

***PLEASE NOTE: Since the Glendale City Council does not take formal action at the Workshops, Workshop minutes are not approved by the City Council.**



**GLENDALE CITY COUNCIL SPECIAL WORKSHOP SESSION
Council Chambers – Workshop Room
5850 West Glendale Avenue
November 5, 2012
9:30 a.m.**

PRESENT: Mayor Elaine M. Scruggs, Vice Mayor Steven E. Frate and Councilmembers Norma S. Alvarez, Joyce V. Clark, Yvonne J. Knaack, and Manuel D. Martinez,

ALSO PRESENT: Horatio Skeete, Acting City Manager; Jamsheed Mehta, Interim Assistant City Manager; Craig Tindall, City Attorney; and Pamela Hanna, City Clerk

1. 2012 AUDIT OF THE RISK MANAGEMENT TRUST FUND

PRESENTED BY: Horatio Skeete, Acting City Manager

Mayor Scruggs called the meeting to order. She commented she called this special meeting and she had never done it before and she had been questioned as to why she called this meeting. There have been a lot of questions regarding the city's trust funds and those questions have been going on and circulating and so forth for many months. Last week, she received a call from a newspaper reporter asking questions about how she felt about certain statements made in the auditor's report of the Risk Management Trust Fund. She had no idea what this person was talking about and hadn't seen any audit and she didn't know there was any audit going on. So, information was read to her from the summary which was very alarming on its surface and how it sounded, very, very alarming. She spent the next few hours trying to get a copy of the audit and actually the Clerk, Ms. Hanna, who had not been given the okay to release it, found out that there were questions coming from the media and so she released it to all the Council. The Mayor read it as additional information kept coming out regarding whether actions, activities and so forth, but she had already called the meeting just based on the audit. The reason why she did it is because the audit states a number of noncompliance and violation issues.

She continued violation as stated in one of the observations noted a violation of the Risk Management Trust Fund ordinance. Two observations noted noncompliance or violation of state law. One observation noted a noncompliance with the Industrial Commission of Arizona. Two observations noted noncompliance with city codes. Three observations noted noncompliance

with the city's procurement code. Two observations noted noncompliance with the City Manager's Directives and/or city policies.

Throughout the audit, it was pointed out that at all times the various trust fund board members, the board of trustees, the City Council and the City Attorney were not consulted as they were supposed to and that all this was done without any knowledge of any of those parties. It signals a reason for there to be full disclosure. Obviously, there's going to be media coverage of this issue and on the surface, it sounds really very, very terrible. She didn't know what the right word is beyond terrible. She thought that the city administration deserves the opportunity to offer an explanation. She thought the general public, the residents, were very concerned about this. She thought the employees are going to be very concerned because there is some reference to their benefits not being funded properly, workman's compensation not be funded property, and we need to know whether that's accurate or it's not accurate. She spoke with the City Manager this morning and she wanted to make sure that he has an opportunity to present management's, what management feels that they need to say in regards to this audit. She would like everybody here to be able to have an opportunity to address issues and ask questions and she would hope that this meeting will provide a fair presentation of all matters so that when people read about movement of funds and movements of monies among funds, and so forth, they can put all of this in perspective. She asked Mr. Skeete to begin.

Councilmember Martinez thanked the Mayor for her comments. He stated the city has eighteen boards and commissions including the Risk Management Trust Fund Board. He wanted to make it clear to the public that the Risk Management Trust Fund Board did not know about the activities that were taking place. Also, members of the Council and others did not know.

Councilmember Alvarez said they did not know this was happening, and this was discussed at the very beginning. She said she asked Mr. Tindall if the transfers were legal. Mr. Tindall said it was legal. Councilmember Alvarez was surprised when he said it was legal. She wanted no part of this.

Mayor Scruggs said she thought Mr. Skeete would address that to a certain degree, but she thought as the meeting proceeds, Council may find there are multiple parts of this issue and one part is noncompliance and violation issues, and she thought Council would discuss how things came to this point where an auditor could find this and that, and the bigger issue is the general fund budget cannot support the funds and that is the bottom line when Council is discussing this issue. Mr. Skeete apologized for not getting the council a copy of the audit at the beginning of last month. He explained he took it for granted they would have received it. He continued that he had received the audit in the middle of September and reviewed it and the initial response from the Risk Manager to the audit findings, and his commitments to remedy those findings. He said twenty-one findings in an audit are a little much and there were lapses along the way. When he asked the Risk Manager to convene a meeting of the Risk Management Trust Fund board to discuss the audit with them, he made the assumption the Council would receive a copy of the agenda packet from the Risk Manager and would receive a copy of the audit. He said he now knows that some of the agendas are not sent to the council on a regular basis. Mayor Scruggs agreed and clarified that Council receives Transportation, Library, Arts Commission, Parks &

Recreation, Disabilities, Council gets them all. Mr. Skeete stated he will make sure this does not happen in the future and has made the request that this should not happen again.

