before it is sent to the City Council. The board discussed the new version and expressed that it was a little confusing. A recommendation was then made through the discussions, and Chairperson Clark stated that the report should note that this is the City's Operating Budget which includes Enterprise Funds, and believes the Council will have a better understanding of what is presented.

Mr. Jennings then addressed the second page of the report which covers all the property and liability claims. He noted that, claim-wise, it was a very good year. The insurance costs also bottomed out, but these are most likely going to be going up. Chairperson Clark recommended that the chart would not need as much detail regarding how much was staffing, how much was insurance, how much was other. She noted that what the Council would want to see is that in 2007-2008 $2.3M was paid out and in 2011-2012 $1.8M was paid out. She suggested to present to the Council, graphically, the relationship year-to-year.

Mr. Jennings stated that he also identified the two past transfers that were done from Risk Management to Workers' Compensation totaling $1.2M that were done in this past financial year. Mr. Stern stated that he would make a point that it is important to see how much of it is paid out in insurance as opposed to how much is paid out in claims and expenses. He noted that he would just have the two; the insurance costs and the other – the claims and administrative costs. In this way, the Council would get an idea of how much of it is made up by an increase or decrease in insurance premiums.

Mr. Jennings moved to the next page of the report which he stated was essentially the same as for Workers' Compensation. He showed the staffing costs, insurance costs, and claims paid. Last year was a very bad year for claims when almost $1.6M was paid out and typically the average is about $1M. The first number is our Third Party Administrator (TPA) costs, which is our monthly fees that we pay them to administer our claims. There is also the Industrial Commission of Arizona (ICA) taxes which we pay quarterly. That amount is over $100,000. Chairperson Clark asked why we are paying a third-party administrator to administer our claims. Ms. McPherson answered that a third party administrator is needed to comply with the statutory required because we don't have a claims staff in the department to do that type of administrative work. Ms. McPherson stated that she oversees them as part of her duties as a Risk Analyst. She also advised that she makes sure the administrator is handling the claims in a timely manner, that there is insurance, and taxes paid when due. She manages the internal modified duty program to make sure she receives all the reports from the departments so that they can be submitted to the TPA on time. Mr. Jennings concluded by reiterating that we have a TPA that handles Workers' Compensation claims, and for everything else, auto, property, and liability, Ms. Shoemake adjusts the claims.

Mr. Jennings addressed the last page of the report noting that this report given to them was meant to be an executive level summary of the 20-page Annual Trust Fund Report produced back in May 2012. The page lists some of the accomplishments done in Risk Management. Mr. Stern asked how the six safety programs are broken down. Mr. Jennings stated that the Risk Management staff has created them over the past five years and there are about 12 or 13 safety programs, typically OSHA-compliance programs. He advised that they make a generic template that City departments can use and can tailor for their specific needs such as 'forklift', 'confined spaces', etc. Generic templates are needed because OSHA has many different requirements for different types of jobs.

Ms. Goke then stated that she felt the report had some good information but felt it should include the balance in the fund. She said it also did not give any information about the beginning balance of the fund, or what types of claims we are seeing. She noted that, obviously, it could not include details of the claims but she would like to see a bit more narrative. Chairperson Clark agreed and asked for that type of information to be incorporated in the report. Mr. Stern agreed that the fund balances at the end of the year would be of interest.

Chairperson Clark then requested that it be emphasized that the 55% actuarial confidence figure is perfectly acceptable in the industry as a standard, but that it is our intent to create a higher confidence level in the coming years. She suggested that a narrative be created to flesh out the purpose of an actuarial confidence figure. Mr. Jennings stated that will be done.

Commencement of Executive Session

Chairperson Clark, asked for a motion to recess the Open Session and to convene in Executive Session. Mr. Stern made a motion to recess the Open Session and Convene in Executive Session. Ms. Goke seconded the motion. The Board commenced Executive Session at 7:14 p.m.

Reconvened in Open Session

Chairperson Clark, asked for a motion to adjourn the Executive Session and to reconvene in Open Session. Mr. Stern made a motion to adjourn the Executive Session and to reconvene in Open Session. Ms. Goke seconded the motion. The Board adjourned Executive Session and reconvened in Open Session at 7:25 p.m.

Adjournment

Chairperson Clark asked for a motion to adjourn the Risk Management Trust Fund Board meeting. Ms. Goke made a motion to adjourn the Board meeting. Mr. Stern seconded the motion. The motion was carried and the meeting was adjourned at 7:26 p.m.

Submitted by:

Dianne Shoemake

Dianne Shoemake
Risk Manager