MINUTES OF THE JUNE 29, 2022 MEETING OF THE NEW MEXICO SELF-INSURERS' FUND BOARD OF TRUSTEES

The regular meeting of the New Mexico Self-Insurers' Fund Board of Trustees were called to order by Chairperson Linda Calhoun around 11:00 am on June 29, 2022. The following members were present, Ms. Linda Calhoun, Mr. Gregg Hull, Mr. Mike Miller, Mr. Joe Neeb, Mr. Randall Ryti, Mr. Neal Segotta, and Mr. Eddie Trujillo.

<u>Approval of the Agenda</u>

Member Hull moved to approve the agenda for the meeting. Member Ryti seconded the motion and upon a voice vote the motion carried unanimously.

<u>Approval of minutes of 06/29/22 Meeting</u>

Member Hull moved to approve the minutes of the previous meeting of the NMSIF Board of Trustees. Member Miller seconded the motion and upon a voice vote the motion carried unanimously.

<u>Risk Program Update</u>

Director Nicley led discussion on this agenda item.

Nicley: Thank you, madam chair. It's been a busy couple of months at the fund. And I'll try to be as brief as I can, but we've been up to a lot. The first is, well, what we've been talking about now for the greater weight of two years, that's procurement. We just finished our third request for proposals this year. We're wrapping up a few additional contractual agreements this week, particularly for those procurements that were multiple award bids. And starting on July 1st, we're going to have 50 active contracts from everything ranging from legal services to investigators, appraisers, and contract adjusters. We just completed a procurement for our risk management information system, as well as something that's going to be pretty important this next seven or eight months. And that's the boots on the ground appraisal that we talked about at our March 25th meeting.

We have intake meetings starting in the next week and a half. And I think the entire process from start to finish should be somewhere around that seven to eight month range. We're going to be looking at something like 2000 properties in terms of what their focus is. And at the next couple of board meetings, because I think we're going to have at least one more, maybe two before we're done with that process, my risk program update is going to be inclusive of everything we're finding in the field. I think you probably recall that we ordered what's called a desk appraisal, to help build into the reinsurance and access insurance procurement process. This year was reflective of a 12 to 14% increase in our exposure portfolio. We think that number's going to go up more. The last time we did a traditional appraisal so far as we can tell, sometime in the mid to late aughts. So, we're talking at this point 15, 16 years, at least.

There's been a lot of changes to the property market since that time. Our director of underwriting, Kim Brazell, is going to walk you through some of the changes that she's seen in the market the last couple of years, as well as what she's seeing in our program, in her portion of the agenda today. But at the very least, we have for the first time in modern Fund history, the ability to reflect appropriately the values that we have for the properties we have listed on our schedule. We also have relationships now with the HR company that we talked about at our last meeting on the 3rd. This is going to generate a ton of resources.

Public officials liability claims are a not insignificant portion of our total loss portfolio. We're talking about anywhere from 35 to 40%. Another big chunk is law enforcement too. But we thought it was important to generate templates, generate position and white papers that we can provide to our insureds, that gives them an idea of what best practices and emerging case law, these areas look like. We're going to partner with this company to do that. We're really excited to roll that program out over the course of the next couple of months.

We also have a contractual relationship with Risk Control Technologies. This is the company that allows us to, in a much more expedient way, generate the loss control report you have in your board packet. And we're going to talk about that loss control report for a couple of different reasons. But what that technology will do will allow internal staff in our loss control shop to generate these reports, to give this audit feedback to our member insureds on a more rapid time table, giving them the opportunity to correct those deficiencies as we've identified them.

Some other things we're really excited about: we're expanding the engagement with Public Safety Psychology Group. This is the organization that provided mental health services to all of our law enforcement community in the state that we insure, and their families. We've heard at nearly every event we've been to over the last couple of months, and in a longer sense over the last year, that there is a request that the first responder community in toto will be included in that effort. These are firefighters, these are EMS. We're expanding that contract effective July 1. So, all of the critical incident debriefings, and I've got problems at home and I need to talk to someone about it, all of those benefits we brought to the law enforcement community, we're bringing also to the entirety of the first responder community starting at the end of this week.

The adjusters RFP was an interesting process for us. I think I talked about this at least briefly at our last meeting. And it's this: most of the companies used by the public entity risk firms in the state are sole proprietorships or father-son relationships. And we're worried about some of the transition out of the workforce that we're seeing in that community. That's why we tried to cast as wide a net as possible. For this request for proposals, we were able to do so. And now we'll have 15 vendors in this space that can do this type of work. It's going to be an opportunity like we gave to legal services firms in the state to do what we can to establish a new baseline for what the services are that our communities expect. And we're going to be able to spread out that work so all of the firms that we work with in that space have the ability to concentrate fully on the claims that we give them.

Compliance efforts, file handling manual, this is one of the items I talked about in March that was identified in our process season procedures audit. Version 1.0 is done. We're working on version 2.0

now. We're going to work with staff to make sure that they have a hand in the process for what expectations should be on the file, establish accountability mechanism so each claim is handled the exact same way once it gets in the door. And it's effective in my view for transition planning too. Tomorrow's not promised in our world. And for some reason, a new team has to come on board because something happens, they're going to have a manual to do that. That's not something we had, but it's really, really important to this team to do what we can to leave this place better than we found it. And that's a pretty critical part of that exercise.

Speaking of exercises, we are done with the reserving exercise. This is the one that our internal file handlers are probably pretty tired of at this point, but it's the effort where we establish through the claims file long term risk on each of our claims. We talked about this a little bit earlier this year, it's taking a look at, for example, if a claimant or if a plaintiff is successful, what do they get? And two, what does it cost for us to get there? Well, in terms of taking out some of the volume that didn't need to be in our claim system and redoing our reserves, we're at, through this month, 23 in reserves for long term risk.

That's down from what the actuary provided last year because we got rid of nearly 40% of our total claims volume. But it also appropriately reflects the claims we do have. That's pretty important for things like reporting to reinsurance carriers. It's pretty important for making sure that when we talk to you about your individual claims, you have a sense that when we talk about how we resolve those, that we're using good metrics to get there. So, we're really excited about that piece too.

The other portion of the reserving exercise that I think is pretty important is now it allows us to ask those questions director Forte talked about at our last meeting, which is how do we sample different trialing efforts in the state? We're going to start looking at what we try and what we don't try a little bit more seriously than I think has been done in the past. The last year has been focused in a really big sense on the math, making sure that we don't have claims in the system that don't need to be there, and making sure that for the claims that we do resolve, we're doing it at price point that holds the entirety of the pool to the lowest risk that we can possibly hold them.

But the law's changing. The Civil Rights Act, we're starting to see civil rights notices come in the door. I just looked at one a couple of weeks ago, it was followed up with the complaint. I have the ability to sit down of course, with our clients and talk through that complaint in some detail, but we're talking about the potential for 18 different occurrences for three different claimants. So, it's not difficult to dream up all of the ways in which we described the language and the Civil Rights Act being used to stretch those limits as much as possible, being done in force now.

When we talked earlier this year, we had only about 10 civil rights notices in the door. That number is pretty flexible at this point. And it's flexible for a couple of reasons. First, we're seeing plaintiff's council sophisticated themselves, right? They, some of them didn't know that the law was a thing, which is sort of odd in that space. But in a much bigger sense, they didn't know that you can supplement tort claims notices with civil rights notices.

So, what was at the beginning or the national sea of this law? Well, do I file a tort claims notice or civil rights notice? Now they just file both or include it in one. So, whether those items are cognizable tort claims or civil rights claims, those things haven't been litigated yet. This law is embryonic, meaning it's very, very new. And until we get some actual case law in this area that tells us things like what is a cognizable notice, what do you have to state in your notice to make sure that the entity that you're sending it to, has a reasonable expectation of what the conduct is that you're describing and how to investigate it and make sure it doesn't happen again? Those are things that we don't have guidance on yet because they just haven't been litigated through today. That was really important to us.

Trujillo: Are there other cities that are participating in this or have seen this already and what their procedures they have in place, or... I mean, other states, I guess, should be-

Nicley: We are state 18, I believe that's passed a state corollary to the federal civil rights framework. Most of what we saw for claims in this space a couple of years ago were either, A, filed under the Tort Claims Act section 12, or 1983 claims. But the issue was for plaintiff's counsel and plaintiffs, is they just didn't experience the same degree of success in federal court as they did in state court. And now that there is a state court corollary to a 1983 claim, their calling our courts now instead. We're working with our clients to make sure that we're identifying those claims that are either going to, A, try to stretch the limits language in statute, or B, try to stretch what's possible through sending out a notice, or C, trying to stretch what's possible in terms of exclusivity of claims. We work with our client insureds all the time to talk through some of those issues.

We also have a monthly meeting with NLC, our national affiliate. So, we talk to risk managers around the country that face similar issues. And what we hear is generally the same thing we're experiencing here, which is you just don't know until you get a court to weigh in on some of these procedural issues. You could do the best you can to pick the claims that you want to use as a form to have those arguments, but until they weigh in, what the legislature gives you is what you've got. Until the judiciary opines to say this is what our legislature intended, or this is how the law has written applies to this conduct, you're sort of limited to picking what you can in terms of your battles.

This is why it was so important to us to take another look at your coverage in the law enforcement and public officials lines. We had something like, and Kim will correct me if I'm wrong, I think it was a total of 40 meetings with our clients on this question of, well, we're increasing your coverage in these lines to 2 million, because that mirrors the language in the Civil Rights Act, $2 million per claimant per occurrence. But we want to give you the opportunity to buy additional coverage, precisely because we don't have the answers to some of the questions that you've asked. So, we gave everyone the opportunity to buy up to three, four, and $5 million in coverage under these lines.

This is important for another reason too, because if a court weighs in and says claims are exclusive, people aren't going to pick the Tort Claims Act anymore. They're going to pick the Civil Rights Act. The limit is twice what's provided for in the Tort Claims Act. And there's less input from our judiciary as to, for example, what occurrence means. For an example, how the language per claimant per occurrence works. You don't quite see it written that way within sections 16 and 19 of the Tort Claims Act. So, we have to make sure that the coverage we provide is responsive to the needs of the time. That's what we did and we had those conversations with this group, and of course the rest of our client insureds in the state.

There was a ton of interest in that program. And I think we ended up with somewhere around 27, 28, that bought up the coverage in that three, four, $5 million limit. We're going to continue to provide that the next couple of years, but it's probably never going to be at a price point that it is today. The volume's not there, there's not a ton of civil rights claims that materialize past the notice stage. So, it's important to get in the door now. Those are the conversations that we had with our clients and we called them about it. But of course, we're going to continue to make those plans available as that law develops further.

Couple of changes we made to the program to keep it as cost effective as we could, we're self-insuring the TCA. There's a couple of reasons for that. The Tort Claims Act GL claims that we get, there's just not the volume necessary for us to need access coverage in that program and only retain half of the limit provided for in statute. The other reason is we knew we were going to need to buy up in law enforcement and public officials. We knew we were going to need to dedicate additional funding to our property program, which you'll hear about here in just a few moments. But we redesigned the programs we have in a way that we think is, like we said, responsive to the needs of our time.

Another thing we did was we increased our limits for mudslides. We've seen wildfires all around the state, and we had conversation after conversation with our brokerage firm about how best to prepare for losses caused by rains, by potential flooding. And what we heard over and over again, the videos we watched, the news we read, the conversations we had, is there's a real potential risk in some of that rain water picking up the ash and the debris that's fallen from the damage to the wildfires and carrying it directly into the low point in our insureds, which is usually town. We have a ton of clients with towns that are built with municipalities that are stood up in the valley part of the area that they're in, meaning they're at the lowest point, and that rain will carry all of that ash and debris and into a mudslide that'll form and carry right into the city. So, we increase that limit from five to 25 million.

Site visits. I had the chance, and I actually think I was the least aggressive in our shop at this, but I had the chance to visit 22 cities in the last three months or so. We did everything from talking about the claims specific to you as a client insured, to explaining all of our loss control and underwriting opportunities. We toured buildings to see if we could identify not only is this on the schedule, is it rated appropriately, but so that when we have those intake meetings with our appraisal firm that we contracted with, we can make sure we point them in the right direction. We can make sure we finger facilities that we think are not appropriately accounted for on the exposure schedule and other mitigation opportunities available to us.

