



MAYOR & COUNCIL COMMUNICATION

DATE: 12/07/2010

Consent

ITEM #: 4

MOTION as part of the *Consent Agenda*

AGENDA ITEM: Approve Liability Coverage and Monetary Tort Liability Waiver

SUBMITTED BY: Tom Bouthilet, Finance Director

THROUGH: Bruce Messelt, City Administrator

REVIEWED BY: Joe Rigdon, KDV
Dave Snyder, City Attorney

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to approve the Liability Coverage Waiver Form, stating the City does not waive the monetary limits on municipal tort liability. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

BACK GROUND INFORMATION: The City of Lake Elmo obtains liability coverage through The League of Minnesota Cities Insurance Trust for buildings and vehicles. The coverage also includes tort liability. Because of this coverage, the City must decide whether or not to waive the monetary limits on municipal tort liability, as established by Minnesota Statutes §466.04.

STAFF REPORT: If the City **does not waive the statutory tort limits**, an individual claimant would be able to recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits would apply regardless of whether or not the City purchases the optional excess liability coverage.

If the City **waives the statutory tort limits**, and does not purchase excess liability coverage, a single claimant could potentially recover up to \$1,500,000 on a single occurrence. The total which all claimants would be able to recover for a single occurrence to which the statutory limits apply would also be limited to \$1,500,000, regardless of the number of claimants.

If the City **waives the statutory tort limits** and purchases excess liability coverage, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total which all claimants would be able to recover for a single occurrence to which the statutory tort

limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.

RECOMMENDATION: Based upon the above background information and staff report, it is respectfully recommended that the City Council approve as part of tonight's *Consent Agenda* the liability coverage-waiver form, stating that the City-does not waive the monetary limits on municipal tort liability as established under Minnesota Statutes 466.04.

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda and further discuss and deliberate prior to taking action. While tabling this item is not recommended (at least not beyond the planned December 14th meeting), the Council may elect to amend the recommended motion to one of the alternatives presented. If done so, the appropriate action of the Council following such discussion would be:

“Move to approve Liability Coverage and [waive/not waive] the statutory tort limits [with or without purchase of additional coverage], as discussed at tonight’s meeting”.

ATTACHMENTS:

1. Liability Coverage Waiver Form

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates