

COMMITTEE ON HUMAN RESOURCES/INSURANCE

November 24, 1998
PM

6:15

Chairman Sysyn called the meeting to order.

The Clerk called the roll.

Present: Aldermen Sysyn, Klock, Pinard, Shea, O'Neil

Messrs.: Assistant Solicitor Arnold, Mark Hobson, Harry Ntapalis,
Howard Tawney

Chairman Sysyn addressed item 3 of the agenda:

Communication from Assistant Solicitor Arnold advising of receipt of a letter from BlueCross BlueShield inquiring whether or not the City wishes to participate in litigation against major tobacco companies to recoup health care costs.

Assistant Solicitor Arnold stated I think that the letter that is attached to the agenda is pretty much self-explanatory. We were approached by BlueCross Blue Shield of New Hampshire who is the administrator for the City's self-insured health plan that being BlueChoice; that this does not include the Matthew Thornton participants which is straightforward insurance. Essentially, they have informed us that they are participating with other health plans in bringing a suit to recover medical costs paid on behalf of smokers from the tobacco companies. They've advised us that what they plan to do is they will bear most/all the expense of the litigation which stands to be very substantial. In return, if there is a recovery they will deduct their cost from the recovery before they return anything that remains, if any, to the City. The basic exposure that the City has, I guess, basically is two-fold. First of all, if we participate in this litigation we're going to be foregoing the right to participate in any other litigation, at least on behalf of the administered plan so that if there was a recovery that was insubstantial/minor we would be stuck with that recovery or if there is no recovery we would have to deal with that also. The other consideration is there may be some cost to the City and I don't mean in terms of direct monetary costs. In this type of litigation there is

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probably going to be luminous discovery requests from the defendant tobacco companies...I would

anticipate discovery such as providing medical records for the people who are claiming damages on behalf of and it might take a lot of time and effort to produce those records which is an expense in terms of resources you have to put into it in terms of deciding what discovery you're going to provide and merely the clerical work of gathering that information together and sending it over to the defendant tobacco companies and I think, in summary that's pretty much what the City stands to lose and gain under participating in this offer to go after tobacco companies. In terms of the Committee's consideration, I guess what I'd want to say is that I don't think that the City is in a position resource wise to pursue this type of litigation on its own and then we're dealing with tobacco companies as you've probably read in the papers oftentimes before conducting some negotiations up to millions of dollars to a defense and I would anticipate that this type of case would be any different and we simply don't have the resources to enter that technical litigation and I would anticipate that this case wouldn't be any different, if the city were to go out and hire counsel to assist the office in that type of litigation, I guess we could examine that but that again would be a substantial expense if we went in that direction.

Alderman Shea asked is this separate from the State bringing in a suit.

Assistant Solicitor Arnold replied yes, but it is similar in that the States also sought recovery for the expenses they've paid out in terms of Medicare and Medicaid participation to smoking related health care claims. This is much the same, but it is separate because we're not seeking the recovery for Medicaid but we're seeking recovery for the expenses that the City has paid out to smoking.

Alderman Shea asked wouldn't there be some redundancy there if the same person had some type of problem medically speaking and the State is receiving some type of reimbursement.

Assistant Solicitor Arnold replied I guess in terms of an educated guess I don't think that would be substantial because the states basically sought recovery for Medicaid participants which as you know is a needs based program and I don't think there would be that many people that the City has paid out health care claims for that also fit into the needs based guidelines to get Medicaid.

Mr. Hobson commented one of the things that we would obviously have to deal with as Tom pointed out are requests for discovery. BlueCross does hold all of the medical records on the participants, so the information about any of us in terms of our history is in the hands of BlueCross now. There may be, of course, other requests that can come in or they may want to substantiate something. So, our office's take on this is that we will certainly do what the Board wishes, we should have our eyes open to the fact that this is going to take more effort than the part of City employees or City management.

Assistant Solicitor Arnold stated I think one point to make also at this juncture we don't even know at this point how much of a recovery theoretically the City's going to gain because what we have to do in the process of this litigation is go through and pull out those medical claims which were paid which are due to smoking related injuries and obviously we haven't done that yet, at this point, and that would probably be a lengthy and burdensome process, so just to be clear at this point I can't even quantify for you in the best case scenario presuming that we recover all of our costs what the City would get.

Alderman O'Neil asked did we miss a deadline.

Assistant Solicitor Arnold replied no, not at this point. The letter has a deadline, but we had spoken to BlueCross BlueShield.

Alderman O'Neil asked how come we didn't respond in a more timely fashion, his letter's dated July 28 and your letter is September 30.

Assistant Solicitor Arnold replied it took approximately the month in the interim to sit down and speak to Human Resources, send a letter around, but the City's response was we had spoken to BlueCross BlueShield and let them know that it would take some minor investigation and Board decision and they understood what our timeframe was.

Mr. Ntapalis stated one thing that occurs to me when you're working with medical records a lot of those are protected by confidentiality and that may also be an encumbrance that some people may not want to sign off if they've had pulmonary related problems, they may not want their records to be an open book, so that opens up a whole different can of worms that would expose the City, I believe.

Mr. Tawney stated this is cost that we as citizens of Manchester have incurred. They're saying they will bear the expense and take out anything out of the proceeds for the return. Our records and we have access...I don't think it is an issue of access to the records, they're going to take the data and utilize the data that we have these many illnesses type thing...cancers, heart ailments and so forth like that...I don't know how much money you're going to get out of the State for any money there, I've seen that the State will probably if they divvy any money from this half would have to go to counties because they have an agreement that any monies that come in in Medicare...25 cents on the dollar goes to the counties and 25 cents goes to the State, I don't see how you're going to get any money there because you have at least two people in line if the schools don't take it. Second, if you don't pursue it or if you're not going to be able to do it on your own I don't see a big liability there. We don't have very many medical records.

Alderman O'Neil stated you're saying go ahead because there's no cost to us; that cost is going to be incurred by BlueCross whether we're involved or not and if they're successful will take the portion relative to Manchester out of....

Mr. Tawney stated that is what I heard Mark Hobson say.

Mr. Hobson stated BlueCross...I'm a BlueChoice subscriber...everything about Mark Hobson is already in the BlueChoice system, believe me, they know everything there is to know about me. The work involved may be that they may come back to us...our Human Resources office and go through some of the issues that Harry is raising, some of the substantiation. Howard's point is that they're probably going to use demographic stuff, they're going to use percentages and impacts, etc. I really hate to say this...I'm just kind of wishy washy on this thing, I hope that the schools will get money from the State process, I think BlueCross is a very formidable foe, they're a good business partner with the City of Manchester and if people wanted us to do this work, we'll do it, but I guess ambivalent is not the right word to use but I think it's like a shot in the dark, we really don't know what side...

Alderman O'Neil stated there really isn't any cost to us for the shot in the dark.

Mr. Hobson stated what the Solicitor is saying is correct. There are soft costs and let's say...what you're saying is you can't double dip, is that correct.

Assistant Solicitor Arnold replied that's right. If we participate in litigation we are bound to the outcome.

Alderman Shea asked does that mean if we were to receive any money through the county or from the State to the schools that that money would be excluded from our receiving of this.

Assistant Solicitor Arnold replied I would tend to think not, at this point. As I say, the State is going after Medicaid payments for smoking related injuries. We're going after payments that were made directly by the City of Manchester through BlueCross BlueShield as our third party administrator on the BlueChoice plan.

Alderman O'Neil moved to participate in the litigation against major tobacco companies to recoup health care costs. Alderman Pinard duly seconded the motion. There being none opposed, the motion carried.

Chairman Sysyn addressed item 11 of the agenda next:

Communication from the Risk Manager updating the Committee on the following items:

- (a) disposition measures addressing the abandonment of hazardous materials on municipal property;
- (b) soft insurance market, bidding and the affect on annual insurance pro-rations for departments;
- (c) year 2000 planning and the emerging insurance market; and
- (d) brief update on the Safety Review Board's FY99 agenda.

