

Board of Control  
Thursday, April 12, 2018  
10:30AM

Members in Attendance: Patrick A. DeOrio, Director of Administration  
Laura Brown, Director of Finance  
Tim Fox, Director of Law

Also in Attendance: Pat Corcoran, Huntington Insurance Consultant.

Clerk: We are on record.

Patrick DeOrio: It is approximately 10:32 A.M., April 12th, 2018. We are in the Council Chambers of City Hall for a Board of Control meeting. We have one item on the agenda.

Item #1: Authorizing the Mayor of the City of North Canton through the Board of Control to enter into a contract for city's general insurance per Ord. No.94-17. I'll call the roll. Laura Brown?

Laura Brown: Here.

Patrick De Orio: Tim Fox?

Tim Fox: Here.

Patrick DeOrio: Patrick DeOrio is here. The Mayor is unavailable for this meeting. There is a groundbreaking going on at Price Park. At this time we'll start this meeting and talk about some things that we had talked about at the last meeting and pick up from there. We had received a number of emails from parties and I understand also that a representative from our current carrier is attempting to be here. They called and said they were stuck in traffic, and will be delayed. We indicated that we were starting at 10:30 A.M...

One of the questions that we had has to do with the Prior Acts Coverage. The discussion we had at the meeting before is that we feel, in the City's best interest, to be on an occurrence-based form and it's a matter of what is the best way to get there. One of the questions that we had concerning the Prior Acts Coverage is the actual coverage endorsement be sent to us so that we could review the language, the definitions, and we should note that in section three of the definition, "for purposes of this endorsement only the following is added: Claim, means a demand received by any member for damages including the institution of a suit against any member for such damages." That's a three-page endorsement and I think all members of the board had received that. As far as I was concerned, that seemed to satisfy some of the questions that we had about that. Mr. Corcoran, if you wouldn't mind just to explain to us, from your understanding, your point of view regarding the Prior Acts Coverage of what it is that you think that the Ohio Plan is offering as far as what you believe that entails as

covered under the Prior Acts. You had put together kind of a synopsis, and I read a lot of that into the record at the last meeting, but I wanted to give you the opportunity to speak if you'd like.

Pat Corcoran: The Prior Acts Coverage is the Ohio Plan. The Public Officials and Entity Coverage will have a retro date of 1/1/ 2003, all other lines 2015.

Patrick DeOrio: Okay. So with that, in the event that there would be a claim, presented to us during this period of April 15, 2015 to April 15, 2018, the Ohio Plan is providing coverage for that on all other lines going back to April 15th of 2015. Those other lines include the automobile coverage, general-

Pat Corcoran: That's under the general Law Enforcement Liability.

Patrick DeOrio: Law Enforcement Liability?

Pat Corcoran: Yes.

Patrick DeOrio: Other members, are there any comments at this point on that particular matter?

Laura Brown: I feel the questions that I had after the last meeting has been answered in the course of the last few days.

Patrick DeOrio: We have other guests here. Two of the other representatives, from each of the competing proposals that were submitted, at the last meeting were afforded an opportunity to speak, so we'd certainly like to include that. If you would like to address any other questions or concerns you will be able to do that. We'd ask you to come to the microphone, and state your name, which organization you're with, and then you'll be able to make remarks or address some issues. If the other person shows they'll certainly be given that opportunity as well.

Tom Wichert: Good morning. For the record, I'm Tom Wichert, Wichert Insurance. We are one of the proposers. Your interest seems like leaving the Public Entity Pool (PEP), which is a post-loss funded Pool. Mr. DeOrio, you had no ability to read what was actually submitted. But it's our understanding that the \$78,000 that would be paid for these, what's called Tail Coverage, from PEP. This morning I sent you all emails, if you have a chance to see them. You see that the Sanders' case has been refiled. You've not been served apparently it was filed a week ago today. The Sanders case was a law enforcement case filed in December of 2016. My daughter was here at the last meeting. We put a proposal together and when I looked at the loss claims, I started saying, "Now wait a minute. What do we have on the case that was filed in 2016, and then closed on the loss claims in August of 2017, after \$22,000.00 has been spent?" And of course that happens all the time in Federal Court for whatever reason. The suit was dropped for whatever reason. Of course we have no idea what the merit of that case is, I'm sure Mr. Fox does and that's all confidential. And it's like, "Okay, now, that case is filed in

Common Pleas Court and now that becomes your claim only leaving the PEP Pool." I don't know whether the Ohio Plan must pick that claim up. You take it with you, and I have a feeling you still are not understanding the nature of the PEP Pool which is not claims-made. It is occurrence. And it is an occurrence if you take the claims with you. I would say the firm would handle it to its fruition. I'm going to stop right at that, because that to me means you have one of two choices. You stay with the PEP Pool, which was my recommendation of Monday, rather than go to the Ohio Plan. Our two proposals are a couple of very good ones. You either pay the \$78,000.00 you let PEP handle any auto claims, or the resumption of the Sanders claim. And of course, whatever else happens to come along. Thank you.

Patrick DeOrio: Mr. Fox, in regard to the Sanders case, it's my understanding that case was dismissed-

Tim Fox: Correct.

Patrick DeOrio: It wasn't withdrawn. Or was it withdrawn?

Tim Fox: No, it actually was a voluntary dismissal and gives them the opportunity to-

Patrick DeOrio: Represent?

Tim Fox: Raise the claim so long as they do that within a year of that dismissal. This one's essentially the same type of claim, however instead of raising it in Federal Court although it's the nature of their claims are all constitutional violations 1983 claims, they've raised it in our Common Pleas Court. I imagine that what will occur is that the...

Patrick DeOrio: Hold that thought for a second. That lady out there might be the representative. I think she's maybe lost. I'm sorry Mr. Fox.

Tim Fox: In all likelihood the case will be removed to Federal Court and that the nature of all of the claims are of constitutional based and from following case, it appeared that from the discussions with the Court and the meetings, the hearings they had, the Plaintiff's claim, in all likelihood, was going to be dismissed by the Court and that appears why they voluntarily dismissed, to try to step back, take another look. I know the lead Plaintiff is in the Armed Forces, was deployed, and did not take advantage of the ability to make his self-available to appear. I imagine now he's returned and available and they have a different strategy for this case. Nevertheless it's still based on the same facts as the occurrences. My understanding is the amount, I believe at risk, is minimal, but nevertheless, it's uncertain. We don't know what exactly can occur. Indeed it was refiled and we did receive a copy and it is back with the same attorneys that did a tremendous job, Baker Dublikar and Mel Lute, Greg Beck and Professor Emeritus at the Akron University School of Law, Dean King.

Patrick DeOrio: Okay. The question to the representative of the Ohio Plan, if you wanted to come up and make any comments you could at this time, but the two

questions I'd have is to confirm regarding the automobile claim, and reading the Prior Acts Coverage endorsement, that is a coverage line that is included, under the Prior Acts Coverage. Just in reading through all the definitions it would seem to me that if a claim would still be open at this time. If I read the statute of ... well, I don't know if there's a minor involved in that or not-

Tim Fox: Indeed, there is. In the original claim there's a minor and so the ability for the minor to raise the claim is two years from the age that the minor would reach the age of majority, when she turns 18. She will have two years to file that claim. I imagine it's going to be dependent upon what occurs with the father. Perhaps that's why in this claim, the other difference is it's simply Mr. Sanders and the minor's claim was not included in the other procedural things. I don't know her age right now, but if she is of age, they may attempt to bring her in. Claims are all interrelated to the same event that occurred and courts like to have these things decided all at once. So that may be part of their strategy as well, to resolve that claim.

Patrick DeOrio: My question is do we feel this is something that would be covered under the Prior Acts Coverage endorsement? It's my belief that it is. Before I let the Ohio Plan speak I'd ask Mr. Corcoran, based on what we know here, do we think that that this is an applicable situation?

Pat Corcoran: They both meet the definition of her claim and or her suit. That is just my opinion on that. They meet the definition.

Patrick DeOrio: If you would like to come up and identify yourself, and be able to answer that question on the record then, for us.

Joel Bender: My name is Joel Bender-

Patrick DeOrio: Thank you.

Joel Bender: from Whitaker Myers Insurance Agency. We are the agency that did the present proposal on behalf of the Ohio Plan. Looking through the Prior Acts Coverage and if there's a known open claim or a known lawsuit, those particular suits would be exempted from going under the Prior Acts Coverage. So the instances that are known instances would be exempt. What the Prior Acts Coverage basically provides you is coverage where the unknown incident or unknown suit would in the future be presented to the City of North Canton for closure. As part of our proposal, we did provide an ex gratia in order to help the City at that point to take care of the open claims and known instances that the City may need taken care of. That is made available to the City through the Ohio Plan. In relation to that, we will have in whole legal expertise in automobile claims and we will certainly bring that to bear as the City needs, in any suits that may not immediately settle.

Patrick DeOrio: Okay. I'm getting a better and a different view. That's why I wanted to have it in this forum. If I understand you correctly, what you are saying is this coverage

endorsement provides, in the event that there is an unknown incident, at the time this policy goes into effect, those unknown incidences, should they present themselves, and they had occurred between April 15, 2015 and April 15, 2018, those unknown incidents would be covered.

Joel Bender: Correct.

Patrick DeOrio: Okay. Regarding the open incidents, which we know is the one automobile claim and we'll call it just the Sanders case for identification purposes. Since those are known, they are open incidences. You're saying that those would not be covered under the Prior Acts Coverage endorsement. But that the ex gratia fund, dollars would be available to address those instances not covered by the Prior Acts Coverage endorsement. And that would, could be used for defense purposes or claims purposes. The ex gratia fund I'm assuming doesn't have a lot of parameters as far as what it's used for, but it's intended to use for these claims that may not fit under the Prior Acts Coverage endorsement. Is that right?

Joel Bender: That's right.

Patrick DeOrio: We should let the record reflect that we have another guest that has arrived. We presume, as Doctor Livingstone would say, that you are from our current provider. Would you care to identify yourself at this time?

April Valenti: I'm April Valenti.

Patrick DeOrio: Come up to the microphone so the devices can record it properly. When we address you then we at least have a name of who we're talking to.

April Valenti: I'm April Valenti.

Patrick DeOrio: Okay. And you're here representing our current provider, which is-

April Valenti: Public Entities Pool.

Patrick DeOrio: Very good, thank you. Okay, so you know, one of the things that you missed at the beginning, as it relates, is if the City should desire to exit the Public Entities Pool. We've been provided a number regarding a premium that would be required if we were to purchase Tail Coverage through you.

April Valenti: Yes.

Patrick DeOrio: Okay. And that was somewhere in the neighborhood of \$78,000.00.

Male: Right.

Patrick DeOrio: May I ask you if you are able to answer. In regards to the Tail Coverage, what exactly does that cover? Is that covering just the known open cases or would it cover-

April Valenti: Absolutely not. That would also provide Prior Acts Coverage for anything that had happened. And so from the time that we covered you to the time that you left, that would reflect in the premium. And you haven't been with us for long enough to have a fund for long-term... look, if you've been with us over three years there is usually money in that fund, which then can go towards the premium Pool price.

Patrick DeOrio: If anybody has any questions as I'm formulating some, please jump in.

Tim Fox: Okay. The Prior Acts Coverage that's for unknown claims or, or-

April Valenti: Yes.

Tim Fox: Okay.

April Valenti: This is just to cover you too ... so that you aren't left handling the open claims. And that's...

Tim Fox: I need you to confirm that it does cover open claims such as the Sanders case.

April Valenti: Absolutely.

Tim Fox: Okay.

Patrick DeOrio: Would you be able to answer this question regarding our current coverage, not talking about a Tail Policy, but the current plan. How would you characterize the coverage form? Is it an occurrence-based form, or is it a claims-made based form?

April Valenti: It is specifically an occurrence-based form...In the claims that will be in place already for property of any kind of damage, those are continued until done. If you leave, that doesn't have anything to do with the Prior Acts. So-

Patrick DeOrio: Could you repeat that again, so I understand that?

April Valenti: If you have a claim and we're still working on that claim or if you had automobile accidents where collision damage was done to your vehicles and this is still in process, that doesn't stop if you leave. The Prior Acts can respond but with liability. And so then that's your general liability.

Patrick DeOrio: Okay. But when I think of the, let me rephrase this way. So it may be filed with the Insurance Commissioner, as an occurrence-based form, but should we

leave the policy, and not obtain Tail Coverage, that open automobile claim for liability purposes, there would be no coverage for that?

April Valenti: For liability. Exactly

Patrick DeOrio: To me, that isn't how I understand a true occurrence form to work, and if we were to switch to somebody, a group ... whether it's by one that's been presented, by Travelers or Select or some other insurance carrier as a true occurrence-based form, if that claim had occurred during that policy period, and even though we were to leave later, or cancel coverage later because the claim occurred during the policy period, the Insurance Company would be on that until resolution. Here that's not the case.

April Valenti: Yeah.

Patrick DeOrio: So-

April Valenti: You know, the policy, specifically your agreement, specifically states, that you would have to buy tail. But that is specifically the occurrence form, and the meaning of that is that as you renew each year, we have customers that have been there for 25, 30 years. So, it doesn't ... on a claims-made the aggregate number for that year is all that's available ongoing. A claim comes through that goes back to that policy year, then you may use that too on the insurance on a claims made, it doesn't aggregate so there wouldn't be coverage. On this occurrence form, you then get to report it later, two years later, and you have a full limits policy and I believe was the definition that I got when we asked that question from the Insurance Commissioner's office, is how you define an occurrence form specifically that you know, just goes on and on and on.

Patrick DeOrio: Yeah I'm not assessing or judging how it's all set up. I'm just looking at it from the terms of what I believe would be the best interests of the City. And given that a municipality moves through its history, there are different individuals that are in and out of the positions who are not experienced with an insurance background and may not have those differences presented to them and not even realize as a consumer that there is a difference, between a true occurrence-based form and a claims-made policy. It's my belief that, for the City, the best type of policy to be on is a true occurrence-based form. It provides us with a lot of ability and flexibility to change coverages down the road. And if we are in the position where we have a number of open liability claims, and at the present time I understand there to be one automobile liability, but if the City had five, six, seven or more automobile liability claims open, I'm not even sure how we could really address this situation properly, to be able to leave without, purchasing prior acts, Tail Coverage, through the current carrier. To me, as an administrator, and as a representative of the Board of Control, if I'm saying to city leaders that your ability to obtain quotes, in the future, to try to provide competitive coverage, is going to be diminished because of the claims, open claims that you may have, that presents a problem that I would recommend the City exit. So I'm all in favor of getting us to a true occurrence-based policy. It's a matter of whether or not we want to pay for a Tail Coverage with the current provider, as we're discussing the Prior Acts Coverage

endorsement that was being provided by the Ohio Plan. So now when we formulate this thought ... but Laura Brown, would you like to...

Laura Brown: I just wanted to get a clarification on something-

Patrick DeOrio: Sure.

Laura Brown: We talked about the auto claim, if we were to leave the current carrier and how there's kind of a split there on what's covered or what's not. What about the Sanders case that's open?

Patrick DeOrio: On the auto part, before she answers, my understanding is that if there's any property damage as a result of that automobile claim that would remain. The exposure would remain with the PEP claim but the liability is what we would be picking up. So now, as it relates to the Sanders case...

April Valenti: Right. It's just the liability on the sections. But as far as there being a problem, we provide quotes for our customer policies every year for our customers. And it isn't a problem because you're not switching every year. Had you been with us for three years, there would have been a premium accumulated as it's taken out in the first three years of the policy to pay for the Prior Acts. (Inaudible) so we are a full service agency.

Patrick DeOrio: I'm not disputing that your organization would provide quotes. What I'm asserting is that other insurance carriers, traditional insurance carriers, would not bother to even quote on it, because even if they were the lowest bid, they wouldn't be picking up the Prior Acts, and if the City is going to have to anticipate purchasing Tail Coverage at approximately \$78,000.00, many believe municipalities won't do that. Therefore they're captive to that carrier and that they're not going to make a switch, so why bother?

April Valenti: Standard insurance does provide Prior Acts. When I quote, anytime an employee cancels that policy, and sometimes they've been with us for 10-15 years and when I quote, I automatically quote Prior Acts and they do write it as claims made policy. Many of them are unlimited, just as the PEP Pool picks up somebody else to that date. It will either be claims made previously when you set that date-

Patrick DeOrio: In this particular instance we have a quote for Prior Acts Coverage where they've set a date because they believe the Prior Acts coverage that does not include open incidents. That might be unique to the Ohio Plan or maybe other Prior Acts Coverage written by other carriers. Is it the same situation where they're only picking up the unknown incidents? If they are that's fine, that there's standardized coverage for unknown incidents, but it's the open incidents that present the claims made policy that exists prior to..

April Valenti: Any insurance company adds a provision to buy out that open claim.



Patrick DeOrio: Right.

April Valenti: ...will make a provision to buy out that-

Patrick DeOrio: Right. But I don't believe that that was submitted to us in this process. Was anybody providing a quote to buy out all of those prior acts, unknown or know? Mr. Corcoran, was that correct?

Patrick DeOrio: Ms. Brown?

Laura Brown: Maybe I missed it, but I don't feel like I've still got an answer to my question on what happens in the Sanders case.

Pat Corcoran: And who's, who, (inaudible), in the PEP Pool?

Laura Brown: Correct. And if we leave that Pool-

Pat Corcoran: If you leave that Pool, it's a known suit claim, whatever the word is that you want to use-

Patrick DeOrio: Correct.

Pat Corcoran: So if you leave the PEP Pool, the Ohio Plan is not going to pick that up. Tom's not picking that up and neither is the other, so basically it's back to the City of North Canton with two open claims, the auto claim and the Sanders case. Now the fund the Ohio Plan sets aside, so that's, it's \$30,000.00 for that bottom plus an extra couple of thousand. So you're still on the hook for the two old claims. Now, business as usual, PEP Pool is going to go ahead and continue to do handle the insurance claims and pay those claims and-

Laura Brown: But if ... if we-

Pat Corcoran: If you leave.

Laura Brown: leave the PEP Pool, they cover property damage on the auto claim, nothing further, and nothing on the Sanders' claim, is that correct? That's what I'm trying to get to unless we purchase the Tail Coverage.

Pat Corcoran: Correct.

Laura Brown: That, that's what I'm trying to get to make sure...,

Male: Yes, you're saying it correct.

Patrick DeOrio: And did you have ... I saw you raise your hand, sir. We'll give you another opportunity.

Tom Wichert: This is Tom Wichert. Mr. DeOrio, as you said before, your desire is to make the program more honorable. April Valenti answered very properly that the PEP Pool is the occurrence program. The endorsement for the Ohio Plan is what shocked me on Monday. You made it clear that you want to be able to move, well, the endorsement that you buy from the Ohio Plan is a claims-made endorsement, which now marries you to the Ohio Plan for the number of years, the three years that you were in the PEP plan. That's why they made the pricing a little lower. Once you go with the PEP Pool endorsement, which I believe is what we sent you that are a claim you have to stay with it, this year, the next year, and so three years from now you say, "Mr. Wichert, would you like proposals again?" I'm going to say, "Well, you can't leave the Ohio Plan because you still have the three years with that endorsement." Patrick, I think that's what that endorsement says. In my reading of that endorsement, it says you have to stay. One other point, very technical but in your present program, again, The Ohio Department of Insurance has nothing to do with any regulation of Pool in Ohio. There is no regulation. The auditor's not involved, nobody's involved. That's why the burden is on you to determine the suitability of the reinsurance and financial stability. There are no viable forms, nothing like that. On the record you also mentioned, filing forms with the Insurance Commissioner, there's nothing further from the truth. I will also add, for the absolute record, and I keep hearing this from the PEP people, you have a Travelers proposal before you. We insure over 150 cities throughout the State of Ohio. We are the largest writer for Select and one of the largest for Travelers. We have never been able to get the Prior Acts. We're working on it, we're really working on it, in other words, that's why we were so interested in the work here, to try to get the Prior Acts and then when we look at those open cases and we simply say now the PEP Pool for those people after 2012, are giving back, very generously, even though it sounds expensive, \$78,000.00. That's the way out that we suggested, you go ahead and pay that, and then take one of our two programs which was \$900,000.00. Mr. Fox, it is totally inappropriate to talk about the Sanders case in this situation. At the same time Federal case, Federal law, regardless of the importance of the case, regardless of the merits. Buy the \$78,000.00 or stay with PEP. Buy the \$78,000.00.

Patrick DeOrio: Any other comments from the audience? Based on what I know, I'm going to give my recommendation, then we're going to discuss. The Prior Acts Coverage we could obtain through the Ohio Plan would cover unknown incidents. Regarding open, known incidents, there would not be coverage for that. At the moment we know of two such things. We have an open automobile liability claim and we have a law enforcement liability suit. As we've learned from the representative from the PEP Pool regarding exiting their plan, if that were to occur, that property damage in association with either of these two open incidences would be retained by them, but the liability, coverage would not. So that says to me, based on what we know, that should we leave the PEP Plan, we are on the hook for the liability as to those two, cases. One claim is an existing claim. One claim is a potential because it's in a suit form right now. Part of this with insurance is there's risk management. I'm uncomfortable with assuming

unknown risk, particularly as it relates to the Federal lawsuit. But also as it relates to the automobile policy in that a minor is involved and there could be additional claims down the road. So it would seem to me that, if we were to leave we would need to purchase the Tail Coverage.

Laura Brown: And we do not have \$78,000.00 budget to purchase said coverage. From a financial standpoint I think that we need to stay with them until the next renewal period, and then at that point we can either plan for that Tail Coverage, and/or it sounds to me like staying in the Pool longer gives us more balance with the Pool and then that Tail Coverage at that point would be less expensive.

Patrick DeOrio: If I understand it correctly and please interrupt me or correct me if I'm, if I'm wrong, but I believe the premium for the Tail Coverage, the formula putting that together is based upon some number, formula related to the open claims and what's there. If we have a lot of open claims, is that premium going to be significantly different or is it still just \$78,000.00? What's the basis of it?

April Valenti: A percentage of the liability premium.

Patrick DeOrio: So it's a percentage of the liability premium. So it doesn't have any bearing regarding the number of open claims there may be?

April: No.

Patrick DeOrio: Okay.

April: But the accumulative reserve fund as she said, but you haven't been there as long to be of use.

Laura Brown: Because it's a minimum of three years?

April Valenti: Well, it's accumulated the first three years so you don't see it coming out of your premium. But basically the first year, about 80% of the liability premium goes into that fund and then the next year it's down to 45% or 50% and then the third year, just 15% and then they don't put anymore in there, it just grows. It stays there.

Patrick DeOrio: Go ahead.

Man Speaking: I'm going to add clarification. If the decision is to stay in the Pool, obviously we're going to grow another years premium's paid in. It's just the percentage for that \$78,000.00 and the balance can come down?

April Valenti: It's based on the premiums when you're leaving. And so, it could be, yes, your premiums that you have in your budget can down say you (inaudible) a vehicles or something, and it could be less. Yes. I'd say it would be at the beginning of the forms that you signed originally to become part of the Pool.

Tom Wichert: If I could just, just interject. This is part of the savings that you had three years ago, because what April's saying is that your reserve fund, which you had not accumulated, you still haven't paid for the last year. So you haven't ... you should have a worksheet that shows what your contributions have been, which may have been when you bought the program three years ago, was approximately \$20,000.00- \$25,000.00, less annually, you still haven't paid for last year. You're only here in arrears, so yes, if you stay with PEP Pool, it will make it look like you are just shunting on down the line, but there's still no guarantee what next year's rates are going to be. What I've been saying, is, I understand the re-appropriation process and all that kind of stuff, but if you're committed to leave the PEP Pool, which I think you were, or are, still one of the best decisions is to go ahead and make that conversion. Finance if you wanted something like that, this city has enough funds to figure out some way to get in the right plan in the long run. That would be my idea. This is what's so important about my product, clearly you don't understand, that's why you're not giving any feedback.

Patrick DeOrio: Go right ahead sir, I didn't see you.

Joel Bender: I would come from a slightly different opinion than Tom Wichert has from that stand point. The longer you stay with the Public Entity Pool then at what point in time are you going to be clean enough to be able to leave? I would agree that you either need to have Prior Acts Coverage or the Tail Coverage provided by them, if you're worried about those claims that are out there. Or you need to find another mechanism that the Ohio Plan has stressed upon or fund for you. To continue to go down the rabbit hole with the Public Entity Pool you're putting off the inevitable. At some point you're going to have to leave. The longer you stay there, means you're not guaranteed you're not going to have any open claims and that Tail Coverage premium that they're going to charge you, who knows where that's going to go. The longer you're with them, the longer the their exposure You need to find a way out of that program, to me, not the most viable option for the City of North Canton. You yourself have said that an occurrence-based policy is what you recognize. It's only a good thing if something is accomplished by it. I think if the Ohio Plan did that could still continue to be an extremely viable option for you. In my case, in my opinion it's better than what Travelers and Selectors are offering you. It provides all the services, the risk management, and all those things that are extremely expensive. And also continues to be the best pricing on the table at this point. So for what it's worth, when are you going to have no claims? When are you going to be free and able to leave? I know there are two now, so are there funds available to you so that you can leave.

Patrick DeOrio: I certainly respect everything that's been said, and I have the utmost respect for all members of this group. It is an unfortunate situation that it's not something that was addressed a number of years ago. That goes back to my point of, there weren't people here to really understand what they were getting into. But I understand what it is that the City is into and I believe, in my professional opinion, having had a lot of years in this business, this is something that we need to exit and we may never get a better time.

Laura Brown: I just don't know procedurally how you do it at this point. If we had known this, a month ago even, that we needed the additional funds to exit, and then we could've gone to Council and gotten this appropriation, so at this point we don't have them. And knowing that the policy expires on Sunday, I don't see again, procedurally, how we have the time to make that right.

Patrick DeOrio: To the representatives of Whitaker Myers and, and the Wichert Group, how does that work from the insurance premium payment standpoint? One of you who have quotes at \$109,000.00 and somebody else has quotes of \$119,000.00. If we were to make that choice, is this something that's paid up, all at once? When the policy is...

Tom Wichert: You had two questions that you asked there, because I understand your appropriation issues and all that. Technically it's a problem for you to make a decision this morning without the appropriations I suspect. Again, the City of North Canton was a client of our insurance for more than 20 years. We will do whatever is necessary to get the, again, I think you said Travelers was the...

Patrick DeOrio: Travelers.

Tom Wichert: it doesn't matter, it is a budgetary issue. To string in the next year, we can put it on installments. That could be done with either Select or Traveler, if that needs done. I suspect the \$78,000.00 gets paid immediately to get the Tail Coverage. We can find coverage over the 15<sup>th</sup>, that's no problem and await your appropriation on that. My dad always taught me to never buy something without a purchase order for it, but sometimes we don't.

Laura Brown: Well, that may be okay on your end, but it's not okay on my end, to issue a purchase order without the appropriation.

Tom Wichert: What I was getting at is we will find coverage without a purchase order.

Laura Brown: And I understand that.

Pat Corcoran: Yes, the \$78,000.00 is an upfront...

Laura Brown: And I understand that too, but that doesn't help me today, to vote to enter into a contract if I don't have appropriations to cover that contract.

Patrick DeOrio: So I would assume that the premium payments we made to our current carrier were paid in full for the policy period?

Laura Brown: Yes, last March 4th up through this April.

Patrick DeOrio: And so we budgeted some amount, but what you're saying is we haven't budgeted enough for the full amount of the new premium plan with one of the

other groups, plus the Tail Coverage-Those two numbers, whatever those two are added together, is not presently budgeted.

Laura Brown: Correct, we have budgeted over and above what our premium was for the prior year, and what most of these bids were as well, but not significantly over that. I put together a level in case the bids came in higher but not to the tune of \$78,000.00.

Patrick DeOrio: Pat is it a three year policy period here, or what are we looking at?

Pat Corcoran: Each of them has an annual policy period. They are not guaranteed rate policies, they're just annual policies.

Patrick DeOrio: So they're subject to obviously renewal. Are we precluded from leaving?

Pat Corcoran: You're not precluded from leaving any of the groups-

Patrick DeOrio: That has quoted?

Pat Corcoran: Right.

Patrick DeOrio: Let's just assume that if we were to stay where we were for 12 months, and as we get into the budget cycle for next year, we were able to budget the appropriate amount we believe would cover the Tail Coverage, then the insurance premium. Would that be something that you'd be in a better position to support?

Laura Brown: Yes. We'd do it that this fall when we work on the budget for 2019. We can budget an annual premium of at least what we have this year, if not a little higher, then an additional amount for if we need to exit the program, and then next year at this time, we'd be in a position to make a change.

Patrick DeOrio: Pat, the last time that we bid this whole thing out was three years ago?

Pat Corcoran: Correct.

Patrick DeOrio: In 2015, were you involved with anything before that? What was the cycle?

Pat Corcoran: No. The decisions were based on the quotes that I did.

Patrick DeOrio: You don't know? Okay. When we do get these policies in are they on an annual term?

Pat Corcoran: Yes, and as you know, the property indemnity's was set for 2008 so I was looking at the (inaudible) you know, three years ago there must be some changes (inaudible).

Patrick DeOrio: Being involved in putting the bid packet together and getting it out, did you receive indications from other potential bidders, carriers that they were not going to participate this time, as a result-

Pat Corcoran: We did.

Patrick DeOrio: Because of the issues that we've been talking about?

Pat Corcoran: Yes.

Tom Wichert: I suggest you do an individual appropriation for the \$78,000.00 because it is an extraordinary type of fund; I sat in this room in 1985 before Council when the renewal on the general liability went from \$50,000.00 to \$250,000.00. And I remember I was so happy that \$250,000.00 could buy general liability insurance in this very room. And of course it was obviously well above the appropriation at the time. So again that's why I'm just saying this is a significant move and a time to do it, um, I would suggest the \$78,000.00 because it is outside of the norm, be done as a separate appropriation.

Patrick DeOrio: The Director of Finance knows the appropriation process better than anybody here and if there's a way around that I'm sure she would be able to offer that. The situation with us right now is continuing this policy with the current provider for a year. I would look to revisit and put it back out for bid in a year. That falls to me. Mr. Fox, if you have anything you'd like to add? St some point we're going to need a motion.

Joel Bender: Give this the go-ahead and take Prior Acts Coverage by the Ohio Plan. Get \$30,000.00, give or take a few dollars in there. And if you need additional monies, you're (inaudible) they said to me, they're willing to pay \$78,000.00 for that. You don't have to change any appropriations. Today, you may have to appropriate further money in the future if a claim or any outstanding claims go above and beyond what had anticipated filing as, but even if you did that, you'd have \$30,000.00 in your plan and whatever else you need to be able to purchase the Tail Coverage to be able to help pay for those claims around there. It gives you the best of both worlds and allows you to change now, the money's there to help pay for part of the claims, and if you need more later on, that money can be appropriated at a later point in time.

Patrick DeOrio: I do appreciate that, but in my mind, it's a risk management situation as well. To me, there seemingly isn't a middle ground. It's either buy the Tail Coverage, or stay where we're at for a year. Because I don't want to risk that we go to a Federal Court, we lose, and if we lose in Common Pleas Court, or whenever we lose, if that were to happen, and that's no reflection on our legal team's abilities, here or hired. But that if we get hit with something that's a quarter of a million dollar settlement claim, I cannot recommend that as an option in good conscience, having done this for so many years. It's either, we pony up, buy the coverage, and make it happen right now, or you're going to go this route a year from now. From what we understand with the Tail Coverage, it's going to buy coverage for the open, known incidents, regardless of what they are. And for liability purposes, and that the premium is formulaic, a multiplier times

the liability premium paid. That's what that premium is, so that's something that we could certainly incorporate into our budget for next year. I just think that's really the option.

Laura Brown: I would agree. I think it's too risky to not do one or the other the way that it is laid out.

Tim Fox: I agree, although it is, as was previously stated, as a political subdivision with so many various departments, fire, EMS, police, engineering, the acts of the elected and appointed officials, we always have a number of open or potential claims and to be at this point here with two, each of them speculative, we are in a good position, but if we haven't appropriated for that, we can't move forward.

Patrick DeOrio: Okay, so, what is somebody making a motion to do then?

Laura Brown: A motion to stay with the current carrier for a one year time period.

Patrick DeOrio: There's a motion on the floor from Laura Brown to renew coverage with the current carrier, which is the USI Insurance PEP Pool program. Is that correct?

Laura Brown: That's correct.

Tim Fox: Under one year coverage.

Laura Brown: Correct.

Tim Fox: I'll second.

Patrick DeOrio: So it's been moved by Laura Brown, seconded by Tim Fox, renewing the insurance for a period of a year, under the current carrier. Clerk roll call please.

Clerk: Patrick DeOrio?

Patrick DeOrio: Yes.

Clerk: Law Director Fox?

Tim Fox: Yes.

Clerk: Finance Director Ms. Brown?

Laura Brown: Yes.

Clerk: We have three yeses.



Patrick DeOrio: Thank you. So that has passed, that's the program we're going to go for. Mr. Corcoran, be prepared. There is a short window between now and next April, then we want to start getting this together again at the end of this calendar year to be ready to go getting some new quotes. I thank everyone here for attending. I really appreciate all the professional insight. I think it had made it much clearer as to what was needed in order for us to make a decision, so ... thank you all.

Patrick DeOrio: Motion to adjourn?

Tim Fox: Motion.

Laura Brown: Second.

Patrick DeOrio: Moved by Mr. Fox, seconded by member Brown. All those in favor, say aye.

Tim Fox: Aye.

Laura Brown: Aye.

Patrick DeOrio: Aye.

Patrick DeOrio: We are adjourned. Time is 11:38 A.M.

A handwritten signature in black ink, appearing to read 'P. DeOrio', written in a cursive style.

Patrick A. DeOrio  
Director of Administration