Something we heard when we went out in the field all the time was we need training for active shooter. Well, we just rolled out Vincente Alvarado, his firm Joint Tactical Defense Group. Now we are sending him all around the state to our client insureds that asked for it, to give them active shooter training specific to the needs in that building, specific to the needs of the people in that room. Had a conversation with Coralles this morning because he was there yesterday. And I think there were four people who came up. I was told that it said it was the most useful class they had had in that subject matter in their careers. We're really excited about this program. If you're interested in it, let us know. We'll put you in touch and make sure that he visits your community soon.

We met with the workers' compensation administration yesterday to get an update on their audit. They think they're going to be done sometime in mid-August; I don't want to paraphrase what they said incorrectly, but the feedback was good. They just had a couple additional questions about our program. They want to make sure that it's being applied in a way that tailors to the policy that we issue to our members every year. And to the extent that they've identified gaps that haven't been corrected since the 2013 audit that we talked about two meetings ago, we're going to make sure that we pursue those opportunities vigorously.

There's a ton of other items going on, but I want to make sure that I mention real shortly, that on the discussion of our policy, that needs to be, in my view, a living document. When we issued the file handling manual for the first time earlier this year, we talked through it with staff. It became clear very quickly that to have a group that has a great deal of confidence in the documents you issue, there needs to be input. There needs to be stakeholders at the table saying this is how the expectations in our program should work. We think that's true in this group too. So, for purposes of establishing liability policies, for purposes of establishing work comp and property policies, we have tons of ideas, but we think it's really critical that this group is involved. So, you can tell us what your expectations of the program are.

So, where I'll conclude for the risk program update today is with this, my recommendation that, just like we do for audit committees every year, to get those engagements underway and under contract, that we create a policy committee so when we're doing things like looking at our joint powers agreement, for example, we're asking the same questions we do and involving the same group that we do when we look at our liability policies as well. So, my recommendation, as I conclude, is that we take a few moments this morning to create also a policy committee to help us redesign this part of our program as well. And with that, I'll stand for the questions this group might have.

Trujillo: What happened in Texas was 21 people getting killed. Did law enforcement immunity have any to do with the officers' response and them not going into that building? Because they said they were not properly trained. I know I've heard from some of police officers in Las Vegas about second guessing themselves, and am I going to be liable, like civilly, am I going to... that they no longer have immunity to situations. And I know we've talked about this before, but it just kind of sticks in my mind. And then with what happened again in Texas, it just, what a nightmare.

Nicley: Every time we see legislation introduced that creates a new statutory framework for holding, for example, law enforcement accountable, one of the most frequent questions we get is, are they going to come after me and my family for split second decisions that other people don't have to make? That's why when those statutes get passed, one of the things that we talk about most frequently in committee hearings, one of the things we talk about most frequently with our lobbyists and with our insureds, is making sure that personal liability is carved out of that legislation. Every decision a public official makes, whether you're a law enforcement officer, a mayor, a manager, a judge, et cetera, is one that we don't want to be chilled by “will I be responsible for this later?” Your conduct should be tailored to what is the right meritorious decision in this circumstance.

And that's why liability in a personal sense is carved out of statutory frameworks like the Civil Rights Act. Did qualified immunity have anything to do with the officer's decisions in Uvalde? I don't know that I can answer that question, because I believe it was law enforcement in one of our federal agencies that ended up going in and entering the facility eventually, and bringing the shooter to justice. But I think in a general sense, qualified immunity, it's on its way out. It wasn't eliminated with the Civil Rights Act, it was just eliminated from contention from consideration for a judge to make when they're looking at those types of claims. But I think it's safe to operate with the assumption that qualified immunity in any sense under any law, is probably not going to survive for much longer.

The Board of Trustees created a policy committee with Members Calhoun, Hull, Miller, and Trujillo.

Calhoun: What kind of timeframe are you thinking to have the policy committee meet and have this done?

Nicley: This is a living document. The last liability policy we had was in effect so far as I can tell for something like 26 years. We issued an update to that policy last year because we felt like the modernity needs of the organization needed to be reflected in those documents. But again, this is a living breathing process. I believe we're going to roll forward with the documents we created last year into next year. So, it's not something that needs to be done by our September meeting or a December meeting, for example, but it is a conversation we need to start having. And my dream is that whatever those documents look like, we're issuing them to our client insureds on July 1st of next year.

<u>Property Program Overview</u>

Kim Brazell led discussion of this agenda item.

Brazell : Thank you guys for your time today. Clinton and AJ asked that I give you guys an overview of property. So, I'm going to start with five years ago, take you a little bit back in time. Five years ago, the insurance marketplace, after a sustained 20 year long what we call a soft market, a soft market means there's a lot of capacity, so the rates are very low. Hardly any underwriting went on. So, we did that for 20 years. And then in 2018, the market suddenly turned and began to harden. The reason for that is up until that point, what they call a convective storm, which would be your hail wind hurricane, those types of storms had not been as much as a player in the property as one would think.

The coverages at that point started multiplying. Harvey hit that year, Maria hit that year, and I believe the third one was Ida. I can't remember the third, but we had three within the span of a month, catastrophic losses to the insurance industry. And at that point, the underwriters started saying, "Whoa, maybe we need to do something." So, beginning in 2018, there were 20 to 30, sometimes 50% property rate increases. Our rate increased that year by 25% from a 4 cent rate for reinsurance up to a 7 cent rate. So, that's a huge jump in reinsurance cost.

Those numbers can be reflected on one of the charts that were provided in your packet. It's the one that looks like it's a table. It kind of gives an overview of the last six years capturing 2018. That same year, the carrier, the marketplace would no longer support a flat, what we call a flat deductible for hail. That means that our deductible at that point became 1% and 3%, depending on the zone that you were in. Zone one is 1%, zone two is 3%. Zone two includes places like Roswell, Artesia, Carlsbad, Portales, Clovis. It's that eastern belt of the state. And then zone two would be a little bit Northern. Places like Rio Rancho aren't in a huge hail zone. So, that deductible would be different.

What that has caused is the Fund now has to retain huge deductibles. We had an event in Roswell last July, where our deductible alone for that event is $1.6 million. The fund retains all of that with the exception of the property deductible that is charged to the municipality. So, we are retaining all but $2,500 of that. Simultaneously with those deductibles increasing, we again saw an increase in 2019 of 25%. We went from a 7 cent rate to a 10% rate on our reinsurance. And then subsequently the year after that, it increased again.