Mr. Ntapolis stated one of the things we've run into most recently and I just wanted to make the Insurance and Human Resource Committee apprised of it is the disposition of hazardous materials in our community. We've seen not a massive rise, but we've seen a disturbing incident over the past few since the landfill closed primarily that you walk up one morning and you get a phone call that on one of our public properties someone left 55 gallon drums and we don't know what's in it or under a bridge and there's a cost involved there and the cost is pretty much on the proper identification, usually HazMat responds but they're the first to tell us that we're not authorized to transport, so even when they show up at the several sites during the course of a year and find anywhere from five or six or sometimes as many as 15 drums of unidentified materials then they have to try and figure out whose left it, obviously, there's no way to do it and unfortunately in a lot of the cases that we run into the Office of the Solicitor would certainly prosecute these cases, but it ultimately becomes a direct expense to the taxpayers

of Manchester because the self-insured fund has been paying for the appropriate disposition of the materials. Once the Fire Department looks at it and finds the toxicity or the volatility of the materials aren't something that are going to be harmful and mostly what we've come across is petroleum based products (i.e., spent oil, etc.) that have been put into containers and just discarded. They usually seal the area off with the yellow tape that everyone can readily identify, but then it becomes a real challenge as to who is going to get rid of it. In the old days, the Highway Department would come up with a truck and away they would go and the next best thing we've gone to at this juncture is working with the Department of Environmental Services (DES) who has on their bid list a group called Clean Harbors, they're a qualified licensed company that picks up, transports, and properly disposes of such, costly though. I think the last cleaning under the Notre Dame Bridge for disposing of about 14 barrels, but nonetheless they have to be discarded. Now, we've talked to Chief Kane and I know Tom Arnold's been involved also in the materials disposition on hazardous materials and we concluded it's probably an unfair practice to have the self-insured insurance fund responsible because it drives that loss history up. At budget time, it would probably have to become a separate line whether it's going to be with the HazMat or maybe a separate line item with the Risk Management budget to deal with materials that are left on public property and I must stress public property because we get individuals that are homeowners that wake up and say on our front lawn there's a couple of weird things here and we want Highway to come and get rid of it...Highway doesn't do it anymore neither does the Fire Department and they say now, good citizen, that is something you have to dispose of at your own expense. We're hoping it won't be a major run but it's found that a lot of people aren't as conscientious as we'd like them to be. Some may be businesses, we don't want to single out individuals and they may not want to pay the tariffs involved in disposal of crankshaft oil or disposing of other types of paint or solvents. Two times a year the City of Manchester promotes at the landfill area including your garage and bring your materials and we'll take it away...there's no cost to the homeowners and a lot of folks do take advantage of it according to the Fire Department statistics, but unfortunately other people may clean their basements or garages and may want to get rid of it over the weekend and unfortunately sometimes we become the proud recipient of having to deal with it and incur expense, so I just wanted to make you aware in case anything does come out in the paper relative to this.

Alderman O'Neil stated instead of budgeting money to react to problems why don't we take some of that money and be proactive and maybe expand the hazardous waste day to once-a-month and maybe some of this...I, myself have gone up there with paint and other things. There are citizens looking to do this

and maybe coordinate it with you or Joe Kane, but I think Frank is the one who heads this. Maybe the more often we do this, then we can get a better price per day from one of the environmental companies, but that would be my suggestion and moved to pursue once-a-month hazardous waste disposal.

Mr. Ntapalis stated DES is supposed to send us a representative who will give us some guidance on that also.

Alderman O'Neil moved that the Committee direct Mr. Ntapalis to come back to the Committee with a proposal pursuing the pros and cons of such a program. Alderman Klock duly seconded the motion. There being none opposed, the motion carried.

