

# Council Study Session

September 19, 2022

|                    |   |                      |
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| <b>Agenda Item</b> | City Attorney's Report on City Council/City Manager Authority Respecting Park and Recreation  |                      |
| <b>From</b>        | Doug McGeary  | Acting City Attorney |
| <b>Contact</b>     | <a href="mailto:Doug.mcgeary@ashland.or.us">Doug.mcgeary@ashland.or.us</a> ; 541-552-3350   |                      |
| <b>Item Type</b>   | Requested by Council <input type="checkbox"/> Update <input type="checkbox"/> Request for Direction <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> |                      |

## **SUMMARY**

This item is a report to the City Council on an opinion from the Acting City Attorney. The opinion is in response to requests by the City Manager (see attached February 14, 2022, Memo) and the Parks and Recreation Director to determine what authority the City Manager has to direct management over employees delegated to the Parks and Recreation Director. This issue is complicated by the City's Charter and historical practices related to operations and management of the Parks and Recreation operations.

## **FISCAL IMPACTS**

The report is informational in nature and is not anticipated to have a direct fiscal impact.

The City has been informed by its insurance carrier, City/County Insurance Services (CIS), that the designation of two government bodies having oversight of City operations, the City Council and the Park Commission, requires the adding of a \$100,000 liability insurance deductible *per occurrence* for *employment related* claims to the City's property and casualty insurance policy. Previously, the insurance deductible was a total aggregate of \$125,000 a year for all City claims (see attached July 1, 2022, Memo on the Property and Casualty Insurance Premium Increase). This liability deductible change has been identified by CIS as necessary so long as Park and Recreation operations retains its autonomy from City oversight but is not an actual separate legal entity. CIS views this as an additional risk and liability for coverage. CIS must be prepared to defend both the City Council and the Park Commission with separate legal counsel related to Park and Recreation Department employment claims. This change raises the possibility of increased City cost for the added deductible obligation for each City employment related claim.

## **REFERENCES & ATTACHMENTS**

February 14, 2022, Memo from Joseph Lessard, City Manager, to Katrina Brown, City Attorney  
July 1, 2022, Memo from Sabrina Cotta on Property and Casualty Insurance Premium Increase



# Memo

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TO: Katrina Brown, City Attorney  
FROM: Joseph Lessard, City Manager  
DATE: February 14, 2022  
RE: City Manager's Responsibilities

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Being recently hired by the City of Ashland to fill the position of City Manager, I have been reviewing City documents to be sure I fully understand and can assume the responsibilities for which I was hired and will be held accountable. Since Article VIII-A City Manager, Section 4 uniquely specifies a list of functions that I "must" fulfill, your opinion on the extent of my responsibilities in reference to other provisions of the City Charter, as well as with pertinent City Ordinances, Memorandums of Understanding (MOUs) and City Council resolutions would be appreciated.

Your assistance in understanding the legal and practical application of a few specific document provisions would be most helpful at this point. Specifically, I am requesting your opinion, as City Attorney, to clarify the City Manager's oversight and management responsibilities under Article VIII-A City Manager, Section 4, items 4, 6 and 7 in relationship to the following:

- City Charter provisions
  - Article XIX - Park Commission (most notably Section 3)
  - Article XIX-A - Open Space Park Program (most notably Sections 1, 2 and 3)
  - Article XXII - Recreation Commission
- Ashland Municipal Code (AMC) provisions
  - Title 2, Chapter 16 Recreation Commission (most notably Section 2.16.040)
  - Title 2, Chapter 28 Administrative and Operating Departments (most notably Section 2.28.040)
  - Title 10, Chapter 28 Public Parks (most notably Section 10.68.030)
- The MOU between the Ashland City Council and Ashland Park and Recreation Commission, dated August 19, 2014

I believe the above specified document provisions need a legal review and clarification toward establishing a full understanding or definition of the role of the City Manager given its specified "must" responsibilities.

I hope your opinion can clarify the allocation of funding, employee supervision and property oversight responsibilities to the City Manager with a text coordinated understanding of the legal relationship between the referenced document provisions. I believe it is important to show in a transparent way, how their meaning should be understood given the incorporation of Article VIII-A into the City Charter. Your response to this request can help guide me in assuming my responsibilities to the City Council, the Ashland Park Commission, Ashland Recreation Commission, and the citizens of Ashland. Additionally, your advice on the best course to resolve any irreconcilable provisions would be helpful. I am available to help clarify this request as you may require.

# Memo

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**TO:** Mayor, City Council, Ashland Parks and Recreation Committee, City Manager  
Joe Lessard, Department Heads

**FROM:** Sabrina Cotta, Interim Finance Officer

**DATE:** July 1, 2022

**RE:** **Property and Casualty Insurance Premium Increase**

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This memo is to inform you of an increase to the City's insurance premiums as of July 1. This nearly 30% increase (2021-2022 premium of \$809,568, 2022-2023 premium of \$1,101,697) is due to a combination of the following:

- The number of liability claims occurring since 2016.
- The property schedule reflects a 10% increase due to increased valuation of City property.
- An additional high risk exposure charge for emergency shelter operations and liquor sales at the golf course.
- The transition from self-insurance for workman's compensation insurance to utilization of SAIF (this transition will see a decrease of spending in other areas to offset, as well as reduced risk and liability for the City).
- An increase in annual workers compensation payroll.

Other items of note:

- CIS is mandating an additional \$100k deductible per occurrence for each *employment related* claim.
  - This includes a \$125k aggregate deductible for claims that may be rescinded due to our high-risk classification in budget year 23-24.
  - The mandated additional deductible is due to the following:
    - Per CIS: the unusual nature of the Parks Department's autonomy from City oversight while not being a separate entity.
    - Past claims resulting in additional cost due to separate legal representation being needed, CIS views this as problematic for any future claims related to the Parks Department.
  - As long as Parks retains its autonomy from city oversight but is not an actual separate entity CIS will continue to view this as taking on additional risk and liability for coverage.