Now I want to talk about what the Fund did. During that same amount of time, the Fund was not taking rate increases. They were absorbing the increase in the reinsurance, but not simultaneously passing those increases onto the members. I know that they've talked to you about concerns about the solvency of the property fund. Here's why we're there. In 2018, you took a 3% rate increase where the market was a 4% at that point. I'm sorry, the market was a 20% at that point. In 2019 is when they really started jumping. You took about a 10%. So, that was nice to see a little bit of a jump, but the market at that point was 28%.

In 2021, there was only a 1% where we should have taken a 20% at least rate increase in our fund. The market was at 24%, 24 to 32%. And then in 2021, 22, it stayed virtually flat. We should have probably taken about a 10% increase. I know that there's a lot of factors that have gone into that, so I want to go... I want to cover a little bit about what the fund has experienced as far as conductive storms and what those are costing. So, if you look at the pie chart that's labeled cause of loss, this shows all of the weather type events that we have. 60% of those weather type events are hail events. So, we are spending most of our money on hail.

In the last 10 years, we have spent $18 million on hail events, in the last 10 years. 9 million of those claim dollars are Roswell. They have had two major hail events in the last five years that are driving those, driving the larger portion of the hail. But it is becoming a much bigger problem. We have a $1.5 million claim in Las Vegas. We had an $850,000 hail claim in Raton during that amount of time. We currently on the books in this policy term, we have at least $2 million in weather related claims, one of which is in Red River, I believe, or it may be Taos. I'm sorry, it's probably Taos.

Due to a snow event, a tree collapsed and took out a building. So, we are definitely seeing in our little universe, a massive increase in weather related events. And therefore, it's costing obviously a lot more money. There is a chart in here that's account of claims that gives a different view. So, it's not just premium dollars or claim dollars, it's account. So, for hail, for example, over in 2021, so the current, that's we have 36 claims for hail. Whereas the year before, we only had one. In 2019, 2020, we had 24 hail events. And then in 2018, we had five. When you couple that with the snow events and the wind events, you can see just in the count of the number of claims that are coming in.

The last one that I want to talk about is also in your packets. There are two top 10 lists. These lists are by the total incurred amount, incurred is paid plus reserves. So, the total incurred amount versus the total premium that this particular member has paid over a 10 year period, you can see our communities, some of our smaller communities, especially our underwater, as far as their loss ratio when you compare what we've paid out versus what they've paid in. Then if you go to the next one, which is the total incurred by amount of claims spend, you can see that our bigger cities kind of jump into this list. So, the top 10 include Roswell, Las Vegas, Artesia. These all of these claims, every single one of these claims on the top 10 are weather related events.

So, I think so for this year, as Clinton alluded to, we made some changes to try to get ahead of the deductible spend. We have changed the structure of the program to include a $2 million flat hail deductible for four of our cities, that would be Artesia, Carlsbad, Roswell, and Portales. We picked those cities because on the eastern side of the state, they were the highest TIV or total insured value in our book. And we knew that the next hail event that happened in any one of those cities could be very similar to the Roswell event where we would pay upwards of a million, 2 million, $3 million for a hail event. We did that because the marketplace within allow us to do what's called a deductible buy down. We were able to purchase deductible buy downs to be able to get our property hail deductible for those four locations down to half a million.

So, it's a little bit more of a... It's a little bit less of something for us to take in, even though we're spending a little bit more. I think the thing that we need to also look at this year is we are collecting $5.8 million in property premium. We are spending $6.2 million in the redo of our property program to try and broaden our coverage. That includes the 25 million for the mudslide that Clinton alluded to, and the 2 million hail deductible, along with the buy downs. We also made some changes as far as auto physical damage in a prior meeting, I think we had talked about that we didn't have proper auto physical damage coverage specifically to our large fire apparatus vehicles we've made that changes. So, the 6.2 I just talked about includes those types of changes. That's all I have for now. I'll open it up for questions.

Trujillo: With a number of claims coming in has increased over the past five years, I understand that the Fund, we kind of rewarded some of the municipalities with reimbursing of abortion of their premium because the market was soft.

Brazell: They're two separate. The last two years, we've taken a 50%. We've given a 50% credit on the liability in the work comp. Those two funds are very solvent. We have a lot of money in those funds. So, we have the ability to give a break on those. For this policy term, beginning on Friday, FY23, we did take the step of taking a 20% premium increase. I do anticipate we will have to do that again next year, and possibly even the following year. We are going to see not only rate increases for the next three years in our fund, but we are also going to see a TIV increase with subsequently, it will increase our spend in reinsurance. We have to be able to account for that moving forward. Any other questions?

Hull: I was curious about, I think with hail, there isn't a lot of mitigation that you can do in terms of buildings. Or is there, I guess some roofs, I guess, are more vulnerable to hail damage? But the, like a metal roof might get dinged but it won't fail. So, is there any ability to have any incentives for hail? Can you use a look at that? I mean, especially small communities must have trouble trim up money for improvements like that.

Brazell: That's above my pay grade. But it's probably something we could look into as we start building our data. Part of our issue right now is we don't have great data. I think I told you guys I'm kind of an insurance geek, so I'm very excited about the new RMIS program and the self-serve portal, because we are going to be able to get an accumulation of data, to be able to tell us more information.

As far as hail mitigation, it really is going to have to start at the capital improvement level. Most of these hail claims that we're seeing, the roofs were already degraded. But once a hail event, we're buying an entire roof, whereas had the municipality had the ability, the funds to take care of the roof, keep up maintenance, that kind of thing, we may not have had to buy an entire roof because of the hail event. But now we are having to do that because the roofs and the structures just aren't being kept up. We are looking closer at maintenance issues and trying to weed out those claims that are strictly solely due to maintenance issues. But once a hail claim hits a roof, it doesn't matter if the roof is in bad repair or not, we're buying a new roof.

Hull: So, that brings to mind two questions on, is there anything that allows us to look at depreciation on these things? And if they've had that roof in their ICIP as an identified replacement, is there a way to look at what their assessment of the roof was prior to the hail storm? Is there an opportunity for us to look at that in our policy limits? In a lot of cases, insurance companies will say, okay, well, the roof was 25 years old, so on an depreciative basis, our portion of that is going to be this. I don't know if we can do that.