Mr. Ntapalis stated in reference to item 11(b) I just wanted to touch upon something I had covered the last time around noting the soft insurance market over the past several years has certainly helped the City of Manchester a great deal and our bidding approach even though the market is soft has been playing one broker against another broker to try and get the best possible coverages for the City on those instances where we commercially insure i.e., that is usually the property which is the fire insurance and extended coverage (transit, boiler/machinery coverage, etc.). Not a lot of the City's insurance is commercially insured right now but what we avail ourselves of a soft market condition and through the competitive bidding we've been able to decrease steadily through the last three years, our premiums. What that really translates and what I needed from the Committee is to know with the upcoming budget is that in many instances it helps the departments on those encumbered lines that you see for insurances of the various nature and that when we make prorations particularly with the departments that are the enterprise departments, their costs have steadily come down. In other words, if I bill them \$100,000 towards their prorated share of insurance in a particular year for Environmental Protection or the Water Works Department it's probably in three years been cut in half so the billings they're getting they're probably wondering if they're getting a more slipshod coverage, actually they're getting more comprehensive, broader coverage than ever before and they're paying less for it. So, we are availing ourselves of those types of things in the commercial market place. As you may have noticed, the last sheet I passed out to you the more current years and this is valued through the fiscal year 6/30/98 are basically showing you still on the self-insured end, particularly the Worker's Comp program which is very large what a fiscal year closeout would look like and the amount of payouts since 1977 and you'll see a lot of figures there a million, \$1.5 million...the last several year's you've probably been seeing an average of about \$750,000 paid out, so we've in essence cut in half the Worker's Comp payments...what used to

average in payrolls through the Worker's Comp Indemnity on any given week and the indemnity payments just mean that the person receiving comp receives on any particular week for benefit which is 60% of their gross...a couple years ago was averaging about \$18,000 a week. The payroll now would be more in line of \$8,000 a week and there's been a drastic reduction and even lump summing some of those that aren't returning to work...in essence we train the people, we try to secure jobs on the outside and try to secure placement...they usually terminate their work relationship with the City because if they're in that tough a shape with a Worker's Comp claim they generally cannot come back usually to their labor intense job and that's probably 99% of the cases. So, that's helped in reducing the overall indemnity and medical bills that you see above you. The one item I wanted to talk to you about the last meeting we had, we didn't have an opportunity and I know Mark and a lot of other representatives from different departments sit on the Y2K meetings that just simply means the Year 2000 preparing for whatever exposures the public entities such as ours might be facing with computer shutdowns, other types of exposures that could cripple a community or an organization public sector or private. Our concern obviously is to protect the City's interest from any kind of normal business interruptions. One of the things is the insurance market and how does that come into play. I don't know if some of you have had an opportunity to catch these things on TV periodically, fliers that come into our office saying buy this product or buy this other product and we'll take care of you, it's really not that simple and as Mark has mentioned and those of us who have been sitting in with Diane Prew and some of the other planners anticipating that we've done all that we can and what are the kinds of impacts that we might realize if things go sour and how do we prevent them which is really what this was all about. Insurance is one of the things that has entered the picture more recently. The two premier groups that offer a formidable product is the American International Group commonly known as AIG or Marsh McClellan. Both of those particular groups still are very expensive in the way of premium. With respect to item 11(d) Mr. Ntapalis stated it had been a bi-partisan collaborative initiative crediting labor, management, Board of Mayor and Aldermen, and the Safety Review Board, loss prevention, claims, legal and managed care officials for their cooperation. The Safety Review Board should meet to explore savings in the City's health care programs. The Board needs to address concerns for intersection signalmen for City projects to might be best suited to control traffic at various construction sights for statutory purposes as well as dealing with the union aspects.

Alderman O'Neil stated during his previous term in office as an Aldermen during the late 80's he had noticed how more economical the insurance programs have become as a result of the Safety Review Board.

Chairman Sysyn addressed item 4 of the agenda:

Vacation accrual exceptions for Randy Sherman and Joanne Shaffer requested by the Finance Officer.

On motion of Alderman Shea, duly seconded by Alderman Pinard, it was voted to approve the vacation accrual exceptions requested by the Finance Officer.

Alderman O'Neil asked would this issue now be resolved as a result of the implementation of the Yarger Decker plan.

Mr. Hobson replied this item has been on the Committee agenda since September 4th noting with the implementation of the plan this should not occur again in the future.

Chairman Sysyn addressed item 5 of the agenda:

Communication from the Health Officer seeking authorization to extend the work week of two sanitarians from 35 to 40 hours per week and requesting the establishment of a 14-hour per week public health specialist position through the EPA Child Health Champion Community Grant.

On motion of Alderman O'Neil, duly seconded by Alderman Shea, it was voted to approve the Health Officer's request as submitted.

Chairman Sysyn addressed item 6 of the agenda:

Communication from the Health Officer seeking to reclassify one part-time HIV Community Health Nurse position.

On motion of Alderman O'Neil, duly seconded by Alderman Shea, it was voted to approve the Health Officer's request as submitted.

Chairman Sysyn addressed item 7 of the agenda:

Communication from the Health Officer seeking approval to provide accounting support from the Health Department to complete OYS payroll and accounting requirements.

On motion of Alderman Shea, duly seconded by Alderman O'Neil, it was voted to approve the Health Officer's request as submitted.

Chairman Sysyn addressed item 8 of the agenda:

Request for medical leave of absence without pay for Susan Deschenes from November 17-December 5, Library.

On motion of Alderman Shea, duly seconded by Alderman Pinard, it was voted to approve the request for a medical leave of absence without pay for Susan Deschenes as submitted.

Chairman Sysyn addressed item 9 of the agenda:

Request for leave of absence (indefinite)for Violet Lamarine, School.

On motion of Alderman O'Neil , duly seconded by Alderman Shea, it was voted to approve the request for leave of absence for Violet Lamarine subject to review and approval of the Human Resources Director.

Chairman Sysyn addressed item 10 of the agenda:

Communication from Ron Johnson submitting revised By-Laws of the Non-Affiliated Employee's Sick Leave Bank for the Board's consideration.

Mr. Johnson briefed the Committee regarding revisions being requested as the last time revisions were made was in 1976. Over the past two years, members of the Bank have worked diligently in order to meet current FLSA requirements and changes in order to meet today's business standards.

The Committee asked Mr. Hobson if he was in support of the revisions as submitted.

Mr. Hobson indicated he was in agreement noting that it did coincide with the Yarger Decker plan.

On motion of Alderman O'Neil, duly seconded by Alderman Pinard, it was voted to recommend adoption of the revised By-Laws of the Non-Affiliated Employee's Sick Leave Bank as submitted.

Chairman Sysyn addressed item 12 of the agenda:

Reports from the Human Resources Director submitted for informational purpose:

- (a) termination report; and
- (b) vacancy report.

On motion of Alderman O'Neil, duly seconded by Alderman Klock, it was voted to receive and file the reports submitted by the Human Resources Director.

TABLED ITEM

On motion of Alderman Shea, duly seconded by Alderman Klock, it was voted to remove the following item from the table for discussion.

Communication from Alderman Hirschmann regarding a Sidewalk Action Team proposal.

(Tabled 1/20/98 pending report from the Public Works Director.)

After a brief discussion, on motion of Alderman Pinard, duly seconded by Alderman Klock, it was voted to receive and file the communication from Alderman Hirschmann.

NEW BUSINESS

Mr. Hobson stated there had been a department head meeting held at which time volumes of the Yarger Decker report were distributed noting he was distributing the smaller revisions which needed to be addressed since the presentation had been made to the Board.

Alderman O'Neil asked if it would be possible for the Human Resources Department to consolidate all of the information that has been received into a more condensed version which would incorporate all as the current paperwork was too voluminous and some of the information was not longer pertinent.

Mr. Hobson indicated if any Alderman wished to bring their information to his department his staff would take care of it.

There being no further business to come before the Committee, on motion of Alderman Pinard, duly seconded by Alderman Klock, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee