



# SHAKER HEIGHTS

**Administration Committee  
Tuesday, March 14, 2023  
8:00 A.M.  
Via Teleconference - Zoom**

Members Present: Earl Williams, Chairperson, Council Member  
Kim Bixenstine, Resident Member

Others Present: David Weiss, Mayor  
William Gruber, Law Director  
Ann McGuire, Communications and Marketing Director  
Sandra Middleton, Human Resources Director  
Frank Miozzi, Information Technology Director  
Laura Gundlach, McGowan Insurance

The meeting was called to order by Chairperson Earl Williams at 8:00 a.m.

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## **Approval of the February 14, 2023 Meeting Minutes**

Chair Williams asked if there were any changes or comments to the minutes of the February 14, 2023 meeting minutes.

It was moved by Member Kim Bixenstine that the minutes be approved as submitted.

Minutes of the February 14, 2023 meeting were approved as submitted.

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## **Property Casualty Insurance Renewal**

Laura Gundlach of McGowan Insurance, stated over the years whichever carrier that was used for insurance, covered the dams. However, the insurance environment has become unpredictable and Liberty, the City's incumbent carrier, indicated they had some issues with the dams. Ms. Gundlach, along with CAO Jeri Chaikin and Human Resources Director Sandra Middleton, met with others in the city to review improvements which were presented to the underwriters. Liberty did not want to insure the dams until they were 100% compliant with state regulations. McGowan requested quotes from insurance companies. Zurich offered a competitive quote and are willing to review the dams and we are waiting on another quote for Horseshoe Lake dam.

Chair Williams asked Ms. Gundlach about her background and how she relates to this issue. Ms. Gundlach responded she is an independent insurance agent that has been working with the City for the past 18-20 years, experienced with public entity insurance and nonprofit insurance. The agency covers a variety of insurance aspects. The marketplace has been erratic the past couple years with increases and higher deductibles. McGowan represents many carriers, but with public entities, there's just a handful of carriers that look at to ensure them.

### **CITY OF SHAKER HEIGHTS**

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Member Bixenstine stated the dams have been issue with respect to insurability and the City is always in a difficult situation obtaining insurance, often with a take it or leave it quote from one insurer. She asked for an update on where the City stands and how long the situation is expected to continue.

CAO Chaikin stated this renewal is the City's entire liability and property insurance, so the dams, which are not costly, are a big part of the insurance. There are also other issues that Director Middleton will discuss.

Human Resources Director Sandra Middleton reiterated this coverage embodies all of the City's insurance including automobile, general liability, SS liability, etc., with the exception of a few bonds. McGowan has been the City's broker for over 29 years and was most recently awarded the opportunity in 2018 when requests for quotes were accepted. The City will issue an RFP for an insurance broker later in 2023, when all insurance is shored up.

The City's insurance had been with Argonaut for 13 years and with Liberty Mutual for the past two years, about the time insurance shifted and the dams became a concern. Liberty Mutual, upon renewal for insurance, expressed concern about the dams. They submitted a quote, but it excluded coverage for all dams and the quote was not accepted. Travelers insurance expressed some interest and their risk manager spent some time in the City assessing policies, touring facilities, etc. However, they decided the dams were too risky and did not submit a quote.

Zurich submitted a quote, which is what we are presenting today. However, Zurich still has some concerns and they have been asked to reconsider. Their quote fully covers two dams and only covers liability and not dam failure for Horseshoe Lake. They were asked if a temporary or separate policy could be considered. They will reconsider and review the policy following the next inspection, scheduled for early spring, as indicated by the Department of Natural Resources. Hopefully, we will have something before April so we do not have a lapse in dam failure coverage for Horseshoe Lake.

Director Middleton was asked to clarify what dams are covered and she responded there is full coverage for Green and Lower Lake dams and only liability coverage for Horseshoe Lake in this proposal. Dam failure for Horseshoe Lake is excluded.

Member Bixenstine asked how long the City would be in a situation where the property and liability coverage for the entire City is really being held hostage to the situation. Director Middleton responded the City is hoping the next inspection will clear up information about the dams and Zurich will be willing to provide coverage. We could ask the public works director to speak at a later meeting although she indicates the dams are in a better position today than they were a year ago.

Mayor Weiss added Horseshoe Lake has been drained and an emergency spillway was put in to protect against large rain events. In the interim, the City is working with the sewer district. The process for renovating Horseshoe Lake is approximately four years, with the first year being design for which we are expecting recommendations from the sewer district this spring. Once the design is determined then it will be a year of detailed design and construction documentation followed by about two years of construction. The plan is to have the dam completely removed, so it will eventually be a non-issue. Technically the dam is still there, but the lake has been drained with an emergency spillway.

In response to a question from Member Bixenstine about being optimistic the upcoming inspection will result in some assurances on Zurich's part that things are relatively safe and they will insure the dam, Mayor Weiss responded he cannot be certain. From a safety standpoint, the dam and emergency spillway has been reviewed by staff, outside engineers, and the Ohio Department of Natural Resources. However, it could be

challenging for an insurance company to provide full coverage at this time. Looking on the horizon, I think the City will be out of the woods with the ultimately removal of the dam.

Member Bixenstine commented that the City is looking at a four year window of this situation to which Mayor Weiss replied, it is more likely closer to two years as once the dam comes out, there is no liquid and the rest of the work is renovation.

Chair Williams inquired if any spikes are anticipated in premium costs after one year and any problems are foreseen with maintaining the recommended carrier. Ms. Gundlach responded Zurich has worked with public entities for a long time. Standard increases were previously around 10%, but are more likely 25-35% currently. It is usually known in advance of the renewal the anticipated increase. This year deductibles changed and there were some increases, but overall Zurich has done a nice job.

Chair Williams also asked about shared liability with the City of Cleveland Heights and what extent Shaker's insurance coverage would be triggered and if Cleveland Heights would indemnify the Shaker Heights. Ms. Gundlach indicated Cleveland Heights is named as an additional insured on the policy with respect to the dams, but did not know of any current agreement between the cities, although years ago there may have a lease agreement. Law Director Gruber added the City has a lease for the lake and the park lands while Cleveland Heights has separate leases.

Mayor Weiss added the City has been in discussions with Cleveland Heights with respect to an overall cost sharing arrangement for the park as there was no agreement in prior years. As part of the renovation, Cleveland Heights has agreed to cost sharing. However, the Mayor did not know if they have mirror image of insurance, but the City would get the answer to that. The cost sharing agreement will cover all aspects of the joint relationship with respect to Horseshoe Lake including a percentage allocation between the cities. It is intended to be completed prior to undertaking the work on renovations and removal of the dam.

In response to a question regarding governmental immunity, Law Director Gruber stated we have governmental immunity in the operation of the park lands to the extent people are not charged to come. However, that does not mean there isn't potential liability, only immunity from day-to-day activities provided the City does not create any particular nuisance.

Member Bixenstine asked why Liberty Mutual would not offer a quote this year considering the lake has been drained and improvements were made to Green Lake dam and Lower Lake. Director Middleton stated they did submit a quote, but it excluded coverage of dams and was deemed unacceptable. Although the City provided abundant information, they want to see the information in an inspection report. They were relying on the previous inspection report and although they acknowledge what transpired since, they want to see a new inspection report. Both Zurich and Liberty Mutual indicated they would consider all coverage once the dams are inspected.

Member Bixenstine stated it would be helpful next year to schedule the inspections of the dams prior to insurance renewal since the insurers want to see inspection reports prior to quoting for the entire package including the dams. Director Middleton responded, although that would be ideal, the dams are not inspected every year. It is hoped the upcoming inspection would carry the City into next year along with more information on all that transpires following the inspection.

Mayor Weiss clarified work on Green Lake is complete as it had extensive repairs and replacement of the spillway so the upcoming report should reflect the changes. Lower Lake is subject to repairs and modifications, which the sewer district is undertaking and they are currently determining recommendations

for needed improvements. Therefore, there are three different scenarios for the lakes; repairs completed at Green Lake, improvements for Lower Lake and Horseshoe Lake will be gone, which makes things difficult. Director Middleton agreed indicating inspections should take place in March or April, but the report comes out later. Inspectors are willing to speak with the underwriters to provide inspection details prior to release of the report.

It was asked if a risk management sliding scale, with regard to premiums, would be developed as improvements occur since the risk would lessen. Ms. Gundlach reiterated that insurers want the actual report indicating the inspection is a hundred percent compliant. To add, the State does inspections every three years on their schedule, not necessarily how the City would like. Christian Maier, Assistant Public Works Director has been instrumental in getting the inspection done earlier in the spring rather than the schedule summer. He has pushed to get this done so the City can get other options available. The insurance company, especially Liberty, would rather exclude the dams until they're compliant.

In response to a question regarding reference to the dams in the exhibit, Director Middleton they are listed on the third page. The dams are almost like a rider because they are excluded and then added in. She added the quote from Zurich changed some of the increases, limits and deductibles. The auto liability increased to \$5,000, although it doesn't always apply as we have sovereign immunity. The City had zero with Liberty Mutual. The Zurich quote contains silo limits which were not included with Liberty Mutual and the City had to take additional excess liability insurance. The silo limits is a \$10 million assist liability for each line item, so \$10 million for general liability, public officials, liability employment practices, etc. So although the quote is an increase, it is not as significant as expected. A significant increase is seen the second year, but that is typical for the market.

Chair Williams asked if the quote reflected the Cleveland Heights as an additional insured, although essentially they are not responsible. Director Middleton responded the actual cost for coverage of the dams is very small, less than \$2,000. Increases seen are due to auto insurance, natural disaster losses, etc. So Council Williams, it's interesting. With insurance, the actual coverage or the price or the ticket price for the coverage of the dams is very small. It's the risk factor.

Member Bixenstine commented the City does not have other options right now. If Liberty Mutual will not insure until the dams are a hundred percent compliant, that may be a couple of years away based on the schedule for removing the dam at Horseshoe Lake and improvements to Lower Lake. The City is potentially at risk with Zurich and we're not sure Liberty Mutual will be more comfortable over the year. However, seems the City has done the best possible in this challenging situation.

Director Middleton added the premiums through Liberty Mutual include the dams. They understood all the work done, yet this year the dams are a problem even though the City had no claims for the dams. It is unpredictable whether Zurich would do the same for renewal.

Ms. Gundlach added there are challenges the industry faces each year whether it's wildfires or floods. Last year it was cyber and cyber rates when through the roof. Now everyone has dual authentication, so rates have calmed. Now we are seeing lawsuits that exceed the primary limits, driving up premiums. There is a whole conglomerate of different risk factors.

It was asked if there has been difficulty in a getting a consortium of other insurance companies and whether there is a need for a larger pool of participation in order get more palatable rates. Mr. Gundlach responded yes, but McGowan represents 4-5 strong carriers that offer coverages to public entities. The difficulty with

Shaker is the dams. The City is doing all the right things, it is the carrier's comfort level even though, say Travelers, invested a good deal of time with the City, in the end they were not comfortable.

Director Middleton stated that Ordinance 18-107 allows the contract with McGowan Insurance to renew without Council approval provided increases up to 10% are included in the budget. We are within that for 2023. We brought this to committee for your thoughts and wisdom and whether there is something we could be doing differently. There are a few questions to follow upon, but we are asking the Administration Committee to support a recommendation to accept the insurance quote from Zurich American for the policy period of April 1, 2023 to March 31, 2024.

Chair Williams asked for feedback from CAO Chaikin, Law Director Gruber and Mayor Weiss. CAO Chaikin stated it is in the ordinance and added a consultant was brought in a few years ago to evaluate how the City is procuring insurance and they recommended going out for broker request for proposals every five years, which we will be doing. This year a lot of time was spent with carriers, making sure the recommendations would work. Additionally, inspections are anticipated for completion in March so we can get the information to the carriers and be insured by April 1. At this point, the City is comfortable with the recommendation.

Mayor Weiss agreed with CAO Chaikin adding with respect to the dams, the sooner we get there, the better. The City is on the right track, it will just take some time. With regard to the carriers, the City is subject to market whims and these are challenging times.

Member Bixenstine stated City officials have done their due diligence and she recommends going forward with Zurich American and continue to do whatever it takes to move things along with the dams and possibly persuade Liberty Mutual to provide a competing quote next year.

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There being no further business, the meeting was adjourned at 8:40 a.m.

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Earl Williams, Council Member, Chair  
Administration Committee