Once again, I'm really still learning the different nuances of the Fund. And then the second one on the depreciation, moving over to the question of the experience rate, when you look at the experience rates of the top 10 cities or any of our premiums, looked at from an experience rate, or is it just based on a population? Or how do we figure the premium to Roswell's compared to Albuquerque or Rio Rancho? Is it on population? Is it on total annual budget? And I'm sorry, I'm still kind of learning all these different nuances.

I think this is my third meeting. So, I'm still on that learning curve. So, do we look at stuff like this? Do we look at the experience rate where you've got a 10 year loss rate of 313% on one community and 308% on another community, and then 1200% on another community? So, is there a way that we can incorporate these loss rates? Because when I own my small business, that's how a lot of my insurance rates were programmed is if I had a high loss rate, my rates went up.

Brazell: So, to answer your first question about depreciation of roofs, in our self-serve portal, we call it the SSP. We got real fancy with the name. We are going to be collecting information as to when they have done capital improvements on plumbing, electrical, and roofs. We're also going to be collecting more information as to what type of roof they have. During the appraisal process, the boots on the ground, we will be able to get a lot more information as to the condition of some of these buildings before a loss occurs, which will help us in our adjustment process. I believe it will also help some of our cities maybe go to the legislature or figure out a way to get increased capital funding for projects. It might help them target, okay, we need to put these funds towards these roofs instead of this project.

I believe the data that we're going to get over the next year will help us understand exactly where we are as far as our exposure. As far as depreciation of roofs, that's something that you're going to see more in the personal lines side of things, or in an individual policy. Our program is set up to ensure a pool. So, we ensure the many. So, everybody shares in everybody's losses. That's the concept of a pool. So, we don't individually, the... I'm sorry, let me take that back. The re-insurers do not necessarily individually rate each city on its own. We are going to be starting to do experience rating on property. Clinton, correct me. Year, two years, FY25.

Nicley: I think your central question is twofold. One, can some of the experience, some of the losses that we're looking at, be rolled into how we think about applying rates? And the answer is yes, your policy is what you want it to be. That's why we created the policy committee a few moments ago. So, if you want loss data and experience data to be rolled into the property program in a certain way, you just need to tell us if that's what you want. We have ideas for ex mods and liability, for example. But it's the same for property as well. I think to have really sophisticated loss mods in property, we need to know what TIV is. We need to get that boots on the ground appraisal done, and we need to sophisticate our data.

When we're talking about things like loss rates, you are good for establishing money out the door versus money in the door. But in terms of identifying things like a roof that you probably should have looked at a couple of years ago or something that's on your ICIP, you've identified as a priority, but for some reason it's not getting done, that's why we're creating things like the self-serve portal that we can gather as much information as possible. Previously, exposure surveys were something along the lines of, we need this insured and we don't need that insured. I think we can ask a lot more questions now. I think we have the ability to drill really far into the data to help us answer those questions when we meet on how we write those policies.

Hull: And that's kind of what I was getting at there, is if the, obviously everybody's ICIP is a public document, so we can go and pull those up whenever we want, when we see a claim, that's that a document that we use to evaluate the claim or can we use that. Because for example, we've had the Esther Bone Library roof on our ICIP for a couple of years now, finally just got the funding for it. But hey, like you said, a good old hailstorm and all of a sudden we can re-divert that cash somewhere else. But for me, that doesn't seem exactly right, because what was our estimated ICIP repair, now the hail might have exacerbated the problem and said, okay, well, not only do we have to fix this, we have to add now the hail damage, but the ICIP already called out for half million dollars in repairs that were preexisting.

Why are all of a sudden those are insured losses? Why do those get rolled in? So that would be my question from a policy standpoint. So, it's like, okay, well, we hit the jackpot because a hail storm came over, now that's all of our costs get rolled in there. I would've said from the Rio Rancho, from the Esther Bone Library, would've said, well, no, we already estimated 250,000, this is what the roof is going to cost to fix it. Not, this was the additional damage that was caused, and if our, ICIP already identified those repairs, why would those now be insurable? So, I don't know if that's something that we want to look at, because as you pointed out, it could have been a 25 year old roof. It could have already been an ICIP the municipality might not have identified a funding source on how to fix it yet. And then all of a sudden the rain comes and now the fund owns the full repair. So, just a thought.

Brazell: Oftentimes, especially with roofs, they do a lot of inspection and sometimes they will even take core samples. And if the carrier feels like the majority of the damage is due to preexisting, then they will only give a portion to repair the damaged part. I've been in numerous claims fights, for lack of a better term, with carriers over that exact issue. So, they do look at the roofs, they do take into account, but if the damage is widespread enough, we're replacing a roof that probably needed to replace anyway. So, it just depends on where the damage is. As far as like how the rates and stuff and exposure is calculated, we are calculating the losses into our rates, overall rate for the pool. We really felt strongly because, and this is only my opinion, the property program had been somewhat neglected. There was a lot of concentration on the liability and work comp programs, and not enough concentration on the property program to where they weren't. We don't feel comfortable experience rating right now because we don't have good data.

So, once we can get our data better, then we will be able to look at with the policy committee, assigning experience rating. We could also look at things like loss control. We have this wonderful loss control program. Can we use that kind of as a carrot and a stick? So there's a lot of different things that we can do and discuss in the policy committee to incentivize our members, to try and spend their capital funds wisely or direct them to the most needed area, like such as replacing a roof that's 25 years old that could cause potential issues.

Calhoun: And we did raise our property 20% issues. Correct?

Brazell: Yes, ma'am. We took a 20% premium increase. It ended up being about a 6% rate increase. And I know that sounds weird, but when you take premium, you're just doing simple math on the dollars. You're not digging into the rate. So, again, because the data wasn't great, we just decided that we just needed to do a 20% increase. We are going to get much better data next year. I anticipate on our wastewater treatment facilities alone, we're probably going to be at least a 100% more in value. I mean, many, many of those what wastewater treatment facilities are not adequately reflected in our TIV. So, once that happens naturally, we will collect more money because we've got more TIV. But also our reinsurance costs will go up because they're going to collect more money. I mean, it's very cyclical that way.

Trujillo: It's just it's very obvious that we're becoming very reactive to claims with municipalities. What are we doing on the preventive side? In my own city, I had an experience last month with the city's sewer line backing up into my basement. And come to find out that the city has the equipment with the big vector trucks to blow outlines and maintain the city's sewer lines. But the city doesn't have anybody trained.

We've lost employees to retirement, a lot of institutional knowledge, a lot of history about our sewer lines. And come to find out we have a whole crew that's brand new. And what are we doing with municipalities when it comes to plumbing, electrical, roofs, to do some preventive so that some of these claims don't happen? Again, I experienced that firsthand, and I know Las Vegas, isn't unique to this. There's a lot of municipalities where they've had a lot of retirement people leave and they're training new people. But what do we have in place so that we can assure that municipalities are getting these people trained and getting them with their certificate so that they can take care of all this preventative maintenance, so that the claims will come down and they're doing what they're supposed to be doing?

Brazell: So, some of that, I can't answer. It's, again, above my pay grade. But through Erica Moncayo, our loss control specialist, and we also have, I believe we're going to try to add one or two more loss control this year.

Nicley: We added at least one position for public safety loss control. You have in your packet, Member Trujillo, an example of what we're doing in this space to identify in a preventive sense. And

I think you keyed right in on the correct word in this space, we have to prioritize preventive care. This doesn't just apply to our liability program and some of the contractual relationships we created in that space, some of the legislative efforts that director Forte and other members in our organization pursue so vigorously. It doesn't just apply in the work comp space where you're doing everything that you can to make sure your member insureds are ergonomically sound and are creating experiences in the workplace where someone has the ability to report an injury when they suffer. And they have the ability to report the need for greater conditions. Erica is in the field doing everything from OSHA compliance to hazard communications. You have a something like a 45-page report, I think in your packet, that shows you what RCT, that contractual relationship we created is going to help us do.

And we're going to be able to put that data together and have the same conversations on the property side that we have on the liability side. We talk about our claims profile. We say in the law enforcement space, we have a ton of concerns about how first amendment and fourth amendment issues continue to reactivate themselves in the field. And we continue to get claims about them. It might be property is no different. We just need a larger megaphone to get there. That's what RCT is for us. That's why Erica Moncayo is in your communities, think she's done... I don't want to butcher here, but I think she's done 19 site visits the last couple of months. And she's talked to something like 700 students. And these reports, the ones that are in the board packet today, are going to be the foundational materials we use to identify the front end care on the property side of the program.

A couple of things we're thinking about that this board, I think should be apprised of, is fire break technology. To the extent that we can at least consider investment of monies right now to mitigate fire damages before they occur, we need to have that conversation. If we can get people out in the field that can film certain locations from the air to establish certain parts of properties that need a little bit of attention, we want to explore that as well. But I think it extends also to claims and plumbing, claims and electrical, claims in damage to cement the curtilage of property too. That's why we're doing what we can to sophisticate, perfect our data. And when we get there, we can have conversations not only about mental health for law enforcement and first responders, not only about active shooter, but what else should we be exploring? Like you said, member Trujillo, not to react to claims, but to make sure they don't have it in the first place.

Calhoun: The judge is concerned about the water and wastewater. There aren't enough qualified operators out there right now. And it's difficult for them to get the training, to get the testing that they need, and plus, as people retire, new ones aren't coming in. And so, our municipal systems are going to suffer because of that. And I don't know how we can handle that except going to the legislature to say, make it easier for us to get our people trained and to get them tested and get them certified.

Trujillo: Yeah. Well, so many employees come on and that's what they are. They're an employee of solid waste, so of waste water. But I don't know where the incentive lies with the municipalities to get these people to not only be an employee, but to get certified. And just so, there's a lateral movement for them incentive wise that has to be brought to their attention as well. And I'm not saying... I mean, I probably don't know because I'm not there to see what the employees are offered, but this is part of the Fund. This is part of what we do. And we don't want to, again, we don't want to just become reactive. We want to do some preventative and limit those claims.

Brazell: If I may just make one more comment on the fund. The Fund, I think historically has been reactive and not proactive. And that is going to take a fundamental shift in the culture, not only at the Fund, but of our membership. We will be working really hard in the next couple of years, Erica and I, Erica on the loss control, myself and Clinton on the risk management training side, to start helping our members shift the culture from a reactive culture to a proactive culture. That's going to take time. And as we see and as we get data, we can educate this board. We can educate our members as to the impact of their actions, their training, their upkeep of their facilities. And show them the direct correlation between doing all these preventative things to keep this money from happening. But it is going to take a while to get there.

Approval of New Resolution

Director Nicley led discussion of this agenda item.

Nicley: This next item on the agenda is resolution 22-10. And what it does is gives us another wedge, another protective mechanism against some of the changes that we're seeing in our law in the state of New Mexico. The Civil Rights Act, I don't want to sound hyperbolic but it's something we think about all the time. It's the limits language, right? It's $2 million per claimant per occurrence. A question I get nearly every time I'm on the phone about it is what does that mean? And I have to say I don't know, not because I want to, I don't like saying that at all, but because there's just not a ton of input from our judiciary yet. We can take what we've seen in some of the 17 other states, where there are similar statutory frameworks. We can take what we've seen in our own state, but it's just not enough because what we get elsewhere is persuasive authority anyway. And what we get here, it's not mandatory because it's not on point yet.

This program would be the first of its kind in the state of New Mexico. There's no other public entity insurer I know of that does anything close to what's captured in this resolution, but what it does is it hedges against some of that risk. It allows member insureds to take advantage of a program that pays monies outside of the liability policy. Those are monies that are paid out of the fund, but paid outside of the liability policy. They get those monies as long as they've used what they have in their reserves, as long as they've used what they have in their non referendum spending authority, to help them pursue resolution on claims. Those monies of course have to be returned to the fund. In some consequence, they have to sign a memorandum of understanding with us.

Talking about things like special audits, we're going to ask about loss control requirements that we're going to be putting in place for members taking advantage of this program. But in toto, it's an opportunity for them to not try cases. Trying cases is a significant risk for anyone in our pool. If we've ended up at trial, usually it's because we haven't been able to resolve it at a price point that makes sense before. But in a much bigger sense, if we've ended up in trial, we've now had to accept the risk associated with what that trial provides, what a jury of your peers might say. And there are limits to what the program provides at the Fund for what the policy says, but the risk over and above that limit is something we think about every day in helping our member insureds navigate. That is what's captured in this resolution here.

We're not going to allow payback periods that exceed 10 years. The $2 million is tied to the language in the Civil Rights Act until we hear differently. And there's going to be a ton of loss control requirements that we put in place before anyone in our pool can take advantage of this program. Before you take advantage of voting on whether this resolution is something you support, we think it's important that we talk about at least one risk analysis for a member we think may take advantage of this program.

You have in your packet some materials in addition to this resolution that I would like you to turn to. The first is a roll up of the data available for this member that we talked about just a few moments ago. It'll show you what's been paid out the door and what's come in the door for the last 10 years, just in the liability program alone. Loss ratio is something you've heard be mentioned a couple of times today. That is basically what it sounds like, what their losses are relative to their other similarly situated peers that are also in this program. You'll see, on the left hand side, premiums paid for liability participation in the program, costs incurred, and those monies paid by the Fund. You'll also see incurred and paid loss ratios on the right hand side of that sheet that establishes again, like I said, your position relative to the other members who are in your program.

The next part of your packet is Erica Moncayo's loss control risk assessment. This was completed following some site visits in September of last year, was finalized in the October, November timeframe. And this looks at everything in your municipality, everything from fire extinguisher placement to trip and electrical hazards, and the like. It's accompanied by pictures that identify those conditions that need to be remediated, recommendations, talking about how to remediate those issues that Ms. Moncayo has identified in citations to administrative rule and law, so you don't have the folks at OSHA knocking on your door without any preparation in advance.

By my count, this loss control risk assessment report identified somewhere in the neighborhood of 71 findings for this member. This is the type of framework that's going to be included in the memorandum of understanding, that if you have in active loss control risk assessment report, you have to fix all of those changes. It's not just about mitigating your specific risks as an insured, it's about holding the remainder of your peers as low risk as possible. Because as Kim said, we are a pooled risk organization, meaning that you have to not only think of your own interests, but you need to be able to do what you can to think of the interests of your peers as well. I imagine, that you've had some time to read through this report, and I don't know that we need to go through it at significant length. But the general idea is you have this so you have a sense of what we would include in that memorandum of understanding I referenced just a few moments ago.

I also want to talk very briefly about liability claims. You have the roll up in that first sheet, but I think it's important that we mention that in just the last three years alone we've adjusted five claims that have long term risks, reserve amounts, incurred figures of over $3 million. This is everything from a drowning claim a couple of years ago, where during a rainstorm, a street supervisor in this municipality did not respond to an on call message requiring that they block off certain sections of roadway where rain damage would put people in peril, resulted in two deaths.

To lighting conditions on roadways, we had another individual who was hit by a car because there was inadequate lighting provided for in that area of the municipality. A lot of these times, and I think you'll hear this at least one more time today, there's a ton of case law out there establishing that, especially if you've contracted for responsibility and maintaining lighting conditions, whether it be with state or federal DOT or the county, that's going to be introduced if you end up in front of a jury. And damages that you suffer as a result, they're going to be good. You'll have to add them to what it takes to get there. That's the second part of our reserving analysis we talked about a little bit earlier.

Those are the types of claims that we've had not infrequent adjustment opportunities on the last couple of years. And the reason we mention this, the roll up, the risk control assessment report, the claims that we've seen the last couple of years from this member, is that before you vote on a program like this, before you add your input to it, it's important that you understand, and I think this goes to member Hull's points a little bit earlier about understanding what the loss status says, that you have that in the back of your minds before you think about approving something like this.

But with that said, with the risks that are unique to this program and the risks that we have navigated with this specific member, we're going to recommend approval of this program anyway, for at least a couple of reasons. One, it's pretty important that we work together to navigate the rapidly changing law we have in the state, in this area. Two, it's really important that we do everything we can to elevate the interests of our members as high as we can. Again, there's nothing else in the state of New Mexico that looks anything like this program. And number three, ultimately, this is your program. These are your peers. These are your people. And if we can do what we need to do right now to take care of them and to make sure that those risks, even on a specific matter, are kept as low as possible, I think it's critical that we at least consider pursuing those opportunities. That's resolution 22-10 in a nutshell. Happy to answer any questions this group might have about it. But with that, we stand for questions.

Calhoun: I thought it was only going to be additional 1 million, but it's 2 million that they can borrow for us.

Nicley: For the member that we think is going to take advantage of this program shortly after its creation, it would be an additional 1 million. The program itself, we think should be tailored to what's captured in the Civil Rights Act, the $2 million. Because I think it's important that we prepare for the instance where a judge says we've got more than one occurrence, or a judge says, well, each claimant involved here has the opportunity to obtain $2 million as provided for in the act.

Calhoun: And some of our small municipalities, if they're the situation that they need to use this and they've already used all their reserves, are they going to be able to pay that back within two years?

Nicley: That's going to be a conversation we'll have to have, specifically for the small members. We're not opposed to finding financing vehicles within that memorandum of understanding that work with them. They're going to have to tell us. For our small communities, we're going to have to have a conversation about what revenue sources you've explored. If it's true that you can't pay it back within a couple of years and you're going to have trouble in 10, we're going to have to come back to the table, have a conversation about what this resolution says, and then make a decision as a group as to whether those spends are integritous, as to whether the way we've designed the program, like we've said earlier with the rest of our portfolio, is responsive to the needs of the time. This is, I think responsive to the needs of our time right now. And we'll bring it back in front of this group as often as you'd like.

Trujillo: We're even being challenged on that right now where some of the insureds say, well, "Hey, I'm insured you got to pay. Why are you looking to us to pay this when we pay our premiums monthly or yearly?" And now we're being challenged on that very exact thing, I'm insured you pay. And for the funds asking them to partake in part of this liability, and like I say, not to keep repeating myself, but we're being challenged on that very thing.

Nicley: Yes, you're correct. I think we have to ask ourselves in our capacities, meaning that folks on this side of the room, what our roles should be. When we issue liability, work comp and property policies every year when we roll out the exposure survey, we send that to everyone. We send that to leadership and every single one of our client member insureds, and they come back to us and say we're satisfied with this program. We have to identify other ways to make sure that you understand your program, to make sure you understand how it works, and to make sure we understand your expectations for how we apply it. That's why we had the conversation about creating the policy committee a little bit earlier today, because it's really, really critical that everyone's on the same page as to ownership of your policy and what your expectations are for how it should be applied.

I don't know of a lot of insurance policies in the private commercial marketplace where you just pay a premium and then you're covered no matter what happens. That's not generally how it works. And the question of coverage, of course, is separate from the question of limits. Every single policy we send out has a declarations page that's attached to it. It explains in very clear terms, very clear English, all of the programs that you participate in, as well as what the limits are associated with each of those programs. I think what we're hearing is we want more dialogue as to what those documents mean. We're happy to do it. That's why we're here.

Trujillo: And I'm sure a lot of municipalities, even we as private owners of policies, we get our policy from our insured and we say, okay, I'm insured and put it in a drawer. Who really goes to that policy to really know the fine print and know that there's some ramifications here, there's risk that we took on that's not covered in our policy? But a lot of people, and I don't know lot of municipalities get that policy, okay, we're insured, manage and put that policy away, and hope when something happen that we're covered, and were we cover enough? Were we underinsured? Are we over-insured? Those are the questions that they ask when something happens.

Nicley: I think that's part and parcel why we're having a conversation today about some of these issues. And as it regards resolution 22-10 specifically, to the extent that you don't have enough coverage, to the extent that you don't have enough in your reserves or your non-referendum spending authority, we're not writing additional coverage for you but we are providing additional opportunities to make sure that you don't have the risk associated with trying some of these claims, specifically in the liability portion of our program. We want to be in constant contact about what our program is and what it does. And because, as we've said for the last couple of years, we are you, you're part of that discussion. So, that's what we're excited to do here as soon as we get out of this meeting.

Ryti: I think that there's a lot of latitude and obviously the way. So, as part of the discussion with an applicant is what is their, in terms of the term for 10 years, it's up to 2 million and up to 10 years. So, it's the discussion that this is the amount that they could pay back within some period of time, is that... that's not implicit in here, but I gather that's part of the discussion.

Nicley: That's of course, part of the discussion. Anyone who participates in this program, we expect will have to obtain blessing from their governing body. We expect that group will have to be in this room as well. Well, not this room, but in a room with these people, to talk about the terms that have been articulated in whatever that memorandum of understanding looks like. There are less controversial things, of course, like you have to do what you can to mitigate your losses. That's why the risk assessments exist. But there will have to be some conversation, and we're not going to take at face value, we can't pay you back over five, six years. There's going to have to be a ton of back and forth, because if you take advantage of a program as extraordinary and unprecedented as this, there needs to be an equal, open and transparent exchange of information associated with that. And then this group will of course have an opportunity to weigh in on that part of the process as well.

Neeb: I don't know if I have any questions, but I'm going to run through this whole meeting essentially. So, I'm a big supporter of this program here, partly because it takes the weight of the pool and it pulls it behind all of our small communities as well, too. It's outside of the liability and the insurance and everything else. This is something a little bit above and beyond that process. So, when there's a gap within what we've heard from our last meeting in our executive session, when there's that big gap between what we're able to provide insurance wise, this provides an opportunity to help close that gap for our communities that are suffering through those things.

I'll go back to the conversation that we had a little bit earlier, we'll have to look at experience mods in order to increase the cost on these individuals that have not corrected any type of that behavior. This system, this program will allow for us to go in there, do an evaluation and pull those things and say if you are able to do this stuff, we have this program that can help you pull everything in check. It goes into the conversation, I think with the problem we're having with water and waste water operators, how do we get them to get them trained or get them out there? I think the best thing that the pool can do of course is education. We're educators, we're going to go out and say, this is going to be a problem for you, you need to figure out and here's how we fix it as a group.

But I think that that's where when we talk about from the last issue and all the information that's in this packet, this is a very good program to take the whole weight of our organization and our group and put it behind one of our members when they're having trouble. And I think that, I think Clinton, you had mentioned it as well too, is that while we have a 10 year mark on this coverage and how to pay off that program, there was always the opportunity that if circumstances were to change for that community or whatever, they could come back, because the reimbursement to us is there.

And so, I guess when I look at how healthy a lot of our funding is within this group, this is another way the 50% premiums off is really good thing. Just so you know. We enjoy that when I'm on this list at the top there. So, appreciate that. But the whole idea is that we can take that with our weight, our strength, and put it to the benefits of weaknesses of our community. So, I'm just I'm a big supporter of these kind of things. I don't know why anybody hasn't ever figured it out that we pool together our group, and the reason for that is to help protect all of our members. So, I'll stop at that. Otherwise, I'll get up on the soapbox and go around.

Member Neeb motioned for approval of Resolution 22-10. Member Trujillo seconded and upon a roll call vote, the motion carried unanimously.

Executive Session – Pending or Threatened Litigation

Miller: Pursuant to Section 10-15-1(H)(7) in the Open Meetings Act, I move that we enter closed session for limited purpose of discussing depending or threatening litigation concerning *Bascom*, *Marquez*, *Nava* and *Thornton*. Member Ryti seconded the motion and the Trustees voted unanimously to enter into the executive session.

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The Board of Trustees conducted executive session.

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Miller: Let the record reflect that the only items discussed in the closed session from which we just returned was the topic referenced in the motion to enter into closed session.

Ryti: I'll make a motion that we give authority to the staff to form negotiations with policy limits on *Marquez*, *Nava*, and *Thornton*. Member Hull seconded and upon a roll call vote the motion carried unanimously.

Budget Adjustment Request

Director Burch led discussion on this agenda item.

Burch: We haven't started the fiscal year yet, but we're here before you for a budget adjustment request. And you should have in your packets a one page summary of labeled NMSIF, FY23 reinsurance premiums, final binding versus budget estimate.

So, you did hear earlier, we did recently complete the binding for FY23. And at the time that we created the budget, we had not completed it. So, before you is basically a spreadsheet that compares what our budget estimate was based on to what the final binding will be for July 1st. In total, we have an increase of $876,000. So, we will need some budget authority to make sure that we can pay our reinsurance costs. The really the biggest increase from what we had estimated earlier and what we ended up with was our deductible buy down for property. That was not considered in the budget estimate, and that's what we have now for $1.16 million. And then there were some several small adjustments that you see throughout the spreadsheet there for a net amount of $876 000,348. So, basically that's it in a nutshell, and I stand for questions.

Member Hull motioned to approve the budget adjustment. Member Ryti seconded the motion and upon a roll call vote the motion carried unanimously.

Public Comment

No public comment was made.

Other Business

No other business was conducted.

Adjournment

There being no further business or comments from the Board, Chair Calhoun adjourned the meeting.