The audit pointed out a number of findings and they are in the process of developing an action plan to remedy the findings. The action plan will be documents, posted on the internet, and provided to the Council. This should correct the flow of information to the council and the general public.

Mr. Skeete next addressed observations one and two. He said the city was assessed a penalty for the retirement incentive in 2009 and the penalty was about \$3.2 million. Mayor Scruggs commented there was some question as to whether Human Resources was properly notified that there would be a penalty if they went ahead with the incentive package or buyout package. She stated she did some research into that and House Bill 2052 was passed in 2004 and that is when the issue of the penalty for underfunding or buying out went into place. So, there should have been full knowledge that predates Mr. Brown. She didn't know if Mr. Skeete was in his position then, or even with the city, but it's been on the books for over eight years. The Arizona State Retirement System sends a weekly email to designated Human Resources persons of all Arizona State Retirement System member agencies notifying them of all legislative action and just updating them, so she was concerned that there seemed to be some thought that somebody didn't give proper notification to Human Resources.

Mr. Skeete said Human Resources were aware of the penalty. When the discussion of the incentive package was brought up, Mr. Skeete brought it up to the management team for discussion that the fact the penalty existed and it would have to be addressed. He said no one can plead they did not know about this because it was discussed.

Vice Mayor Frate asked Mr. Skeete what his duties were at the time this was discussed. Mr. Skeete replied he was the Deputy City Manager over Internal Services, which included Budget, Finance, IT and some elements of HR. Mr. Skeete advised everyone should have known about this because the Intergovernmental Department provides a running detail of bills progressing through the House. Every corner of the organization is given an opportunity to discuss the bills and their impact on the respective departments. The Intergovernmental Department also provides a summary of the bills passed to all senior management. There was ample opportunity to know about the change in the law.

Councilmember Martinez asked Mr. Skeete if he was aware there would be a penalty and brought it to the leadership team, who made the final decision to do it anyway. Mr. Skeete said the final decision to proceed was made by the HR Director and the City Manager. Councilmember Martinez asked if it was a joint decision. Mr. Skeete did not know exactly how the decision was made, although he said it was ultimately the former City Manager's decision.

Mayor Scruggs asked when the Council was presented with the information of what the lump sum would be to offer this buyout to the fifty-five or however many employees there were and that was ultimately going to fix some of the budget problems, so Council was presented with a number that was built into the budget for, was that for FY10-11. Mr. Skeete advised it was for

FY09-10. Mayor Scruggs said FY09-10, okay. Was this penalty which Mr. Skeete advised Council was going to happen, was that built into the numbers that were presented and built into the numbers. Were those, amounts built into the budget that Council approved? Mr. Skeete said he did not recall if the penalty was known at the time and he would say that the actual amount of the penalty was not built in. Mayor Scruggs asked was anything built in, because she would assume that based on how many people were expected to take the buyout that would have told Council the city was going to save that many millions of dollars by doing this buyout or it's going to cost so much. So there was some number of employees that were expected to take the buyout and their salaries could be computed. The penalty was known because it was set into law in 2004, so how to figure the penalty was known. So, was there any attempt to put any amount, even if it wasn't the absolute accurate amount, was there any attempt to put any amount for the penalty into the budget, general fund? Was it shown under Risk Management Trust Fund, or, let's see that came out of Risk Management. Was it shown anywhere in the budget that Council was presented for approval? Mr. Skeete said to the best of his knowledge, no.

Mayor Scruggs verified Mr. Skeete thought it was the fiscal year 2009-10 budget. So, there was knowledge among many people that there would be a penalty, Mr. Skeete brought the issue up, others discussed it, but no guesstimate was even built in for that penalty into the budget. Mr. Skeete said the way the savings was calculated for the early retirement of fifty-five employees was calculated through the course of the fiscal year in the salaries saved and not any of the penalties. Mayor Scruggs asked did the penalty need to be paid in one lump sum. Mr. Skeete said yes. Mayor Scruggs said but it was not built in to the expenditure side of the budget for anyone to see, is that what he was saying? Mr. Skeete said yes.

Mayor Scruggs said so we can say that a lot of what Council was reading about now in this audit began in FY09-10 when this great idea of doing the buyouts was presented. Mr. Skeete said that was correct.

Vice Mayor Frate asked why, if everyone knew about the penalty didn't Mr. Skeete try to stop it. Mayor Scruggs asked does anyone know when Alma Carmicle was the Director or Deputy Director of HR, who did HR report to directly. Mr. Skeete, she added, if you don't remember, perhaps Mr. Brown does.

Mr. Skeete commented he wanted to correct one thing by saying he did not claim responsibility for the decision. He said as the City Manager today, every decision is ultimately his decision and he assumes that would have been the process when Mr. Beasley was the City Manager. Although participation is encouraged throughout all levels of the organization, the ultimate decision rests with the City Manager. Mr. Frate asked who presented it to the City Manager. Mr. Skeete said the presentation was made by Alma Carmicle and the Risk Manager. For a short time, approximately six to eight months, when Mr. Skeete was the Deputy City Manager, the HR Department reported to him. For the rest of the time, HR either reported to the Assistant City Manager or the City Manager.

Mayor Scruggs said in the time in which the six month period, the HR Director reported to you, was that the time she was working from home in Mississippi. Mr. Skeete said no. The Mayor said it was earlier. Mr. Skeete said it was somewhere in 2008 when HR reported to him.

Councilmember Knaack asked Mr. Skeete to explain the penalty to the Council. Mr. Skeete said he could give them the general tenets of the calculations and the rationale behind them. A penalty was assessed by the ASRS for incentivized early retirement because at the beginning of each fiscal year, the ASRS goes through a process of calculating how much the annual contribution should be in the normal attrition and retirement process. That is how they calculate the rate for each year. Any community that decides to actively increase the rate of retirements through incentive, those actions are assessed as additional liabilities that were not calculated because they were incentivized retirements, and a penalty is issued. Councilmember Knaack said so they city used incentives for early retirement to offset the budget, but due to the penalty, there was no gain for the city. Mr. Skeete said the benefit of these actions would not have shown in the city's budget for in excess of two years. He said they city did realize the benefit during that two year time frame. Councilmember Knaack said she felt that those long time, good employees got out while the getting was good.

Councilmember Alvarez said the Mayor and Council were only told certain things. She said the city spends the money whether they have it or not. She said the staff isn't to blame for any of this. She said as an employee, you do what you are told. She said people aren't going to believe them anyway.

Mayor Scruggs said well she was hoping that one of the things that comes out of this auditor's report is a change to all that, that the unfunded liabilities, which Council knows are in the millions, are laid on the table because they are not in the budget right now, so everybody knows what the city was facing.

Mr. Skeete said he wanted to discuss whether, how and when the Council was informed of the decisions that were made. For many years prior to his arrival and since, Mr. Skeete said that management and the Council developed a very precise process of communicating with each other in terms of what was provided to the Council and what was accepted by the Council as adequate information. The audit points out a number of issues and decisions that are violations of the ordinances. Transfers of money should be taken to the Risk Management Trust Fund Board and submitted to Council before these transfers are made. Mr. Skeete said prior to his arrival at the city, and since he has been here, management was given the freedom to make decisions during the course of the year and would bring those decisions to the City Council for approval or ratification at the end of the year in the form of the clean-up ordinance. The clean-up ordinance discussion held at the evening meetings have been extensive. He said approximately three meetings ago, approximately \$6 to \$8 million in transfers between accounts were discussed. He said this has been the accepted process for many years that was accepted by the Council. Mr. Skeete said the City Attorney just recently informed him that this process is unacceptable and should not continue. Mr. Skeete has made every effort since then to make sure such transfers no longer occur until approved by Council. He will continue to keep this process in place that all

transfers must be approved and occur by the end of the fiscal year, and can only be done during the last three months of the fiscal year, with the Council's approval.

Councilmember Alvarez said she doesn't agree with employees being paid to work for the city when they live in another state. She said she isn't pointing fingers, because the people who made these decisions are no longer with the city.

Councilmember Martinez commented regarding appropriation authority, questions were raised about the transfers. The Council was told this was just the authority; there was no money transfers between funds. Mr. Skeete said that was correct. Councilmember Martinez said when they were approving the transfers, they had no idea this was happening.

Mayor Scruggs commented she remembered it a little differently. She remembered Council being told that the actions had already taken place, not that Council was giving the authority for them to take place. That they had taken place, because as Mr. Skeete said the way it always was handled before was the management team, or whoever you want to say, the Directors, had the authority to actually move the money, reallocate the money where it was needed, taking it from where it wasn't needed, and all that was piled up together and brought to Council to give the appropriation authority because that's not what the budget had said. Council was after the fact and many times, six months after the fiscal year had closed. She continued it used to be these clean up things came pretty quickly, but they are going later and later. Council used to get them pretty quickly, but were always told what they were, that this project over here. They used to mainly be capital improvement, if she remembers correctly. So, this project over here cost more than the city thought, but this project over there cost less, so the city takes the money and moves the money over there and then they come to Council to do the appropriation because that's not the way it was in the budget originally. Council has been doing them the twenty-two years that the Mayor has been here. That's just the way it was, but now they are getting further and further apart and more and more stuff is being put in there. These aren't just capital improvement project monies; Council was not giving authority for them to do something. By the time Council sees it, it was done anywhere from six to eighteen months before.

Councilmember Clark said there were requests on the part of the Council for further detail, and they were not fulfilled. She said they did ask, and the requests went unanswered. She said the typical process has been too retroactively to approve fund transfers and from now on that will occur in the last three months of the year. She wanted to know why the overages were not returned to the general fund. She said this would be appropriate and then give Council the information as to why these funds need to be reappropriated and why.

Mayor Scruggs said mostly the money does not come from the general fund to begin with. Councilmember Clark said some of it does. The Mayor said it comes mostly from bond funds. Councilmember Clark said that money should go back into the appropriate bond fund and then the request should be made to reappropriate with backup information.

Mr. Skeete said the process Councilmember Clark just described is actually what happens. When an expense is less than the budgeted amount, the unexpended amount stays in that fund as

unappropriated. Then a request is made to move the money, within that fund, from one project to another. From an accountant standpoint, that is exactly what happens. Councilmember Clark said she recalled movement of monies between funds. She said what has been lacking is the amount of detail provided to the Council for movement of these funds. Mr. Skeete agreed with Councilmember Clark that what is missing is the detail.

Mr. Skeete said the common practice exercised over the years could be applied to audit findings one and two. Mr. Skeete provided additional information on finding two. Mr. Skeete explained the decision made during the 2010 budget process to take a premium holiday. He said the premium calculations for the funds was calculated and appropriated by departments throughout the organization. The amount of the premium, about \$1 million, was not sent to those funds, but rather kept in the general fund and other funds for purposes of completing a balanced budget. While the amounts were credited to the expense accounts, they were sent to the general fund as part of the process to balance the budget. Mayor Scruggs asked Mr. Skeete to repeat his comments because this gets to the crux of where the city goes from here and how the city should never have been in this position. Mr. Skeete said the premiums for the risk management and workers' compensation funds were calculated and assessed to the departments, but because of decisions made by the Risk Manager at the time, the premiums were not sent and deposited in those funds but rather kept as part of the general fund to balance the budget.

Mayor Scruggs said okay and that gets us to this is a document and she believed Council had copies of what was requested by the Arizona Republic and released to them from August 13, 2009. If anybody still questions why she thought it was important that Council meet openly immediately, she was going to read this. This should never, ever be allowed. She won't say the names, but this was from the then Risk Manager to, and she won't say who it's to, but he reports that he had met that morning with two members of HR. It says as a preface, "ARS precludes taking monies out of the trusts for other purposes, however, public entities can circumvent this by diverting funding on the front end and not placing funds into the trust." To her, that's the very same thing as violating Arizona Revised Statutes. It says you can circumvent the law by diverting the funds ahead of time. Now, she was going to say everything she says, is, in her mind, tempered by the fact that she believes, just her own belief, the staff was under tremendous pressure to make that fund look whole, under tremendous pressure to make it look like the city could afford everything that was being done. This is just her feeling, perhaps it is not so. She thought that staff was trying their best. So, the Risk Manager goes on to say in the fiscal year 09/10, you may divert \$1 million of risk trust funding, and somebody wrote above premium holiday, to the benefits trust to recover the \$1 million taken above the \$1.6 million. So, in other words, \$2.6 million was taken. Only \$1.6 could be taken and still retain the competence level if she was reading this correctly, and that other money better get back there pretty soon. The Buck Actuarial Review, which is some company employed by HR, indicated the most that could be taken from the benefits trust is \$1.6 million in order to remain adequately funded. In the fiscal year 09/10, you may divert \$1 million of risk trust funding and \$1 million of workers' compensation trust funding for use in payment of ASRS penalty. Now we are back to the penalty that was talked about before. Based on FY08/09 actuarial studies, the risk and workers' compensation trust will still be funded soundly with \$3 million less in assets, and that kind of

goes to what Councilmember Alvarez said. We think it's always going to work out, so we do all these little things.

Mayor Scruggs said this all gets to the general fund that not that long ago, did not have enough money to do all the things that were presented to Council as doable. Council didn't make some decisions regarding the economic recession that other cities made because money was being moved around to make it look like everything was okay. But to have an employee of this city advice other staff how to circumvent the law is something that goes beyond, she thought, anything that she believed should be tolerated.

Councilmember Clark said the result of this audit has taught the city that it is time to fully fund these trust funds and they need to stand on their own. She said that was the direction given on October 4th to fully fund these trust funds. Part of the reason this all came about was that the Workers' Compensation Trust Fund was never adequately funded, so staff in previous years shored up this fund by diverting money from the Risk Management Trust Fund. Since that was the normal practice, it was easy to divert money into the Benefits Trust Fund. She also said they discovered there is no ordinance to guide the Benefits Trust Fund, and that was another direction given to staff to clean up with regard to the ordinances to all three trust funds.

Mayor Scruggs said she agreed with Councilmember Clark one hundred percent as to the root of all of this, but no more money could be built in to the general fund expenditures in order to fully fund them and still do all the other things that everybody wanted to do in the budget or not take actions. But, one of the directions that was given in the October 4th meeting that has given her a great deal of concern was for the staff person to go to Mr. Skeete and ask for a loan from the various enterprise funds and from the public safety tax fund and from the transportation tax fund to cover the need right now until the new premiums could be built in. She has a very serious problem with this action. First of all, she didn't think Mr. Skeete had the authority to even set out that way and she had talked to both the City Attorney and the City Manager about this, but that just compounds the problem. This is what it's all been about is taking from here and making it look like it's okay there. She said next is the enterprise fund show in the world could you justify fixing this with a loan from enterprise funds and public safety and transportation. She agrees, the premiums need to be raised, but they could have been raised in the first place and then the city probably wouldn't have had this problem, but to take loans out from other departments, which she didn't even know if it was legal to take from those. She didn't care which one of you addresses that, but that has her very concerned.

Mr. Skeete said he read the minutes and did see the suggestion to be considered. He never contemplated this as an acceptable solution. This problem is being addressed right now and once the full magnitude of the problem is identified, it will be addressed to the various departments. Since the general fund was the beneficiary of the premium holiday, it is the general fund's responsibility to address what is occurring in the other funds. Mr. Skeete said he intends to bring forward an action plan to correct this. He said up to three employees were funded for a number of years by the Risk Management Trust Fund without authority. He has received documentation from staff that says the funding of the various administrators of the fund in other communities is commonly included in that fund. Glendale's ordinance does not allow for that to happen.

Between the premium holiday given and the expenses diverted from the general fund to these funds, as soon as it is determined what the dollar amount is, he will present Council with a method to replenish these funds, because those amounts were moved without authority.

Councilmember Knaack said she finds it egregious that money was taken from different departments for a purpose and diverted to the general fund. Councilmember Knaack was on the Risk Management Trust Fund Board about nine or ten years ago and it was funded then. It is very upsetting to her.

Mayor Scruggs agreed it is upsetting and said that is why we need to talk about it openly because, otherwise, it is unimaginable how some of the other, the employees and the citizens feel and they are just going to read snippets in the media and that is why Council has to talk about this openly. Council has to talk about the future. She agreed with everything Councilmember Knaack said. But, the Risk Management Trust Fund was funded in the past because it, because the budget was developed honestly, showing all the expenses. The city hadn't spent more than it made the previous year. She clarified that was her opinion. Now the city doesn't have the funding, no room in the budgets to come up with it. She asked Mr. Skeete what he believed the general fund balance was then, to the best of his knowledge, not having a daily report.

Mr. Skeete said it was probably less than zero. When the loans are accounted for the loans for the NHL payments, the fund balance will probably be negative. He was not sure as to the extent of how negative the fund balance is probably be in the vicinity of \$20 to \$25 million.

Mayor Scruggs said negative balance, and then you extend that forward through the five year budget which Council was supposed to have and there are other things that stand out that haven't been accounted for and those have to do with the projected increases or anticipated increases in funding of the various pension funds and she recalled asking Mr. Skeete for that before and was told, well he didn't know what it is yet, but it's in the millions of dollars. The costs to put on the Super Bowl are extra costs for the Super Bowl. It is coming very, very soon and if the tax is taken, seven tenths of a cent, and then we have this. The city has to fund this. By law, the city has to fund this and it has to come out of the general fund. Well, everyone needs to wake up and think about what was being done. She recalls telling Mr. Skeete this morning that she appreciated the fact that he wants to bring all the issues to the City Council with recommendations for how to solve them. That's what he is trying to do for the city so that any problems just don't get put onto their lap, but also solutions. However, doing that takes time and, in the meantime, Council can make decisions here that seem like good decisions, but they are not good decisions because the full extent of the problem is not known, so, therefore, the problem just gets added to. Anyway, she agrees with Councilmember Knaack.

Councilmember Martinez asked when this would be ready for Council review.

Mayor Scruggs said oh I don't know, he has so much work in front of him, he can put those all, he said by the end of the year. We can't wait until the end of the year.

Councilmember Martinez said that is what he was trying to get at what kind of timetable Mr. Skeete could give the Council.

Mr. Skeete said he expects to have a workshop with the action plan for this audit and the solutions by the workshop in December, no later than the first workshop in December.

Mayor Scruggs said I think we only have one, don't we, in December. She said, that's the other thing, there are no meetings in December, but you know, the new Council members and the comment was made at one of the October 4th meetings, well the new councilmembers will come in and they won't have a clue what's going on. So, she didn't know if that means you can't do anything because they won't have a clue or you can't do anything because they won't understand. She didn't know what, but kicking this can down the street is not such a good idea.

Mayor Scruggs said we don't have any meetings scheduled. Councilmember Martinez suggested that the Mayor could call a special meeting.

Mayor Scruggs said she just found that out last week, thank you, Mr. Tindall. Evidently, she can. Okay, where were we.

Mr. Skeete said the other big dollar item listed in observations in the audit is the \$2.3 million expended associated with the lawsuit with the airport. That was initially charged to the Risk Management Trust Fund because of the way we handle claims against the city. However, once they got the claims and filed it with the insurance carrier, that claim was denied by the insurance carrier. That has since been moved and placed appropriately in the general fund. This is a process that is typical and probably will happen again from time to time. These types of claims are typically covered by the Risk Management Trust Fund, however, once we are told it is not covered, then the expenses have to be moved out of the trust fund.

Mr. Skeete said the other findings are evidence of misstep and lax enforcement in procedures. Those are easily fixed and will be in the action plan that will be presented to council. There are also some ordinance amendments that will need to be presented, however, these need to be studied and will be addressed during the course of the upcoming year.

Mayor Scruggs said she would like to talk about was more of in the administrative side versus policy, but is very curious. It's observation 11. Observation 11 reads the scope of the agreement for insurance broker services does not include five of the six types of insurance currently purchased by the city and the term of the agreement is inconsistent with the request for proposal. There's a whole bunch of stuff wrong in here, but she will start with is it normal to pay the broker twenty-five percent of the cost. Ok, so the city entered into a contract for professional insurance broker services and property insurance for an annual amount of \$219,248 of which \$55,000 was broker services, and then, it appears we've paid this same broker more money for five other types of insurance that were not even included in the scope of the contract and evidentially did not go through the normal processes, City Attorney's Office or anybody. Is that a usual and customary charge?

Mr. Skeete said he could not speak to the rate of the brokerage fees. He said procurement of five other types of insurance was clear violations of the procurement code and those have to be addressed.

Mayor Scruggs said and the auditor said the agreement does not specifically state that the broker cannot receive a contingent commission from the carrier, so the same person may be getting more commission besides what they are getting from us, which she couldn't even imagine why we can't. Well, she guessed we have enough staffing to do things. Then, the whole business about its approved for one year, but actually they are going on for multiple years and there was another one also, okay, we will just stay with that one for now. This is a big problem, she hoped he was going to address this very quickly. Another one that was a very big problem and certainly gives the impression of something being done maybe to benefit somebody has to do with the one where the contracts for repairs, commercial and residential repairs were all done on a per occurrence basis, all under \$50,000, which, of course, avoids any kind of formal approval and just goes under the City Manager's approval. But, there were multiple ones that amount to quite a bit of money, but they were handled individually Number 6, okay, risk management agreements for residential and commercial claims and repair services did not go to the City Council for approval and controls over the administration of the agreement need to be strengthened. So, they enter into separate agreements and each one stays under \$50,000, figured by project, not by how much money they are going to make through all of these. It says the term of the agreement was one year with an option to extend the agreement for an additional four years in one year increments, but that's not how it's being interpreted. Evidently, this one, number 6, she finds a lot of problems with, including insurance certificates on file had expired. She doesn't even know how in the world something like this can be allowed to go on. There's something in here that says that it was one year with an option to extend the agreement for four years, but of course, it never comes to us in an administrative area that's very concerning, very concerning. The Risk Manager didn't have the proper licenses.

Vice Mayor Frate wanted to thank the City Auditor, but wished they could have gotten the audit sooner.

Mayor Scruggs said she agreed with Vice Mayor Frate, and there's a lot of banter back and forth as to who kept the auditor from doing her job in the first place. You might recall, she actually brought this matter to City Council in executive session in June and she was pretty much told to pound sand. This has been around for a while and there is a lot of finger pointing going on, but she appreciated Ms. MacLeod's excellent work. She's extraordinarily thorough.

Councilmembers Frate and Knaack said Ms. MacLeod does her job. The Mayor agreed and said she just goes right to the business at hand is what it's about. She appreciates that and appreciate that we are having more audits. She hasn't read them all, but they are on the website along with some notice of noncompliance with the water law and all kinds of things are up there.

Mr. Skeete said in addition to the audit, they are subject to a number of other regulatory reviews, including one that was done by OSHA a few weeks ago, which resulted in the city being fined for violation of a process in the Utilities Department. Mr. Skeete continues with his promise that

this information will continue to be made public and requiring the department to provide an action plan to remedy the situation, posting the action plan and following up to make sure those corrective actions are taken. There will be accountability for these issues. Mr. Skeete advised there was another issue from the internal audit, which should be done soon, to review the contracts for the John Q. Hammond Hotel Convention Center. Mr. Skeete received this last week and intends to meet with the City Auditor to set up a process that will be made available and posted.

Mayor Scruggs said Ms. MacLeod provides an extraordinarily valuable service to the city. Interestingly, she checked our City Charter because there has been some correspondence in the past about her title and what it should include and who she should report to. She believes that she always reported directly to the City Manager.

Mr. Skeete said it has been the City Manager and/or the Assistant City Manager.

Mayor Scruggs said it was interesting, she thought it was a City Charter position, but she did not find it anywhere in the Charter. But, she provides an extremely valuable service to us and she was happy to see her looking into these things. She was very disappointed that she won't be here to see the results of the Hammonds audit. She'd been asking that that be looked into for about two or three years because she didn't believe that we ever, gave approval to enter into an agreement. She did not believe we ever received anything at the council that showed her that we were going to build an expo hall and a very expensive cable TV studio and numerous other things, but she will be looking forward to what she comes up with. She's going to summarize what Council thinks they are taking away from this, but first, she wanted all the councilmembers to speak if they have any additional questions or anything to take away.

Councilmember Martinez said on observation 17, which has to do with procurement card statements. Improper documentation was found on several receipts and others were not signed. He asked how many procurement cards the city had throughout the organization and were they being used and documented correctly.

Mr. Skeete said he would hesitate to guess how many cards there were in the organization. He said Ms. MacLeod routinely checks procurement cards and checks throughout the organization. Mr. Skeete said the city has significantly reduced the number of cards utilized in the organization.

Councilmember Martinez said he would be interested in knowing how many procurement cards are being used and Mr. Skeete said he would get that information to him.

Councilmember Knaack said the Council office has to account for every penny and sign for it with every use of their procurement card. This whole thing has been very upsetting. She thinks we have a wonderful staff, but the city has gotten away from good business practices. She didn't want to place blame, but wanted to look forward and these things will be rectified. It's the best thing for the staff. She thanked Ms. MacLeod for her work. She said this Council and the future Council will be more on top of things. The Council wants more authority to approve things,

which they have not had and they have been kept in the dark. She said the city will get on the right track. She also wanted to thank everyone in the city for everything they do.

