# Government Operations Committee

**Special Committee Meeting**

60 Central Ave.
Cortland, NY 13045
http://www.cortland-co.org

**~ Agenda ~**

**Thursday, July 22, 2021** | **4:00 PM** | **Board Room**

## Call to Order

| Attendee Name | Present | Absent | Late | Arrived |
|---|---|---|---|---|
| Committee Member Sandra Price | ☐ | ☐ | ☐ | |
| Committee Vice-Chair George Wagner | ☐ | ☐ | ☐ | |
| Committee Member Linda Jones | ☐ | ☐ | ☐ | |
| Committee Member, Kelly L. Fairchild-Preston | ☐ | ☐ | ☐ | |
| Committee Member Cathy Bischoff | ☐ | ☐ | ☐ | |
| Committee Chair, Susan Wilson | ☐ | ☐ | ☐ | |
| Committee Member Eugene Waldbauer | ☐ | ☐ | ☐ | |

## Resolutions

**ON MOTION OF WILSON** **AGENDA ITEM NO. 1**

**Adopt Local Law "F" of 2021, Amending Law No. 9 for the Year 2016 Which Established a Plan of Mutual Self-Insurance for Workers' Compensation; Amend Rules and Regulations and Apportionment**

WHEREAS, Cortland County adopted Local Law No. 1 of 1956 establishing a plan of self-insurance as provided for under Article 5 of the New York State Workers' Compensation Law, AND

WHEREAS, various amendments and enactments to the original law have occurred, AND

WHEREAS, the County and all participants in the plan have secured workers' compensation insurance from a third-party as of January 1, 2020, AND

WHEREAS, the claims and liabilities incurred by the plan during its active operation are in run-off, AND

WHEREAS, the County and all participants desire to address the provision of workers' compensation insurance, and the payment and allocation of the liabilities and termination of the plan of self-insurance, AND

WHEREAS, the proposed local law has been on Legislators' desks for the required seven days, and a Public Hearing was held June 24, 2021, NOW THEREFORE BE IT

RESOLVED, that the Cortland County Legislature hereby adopts Local Law "F" of 2021 as follows:

WHEREAS, Cortland County adopted Local Law No. 1 of 1956 establishing a plan of self-insurance as provided for under Article 5 of the New York State Workers' Compensation Law, AND

WHEREAS, the Cortland County Legislature wishes to codify and amend the plan to address the provision of workers' compensation insurance, and the payment and allocation of the liabilities and termination of the plan of self-insurance, NOW THEREFORE BE IT ENACTED, by the County

Legislature of the County of Cortland, as follows:

Section 1. Created.

The plan of self-insurance previously created by Cortland County as provided for in Article 5 of the Workers' Compensation Law known as the Cortland County Self-Insured Workers' Compensation Plan (the "Self-Insured Plan") is hereby continued to operate in run-off until terminated, as prescribed herein.

The Cortland County Group Insurance Program (the "Group Insurance Program") is hereby created to provide workers compensation insurance to its participants on a group basis as of January 1, 2020 and continuing into the future until discontinued.

Section 2. Administration.

The Self-Insured Plan and the Group Insurance Program shall be administered by the County Administrator or his/her designee (the "Administrator") and overseen by the applicable jurisdictional Legislative Committee.

A. The Administrator reserves the right to RFP and select the Third Party Administrator (TPA) for the Self-Insured Plan.

B. The Administrator reserves the right to RFP for Group Insurance; Plan participants, by weighted vote, shall select the TPA or insurer for the Group Insurance Plan.

Section 3. Self-Insured Plan in Run-Off.

A. Participation in the Self-Insured Plan.

   Each participant in the Self-Insured Plan as of December 31, 2019, shall continue as a participant unless and until such participant withdraws or the Self-Insured Plan is terminated, as provided herein.

B. Withdrawal from the Self-Insured Plan.

   A participant in the Self-Insured Plan may withdraw therefrom at the beginning of the next ensuing calendar year by filing with the Clerk of the County Legislature on or before the 31st day of July of any year a certified copy of a resolution of its governing body electing to withdraw from the Self-Insured Plan, upon condition that such participant shall pay prior to the date of withdrawal, in a lump sum, its estimated share of the outstanding liabilities of the plan. The outstanding liabilities of the Self-Insured Plan shall include the total of all claims, costs and expenses projected to be incurred (including those not yet reported) by the plan until termination. The estimated share of the withdrawing participant shall be consistent with the most recent actuarial report.

   The Director of Finance, with the approval of the County Legislature may permit said payment to be made in installments, subject to interest at the prime rate prevailing at the time of withdrawal (as reported in the Wall Street Journal). Installment plans may not exceed two years, and withdrawal shall be effective upon receipt of the final installment payment.

C. Termination of the Self-Insured Plan.

   Upon satisfaction of all liabilities, the Self-Insured Plan will terminate. Satisfaction of all liabilities may occur either upon settlement or closure of all claims and payment of all costs and expenses of the Self-Insured Plan or upon the purchase of an Assumption of Loss Policy, loss portfolio transfer or other transaction to transfer all liabilities of the Self-Insured Plan including the payment of all costs and expenses relating to same. Upon satisfaction of all liabilities and termination of the Self-Insured Plan, any funds remaining in the Reserve Fund shall be paid to the participants remaining at the time of termination, in an amount determined in accordance with Section 6.A.

Section 4. Group Insurance Plan.

A. Participation in the Group Insurance Program.

The County may secure Workers' Compensation insurance for itself and participants on a group basis through the Public Employer Risk Management Association, Inc. ("PERMA") or another acceptable insurer. Any participant that is not prohibited from participating pursuant to Section 5.E and satisfies the underwriting criteria of PERMA or such other insurer may secure such Workers Compensation insurance upon approval of plan participants by weighted vote, and execution of a Memorandum of Understanding which outlines the terms of participation.

B. Withdrawal of the Group Insurance Program.

A participant in the Group Insurance Program may withdraw therefrom at the beginning of the next ensuing calendar year by filing with the Clerk of the County Legislature on or before the 31st day of July of any year a certified copy of a resolution of its governing body electing to withdraw. A participant who withdraws from the Group Insurance Program shall remain liable for its share of the cost of insurance through the end of the current premium year.

C. Termination of the Group Insurance Program.

Upon withdrawal of all participants, and payment of all outstanding premiums and other expenses, the Group Insurance Plan shall terminate.

Section 5. Rules and Regulations.

Participants in the Self-Insured Plan and the Group Insurance Program shall be subject to the following standards, conditions, rules and regulations:

A. Participants shall cooperate fully with the Administrator in the administration of the plan, and shall prepare and file with the Administrator such reports and information as may, from time to time, be requested.

B. Participants shall promptly furnish all pertinent information relative to any claim, and shall aid in the investigation of any claim as may be required by the County, any insurer, administrator or tribunal.

C. Fines and penalties imposed on the plan for late filing of reports and forms shall be assessed against and paid by the participant if, in the opinion of the Administrator, the delay is occasioned by the failure or fault of the participant.

D. Violation of any of the foregoing provisions of this section by any participant shall be punishable by the imposition of a penalty, which shall not exceed $500.00 for each violation, at the discretion of the Administrator, or by expulsion from the plan upon a weighted vote of the participant based on the 2019 ratios. Expulsion of a participant shall constitute a withdrawal.

E. A participant who withdraws or has withdrawn from either the Self-Insured Plan or the Group Insurance Program shall not be permitted to re-enter or participate in the Self-Insured Plan or the Group Insurance Program.

Section 6. Apportionment of Costs.

A. Self-Insured Plan

1. Each participant in the Self-Insured Plan under Section 3 shall pay an annual assessment, based on the prior 3-year averaged claims expense of participants and any additional fees and expenses determined by the Administrator. Apportionment of costs shall be determined by taking the total amount to be assessed and applying the following formula:

    a. Forty percent (40%) of the total revenue for the Self-Insured Plan shall be generated based upon assessed valuation as of December 31, 2019. Each participant's share shall be calculated by determining the participant's percentage of full value assessment within the plan and multiplying that percentage of full value assessment by the total amount of revenue to be generated. The County's percentage of full value assessment shall only include the full value assessment contained within municipalities participating in the Self-Insured Plan. When calculating the full value assessment of a town, the assessment of a participating village within such town shall be excluded.

    b. Sixty percent (60%) of the total revenue for the Self-Insured Plan shall be generated based upon claims history as of December 31, 2019. Each participant's share shall be calculated by determining the participant's percentage of the average claims paid for the preceding three (3) years, which average claims paid shall be known as the "experience factor", and multiplying that percentage by the total amount of revenue to be generated.

2. The apportionment of costs shall be subject to the following:

    a. If a participant’s annual assessment exceeds the annual assessment for the previous year, any increase in the assessment from the previous year shall not exceed 5% of the previous year’s assessment; and

    b. If a participant’s annual assessment is less than the annual assessment for the previous year, any decrease in assessment from the previous year shall not exceed 10% of the previous year’s assessment.

B. Group Insurance Program.

Each participant in the Group Insurance Program shall pay its share of the cost of insurance. Each participant’s share shall be calculated as follows:

1. An Individual Premium shall be calculated for each participant based on that participant’s payroll and individual modification factor (loss history).

2. A Group Premium shall be calculated based on all participants’ payroll and a group modification factor (loss history).

3. An Individual Percentage shall be calculated for each participant as the percentage that its Individual Premium bears to the total sum of all participant’s Individual Premiums.

4. Each participant’s share of the cost of insurance shall be its Individual Percentage of the Group Premium, or any other premium as determined by the chosen TPA or insurer.

C. Notice and Payment

The Administrator shall notify each participant in writing, not later than December 1st, of the amount of its assessment under Section 6.A, cost of insurance under Section 6.B and contribution to the Reserve Fund under Section 7, and each participant shall pay the County Treasurer the amount so specified in such notice on or before January 31st of the following year.

Section 7. Reserve Fund.

The existing Workers' Compensation Reserve shall continue for the Self-Insured Plan. The maximum balance of such Reserve Fund (without investment earnings) shall be no greater than 125% of the amount projected by the Self-Insured Plan to purchase an Assumption of Loss Policy, loss portfolio transfer or other transaction which transfers all liabilities and terminates the Self-Insured Plan. The Director of Finance shall be required to establish and maintain a separate line item for the sole purpose of tracking the Reserve Fund until such time as the Self-Insured Plan is terminated. The amount of any annual contribution to said Reserve Fund shall be determined by the Administrator's recommendation and will be approved by a weighted vote of the participants, utilizing their 2019 share; each participant's share of that contribution shall be based on its assessment under Section 6.A.

Section 8. Conflicts with Previous Laws; Severability of Provisions; Effective Date.

In the event of a conflict or inconsistency between this local law and any previous local laws or resolutions of the County Legislature, this local law shall govern.

If any clause, sentence, paragraph, subdivision, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment, decree, or order shall not affect, impair or invalidate the remainder thereof, but shall be confined in its, operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment, decree or order have been rendered.

This local law shall take effect immediately

## Adjournment