
**LEVANDER,
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•
HAROLD LEVANDER
1910-1992
•
ARTHUR GILLEN
1919-2005
•
• ROGER C. MILLER
1924-2009

MEMO

*ALSO ADMITTED IN WISCONSIN
*ALSO ADMITTED IN NORTH DAKOTA
◻ALSO ADMITTED IN MASSACHUSETTS
◻ALSO ADMITTED IN OKLAHOMA

TO: Mayor and Councilmembers
FROM: Timothy J. Kuntz, City Attorney
DATE: July 5, 2012
RE: Tort Liability Limits – July 10, 2012 Council Meeting; Agenda Item 8(b)

Section 1. Background. Item 8(b) on the agenda deals with the City's insurance coverage and the tort liability limits provided by statute. Under Minnesota Statutes § 466.02, Subd. 1, the City's tort liability is limited to \$500,000 per claim and \$1,500,000 for any number of claims arising out of a single occurrence. The City carries liability insurance up to the tort liability limits. Each year the League of Minnesota Cities Insurance Trust asks whether the City wants to waive the liability limits. The City has consistently responded "no".

Attached to this memo are the Council minutes from last year (see item (f)) when the Council voted to not waive the liability limits.

By not waiving the limits, the Council avails itself of the protection provided by statute.

Section 2. Council Action. The Council is asked to approve a motion to not waive the liability limits and to accept the coverage of \$1,500,000.

Attachment

Motion carried. (5-0)

Council took a brief recess at 9:10 p.m. and reconvened at 9:20 p.m.

c. Consider Contract between David Neameyer and the City of Sunfish Lake for Building Official Services: Attorney Kuntz presented the draft contract and resolution adopting the contract between the City and David Neameyer for providing Building Official Services. He reviewed the payments for services and other services provided under the contract and listed in his report dated June 29, 2011. He noted that the only difference in payment was that the City received 100% of the double permit fee when someone began work without a permit; the contract now provides for an 80/20 split, with Mr. Neameyer receiving 80% of the double permit fee and the City retaining 20%. He noted that \$47.00 per hour would be paid to Mr. Neameyer as a pass-thru for any additional plan review required by changes, additions or revision to plans and also for site inspections conducted at the request of a landowner or for site inspections conducted in anticipation of a permit where the permit has not later been issued. He also reviewed the time spent by the inspector where there is no charge to the City, as listed in his report.

Councilmember Hovey noted that previously there have been fines assessed to residents for not obtaining permits. Mr. Kuntz pointed out that the City may charge an additional fee not to exceed 100% of the initial fee when a building permit for work has not been obtained; he explained that the City may charge an Administrative Fee for planning and land use items and those fees are separate from this contract.

Attorney Kuntz explained that State Law provides immunity to Building Officials for personal liability and in the contract the City included an indemnification clause; he noted that this is different from the Septic System Inspector as they carry their own liability insurance. He advised that because Mr. Neameyer enters the contract as an individual and not a company, the City has asked him to release the City for any personal injuries or property damage while acting on behalf of the City; however, in the event Mr. Neameyer hires an employee, he would be required to provide worker's compensation insurance.

Councilmember Conant questioned if Mr. Neameyer would be covered under the City's insurance policy with League of Minnesota Cities. Mr. Kuntz responded yes. The Attorney explained that the contract may be terminated by either party without cause with 30-days notice.

Mayor Williams asked if there were any further questions or comments and there was no response.

Councilmember Conant moved to adopt Resolution No. 11-13 titled RESOLUTION APPOINTING DAVID NEAMEYER AS THE BUILDING OFFICIAL FOR THE CITY OF SUNFISH LAKE AND APPROVING A CONTRACT BETWEEN DAVID NEAMEYER AND THE CITY OF SUNFISH LAKE RELATING TO BUILDING OFFICIAL SERVICES, seconded by Councilmember MacManus and carried. (5-0)

d. Discuss Proposal for State Auditor's Office Review of City Financial Procedures: Council received notification from the City Clerk that the Auditor's Office may be closed due to the State shutdown; Council concurred to table this item until further notice.

e. Consider Mayoral Proclamation Relating to Former Building Official Russ Wahl: Mayor Williams suggested tabling this item until the next meeting to allow the City Attorney to insert the legal description of the wetland prior to adopting the proclamation. The Mayor also suggested that staff contact Mr. Wahl's family and ask them to be present for adoption of the proclamation. Council concurred.

f. Consider Authorizing Change to Election Liability Insurance Form: Attorney Kuntz explained that each year the League of Minnesota Cities requests the City decide if they wish to waive or not to waive the statutory tort limits and notify the League of their decision; he advised that past practice has been not to waive the liability. He recommended that Council take action by motion of their decision.

The Mayor asked if there were any comments or questions and there was no response.

Councilmember Burke moved to authorize the Treasurer to send notification to the League of Minnesota Cities that the City of Sunfish Lake decides not to waive the statutory tort limits to the extent of the insurance coverage purchased, seconded by Councilmember Hovey and carried. (5-0)