Councilmember Clark echoed the comments of Councilmember Knaack. She wanted to reiterate what Councilmember Martinez said which was about knowledge, who knew what and when. The Risk Management Trust Fund and Workers' Compensation Fund did not know and were not informed of the things that occurred. These board members volunteer their time and people have a bad impression of their leadership because of all that has occurred. The Board feels tremendously empowered as a result of this situation being brought to light. They are prepared to do what is necessary to take corrective action. Councilmember Clark also supports the idea of a forensic audit. She thinks it would be a good idea to make sure there are no other similar situations going on in the City.

Councilmember Alvarez recommends that staff like the judge and the clerk worked directly under the City Manager, so they could all be part of the management team. She thinks this would eliminate a lot of problems. She thinks the Council only needs to speak to one person. She thinks this should be put in the Charter.

Mayor Scruggs said where we are at this point, Mr. Skeete has made a lot of promises to us as to how things are going to be rectified, those that can be rectified, and she believed he has followed through on all the other promises he's made in terms of transparency and so forth. The biggest problem is funding, that he can't magically make it happen and so this is something that we need more information on as soon as possible, as to what our situation is. Mayor Scruggs asked (a person in the audience) are you Mr. Jennings? Okay. To the staff, when she read the transcripts, and she was only able to get through two, not the third one, not the Trust Fund October 4th, but the other two, what came off the pages to her was you and others just trying your darndest to keep everything whole, to keep everything in place, to fund according to the legal requirements and to do whatever needed to be done to serve this organization. When she first heard observation one and two when the reporter read it to her over the phone, that's not the impression she got. The impression she got was that there was something that had been done that, well anyway. What came through to her was that Risk Management, Human Resources just has been struggling to deal with this, the new people in Risk Management and Human Resources, to deal with the problems left for them on their doorstep by previous members of the staff. It is my impression, okay, it's not written there, just my impression, and they were trying to follow what they thought were the normal order of business, how things got taken care of. So, she could feel your pain coming through there.

Mayor Scruggs said to the Risk Management Trust Fund Board and the Workers' Compensation Trust Fund Board, well Mr. Stern called her up and took her to task early Saturday morning as to why she didn't call and tell him that there was going to be this newspaper article and she took him to task and said you know this has been raining down on her since she got a call Wednesday morning, and it's just more and more and more stuff. To tell you the truth, she didn't know until almost seven o'clock Thursday night when Mr. Skeete told her at the Best of the West event, that there had been a meeting of the two boards of trustees. She didn't know that happened October 4th. So, she guessed she was kind of perturbed that he was perturbed that she didn't call him

when she felt that she had been kept in the dark too. Then these transcripts came out, so it all just kept building and building and building. It is very much like our lives around here for the last three or four years. Council finds out about this stuff when the dam breaks open and all the water is rushing over us and she hoped going forward that the Council, is not going to take any of this nonsense and lack of answers. How many questions she had been asking? How much, she could give you emails. How much have we been demanding to know? It's not that we didn't ask or didn't demand to know. We just were stonewalled. So, she was glad that's not going to happen in the future for all of you. She thinks that's really great, but she thinks we all need some information right now. Council is going into executive session and this is posted to be discussed further in executive session and there may be additional information and we may need to hear from our City Attorney on some of these matters and so this is not ending right here, but she believed what the City Manager heard is somehow he has to fund those funds, which he already decided had to be done. It has to be paid out of the general fund, and it's not taking money from other funds to cover this and that the full magnitude of the whole thing needs to be brought forward. Council appreciates the work of the Auditor. We appreciate the work of the staff. Like she said, your discomfort, you collectively, your discomfort just came right off the pages in the words of the transcript to her. She was sorry that you've had to go through that.

Councilmember Martinez echoed statements made in support of the staff. He looked at the copy of the audit emailed to him. He also felt sick to his stomach. He has never experienced anything quite like this. He thanked the staff for everything they continue to do. He said it was clear it wasn't something the staff dreamed up; it was something they were asked to do.

Mayor Scruggs said Mr. Skeete, is there anything you want to add, and she didn't ask, but Mr. Tindall if there's anything you want to add, or if you would prefer to hold your thoughts or would you like to add anything. Mr. Tindall did not add anything.

Mayor Scruggs said thank you all for making yourselves available on such short notice. This meeting is adjourned and we will reconvene in executive session.

ADJOURNMENT

The meeting was adjourned at 11:25 a.m.