Report - Executive Policy Committee - November 12, 2008

Item No. 2 Workers Compensation Reserve Fund - Purpose and Administration eFile FI-7

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 12, 2008, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submits the following to Council:

1. That the purpose and administration of the Workers Compensation Reserve Fund be established as set out in Appendix A in the report from the Chief Financial Officer dated October 23, 2008.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report - Executive Policy Committee - November 12, 2008

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 12, 2008, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

RE: CONFIRMING THE PURPOSE AND ADMINISTRATION OF THE WORKERS COMPENSATION RESERVE FUND

FOR SUBMISSION TO: **EXECUTIVE POLICY COMMITTEE**

ORIGINAL REPORT SIGNED BY: **CHIEF FINANCIAL OFFICER**

REPORT DATE: **OCTOBER 23, 2008**

RECOMMENDATION:

1. That the purpose and administration of the Workers Compensation Reserve Fund be established as set out in Appendix A.

Report Summary

Key Issues:

- In 1978, Council passed a motion that the Workmen's Compensation Reserve Fund be transferred to the Workers Compensation Reserve. At the same time, it repealed the 1918 by-law establishing the original Workmen's Compensation Reserve Fund, as well as subsequent amending by-laws. These by-laws provided the purposes of the Workers Compensation Reserve Fund, as well as how it is to be administered.
- Despite a diligent search, a document outlining the purposes and administration of the Workers Compensation Reserve Fund has not been located.
- In lieu of this guidance, the Workers Compensation Reserve Fund has been operated with reference to and consistent with the intent of those repealed by-laws
- Council authority is required to establish or amend the purpose or conditions applicable to any City reserve.
- The objective of the recommendation is to properly document the Workers Compensation Reserve Fund purpose and administration, as well as the funding mechanism to be utilized.

Implications of the Recommendation(s):

General Implications

(x) None

( ) For the organization overall and/or for other departments

( ) For the community and/or organizations external to the City

( ) Involves a multi-year contract

Comment(s):

Policy Implications

(x) No

( ) Yes

Comment(s): The intent of the recommendations in this Report is to reflect the current purpose and funding of the Workers Compensation Reserve Fund.

Regulatory Implications

(x) None

( ) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s):

Environmental Implications

(x) No

( ) Yes

Comment(s):

Human Resources Implications

(x) No

( ) Yes

Comment(s):

Financial Implications

(x) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s): The recommendations contained within this report will have no financial impact. The proposed purposes and administration are consistent with how the Workers Compensation Reserve Fund presently operates and is managed.

Report

REASON FOR THE REPORT:

Council authority is required to amend the purpose or administration applicable to any City reserve.

Specifically, the City of Winnipeg Charter 289 (1) states City Council may provide for the establishment or maintenance of a reserve fund for any purpose for which the city has authority to make expenditures.

HISTORY:

By-law No. 9802 was passed on December 23, 1918 with an effective date of May 1, 1918. This by-law marked the creation of the Workmen's Compensation Reserve Fund from which all costs relating to Workmen's Compensation Board approved injury claims were assigned. This fund was administered by the Sinking Fund Trustees who, at the end of each fiscal year, prepared a report for City Council wherein they accounted for all monies received and paid out to the Workmen's Compensation Board.

The Workmen's Compensation Reserve Fund, of the former Metropolitan Corporation of Greater Winnipeg, was amalgamated with the former City of Winnipeg at the time of unification on January 1, 1972, creating a reserve fund.

In 1978, Council terminated the Workmen's Compensation Reserve Fund that had been created in 1918 and transferred the funds to the Workers Compensation Reserve Fund (the "Fund"), from which all costs relating to Workers Compensation Board approved injury claims were assigned.

Shortly thereafter, by-law 2131/78 was passed repealing the 1918 by-law which established the original Workmen's Compensation Reserve Fund, as well as subsequent amending by-laws. These by-laws provided the purposes and conditions of the Workers Compensation Reserve Fund.

Despite a diligent search by the Public Service, a document, outlining the purpose and administration of the Workers Compensation Reserve Fund has not been located.

From 1966 to 1983, the individual departments within the City of Winnipeg were charged a premium based on a percentage of gross payroll. All compensation-related costs for the respective departments were deducted from their premium, and the balance at year end was deposited to the Fund. If the Workers Compensation costs exceeded the premium collected, then the Fund would be utilized to offset the excess costs.

In 1983, due to the rapid escalation of Workers Compensation costs, the City Treasurer recommended to the Board of Commissioners that a Task Force be created to identify appropriate steps to bring these costs under control.

The Task Force, comprised of senior representatives of various civic departments, identified a number of systemic deficiencies, such as:

- there was no real hands-on intervention on the part of the City of Winnipeg, with respect to management of workers compensation claims,
- there was no system in place that would enable injured workers to return to work at an earlier date under a rehabilitative or light duty program, and
- there was no financial system that would shift the accountability for individual compensation claims to the departments.

The Task Force recommendations resulted in the creation of the Workers Compensation Coordinator position, as well as the requirement that each department include Workers Compensation related costs in their budgetary projections.

Beginning in 1984, the departments were held accountable for the actual costs associated with compensation claims. In addition, a surcharge based on gross payroll was levied on all departments to offset the financial impact of workplace fatalities and the cost of living adjustments for existing Workers Compensation Board pensions. All monies derived from the surcharge were deposited into the Fund.

The administration of the Fund has not been vested in the Sinking Fund Trustees since enactment of the new City Charter in January 2003. Responsibility for the Fund rests with the Corporate Controller, in the Corporate Finance Department. The Fund investments are administered by the Manager of Financial Services, Financial Services Branch, in the Corporate Finance Department.

DISCUSSION:

As indicated above, the purposes and administration of the Fund have changed along with the practices of the City. While the use and administration of the Fund is not inconsistent with what is known about its intended purposes and administration, it is evident that Council's wishes as to the use of this Fund are not clearly set out.

This anomaly was also noted by the City's Audit Department during a *Reserves Administration Audit* which recommended as follows:

> *We recommend that the Chief Financial Officer submit a report to Council, requesting an amendment to the Workers Compensation Reserve to reflect its current purpose as a fatality reserve. The report should also recommend repealing the existing by-law.*

The new recommended purpose and administration of the Fund are detailed in Appendix A of this report. The Public Service has subsequently had discussions with the Audit Department, bringing to its attention the new information concerning the Reserve Fund created at the time of the amalgamation of the City of Winnipeg, and the fact that the By-law creating the 1918 Reserve Fund was repealed in 1978. The Audit Department is now aware that the purpose of the Fund has been broader than to simply serve as a fatality reserve. However, the Audit Department concurs that it is desirable to clarify the purposes and conditions of the Fund, and to ensure that they are approved by Council.

There is no requirement in the current legislation that requires the purpose and conditions of a reserve be prescribed by by-law.

Financial Impact Statement **Date:** October 23, 2008

Project Name: Amendments to the Purpose and Conditions of the Workers Compensation Reserve Fund

COMMENTS:

The recommendations contained within this report will have no financial impact. The proposed purposes and conditions are consistent with how the Workers Compensation Reserve Fund presently operates and is managed.

"original signed by Carrie Erickson"

Carrie Erickson
Manager of Finance & Administration

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

Workers Compensation Coordinator
Corporate Controller

External Consultation With: N/A

THIS REPORT SUBMITTED BY:

Department: Corporate Finance
Division: Risk Management
Prepared by: Allan Smeall, Corporate Risk Manager
File No. Workers Compensation Reserve Fund


Appendix A

APPENDIX A

Purpose and Administration of the Workers Compensation Reserve Fund

The purpose of the Workers Compensation Reserve Fund (the "Fund") is to pay all costs associated with workplace fatalities, the legislated cost of living adjustments to existing Workers Compensation Board pensions, costs associated with those Workers Compensation Board claims that pre-date the 1972 amalgamation of the City of Winnipeg, and those other uses directly related to the maintenance and integrity of the Fund.

The Fund will be funded by a surcharge assigned to each department, as well as the annual interest earned from the Fund balance. The amount of the surcharge levied upon the various departments of the City of Winnipeg will be subject to change from time to time depending on prevailing circumstances and/or experience. The setting of the surcharge rates and the implementation of any changes to those rates will be approved so by the Corporate Controller or designate.

The Fund shall be managed by the Corporate Controller or designate.