



City of Blaine Anoka County, Minnesota

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Legislation Details (With Text)

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CONSENT AGENDA - *Terry Dussault, Human Resources Director*

NOTIFYING THE LEAGUE OF MINNESOTA CITIES INSURANCE TRUST THAT MONETORY LIMITS ON TORT LIABILITY IS NOT WAIVED

The League of Minnesota Cities Insurance Trust now offers cities two options in purchasing excess liability coverage:

1. LMCIT now makes it possible for cities to obtain excess coverage without waiving the statutory liability limit of \$500,000 per person, \$1,500,000 per occurrence. Under this option, the higher excess coverage limits would be available only for those claims which are not covered by the statutory limits.
2. Alternately, cities may choose to waive the statutory liability limits to the extent of the excess liability coverage purchased. Under this option, the higher coverage limits would be available for all claims, including claims covered by the statutory liability limits.

LMCIT offers excess liability (umbrella coverage) options in the amounts of \$1 million to \$5 million. In order to purchase the umbrella coverage under the League Program, city councils must take action to either waive or not waive statutory limits. Blaine currently has \$4 million in excess liability coverage.

Staff has reviewed the alternatives with the City Attorney and the City's risk consultant.

Staff feels that the liability limits under M.S. 466.04 should not be waived. If the City waived coverage the liability limit would increase to the level of the excess liability coverage level or \$4 million per person and \$4 million per occurrence. The City needs excess liability insurance because statutory limits do not apply in the following areas:

1. Liability under the federal civil rights act. This includes section 1983, the American's with Disabilities Act.
2. Certain types of liability that the City may assume contractually in an indemnification agreement for example.
3. Liability for actions in another state, i.e., by a City official attending a conference, or under a mutual aid agreement with a political subdivision across the border.
4. Liability for zoning action under an inverse condemnation "taking" theory.
5. The EDA is named a covered party on the City's coverage and a claimant might be able to get a ruling that these are two separate political subdivisions and get a maximum settlement for both.
6. Claims can be accepted at the Federal level where Minnesota statutory limits don't apply.

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.

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

The City Attorney concurs with the staff's comments and recommendation. The City Attorney is not aware of any legally compelling reason to waive the statutory tort limits. Therefore, he recommends that the City Council, by motion, direct that the League of Minnesota Cities Insurance Trust be notified that the City of Blaine does not waive the monetary limits on tort liability established by M.S. 466.04.