

ORIGINAL

**WASHINGTON COUNTIES RISK POOL  
EXECUTIVE COMMITTEE**

**MINUTES**

**9:00 A.M., Wednesday, December 15, 2004  
Prime Hotel, SeaTac**

**ATTENDANCE:**

President – Craig L. Vejraska, Okanogan County Commissioner  
Secretary/Treasurer – Randall J. Watts, Whatcom County Chief Civil Dep. Prosecuting Attorney

Committee Members –

Toni Gilbert, Clallam County Safety/Training Specialist  
Steven M. Clem, Douglas County Prosecuting Attorney  
Rose Elway, Grays Harbor County Director of Management

Services/Budget/Insurance

Mike Shelton, Island County Commissioner  
Herb Baze, Mason County Commissioner  
Leon Long, Spokane County Risk Manager  
Jay Winter, Walla Walla County Human Resources / Risk Manager  
Ron S. Zirkle, Yakima County Prosecuting Attorney

Broker – Mike Croke, Senior Vice President, Willis Corroon Corporation of Seattle

Coverage Counsel – A. Richard Dykstra, Stafford Frey Cooper

Risk Pool Staff –

David Goldsmith and Vyrle Hill, Interim Co-Managing Directors  
Susan Looker, Sr. Claims Analyst

Others –

John Nicholson, OFM – State Risk Manager  
Tammy Devlin, Thurston County Risk Manager  
James R. Murray, Gordon Murray Tilden LLP (Thurston County)  
L. Michael Golden, Lewis County Dep. Prosecuting Attorney  
Harry Green, Lewis County Risk Manager  
Mike E. Clift, Mason County Chief Dep. Prosecuting Attorney  
Darren J. Nienaber, Mason County Dep. Prosecuting Attorney

**WELCOME and ROLL CALL:** President Craig Vejraska called the meeting to order at 9:02 a.m., and after viewing those present, announced that a quorum was present.

Steve Clem made a motion to move the meeting into executive session to review the coverage determination appeal procedures. The motion was seconded by Mike Shelton and approved.

**Executive Session – Claims/Litigation:** At 9:03 a.m., the chair conducted the meeting in executive session in accordance with RCW 48.62.101 to discuss litigation/appeals procedures whereat public discussion would impair the Pool's ability to conduct its business effectively. The Executive Session was concluded at 9:13 a.m.

The chair recessed the meeting until Richard Dykstra arrived at 9:25 a.m.

**Coverage Determination Appeal Hearings:** The chair opened the hearing regarding the appeals of coverage determinations made by the Executive Director that were timely filed by Thurston, Lewis and Mason Counties.

Thurston County: With Tammy Devlin present, James Murray explained why Thurston County was aggrieved with regard to a) Broyles v. Thurston County (Mason County Superior Court Cause No. 04-2-00411-3) whereby Executive Director Crawford determined there was a single occurrence that continued over three policy years (2000/01, 2001/02 and 2002/03), each with a \$250,000 deductible, and thus a total deductible of \$750,000, and b) Thompson v. Thurston County, et al. (Pierce County Superior Court Cause No. 03-2-07189-2) and Thompson v. Thurston County, et al. (U.S. District Court, Western District of Washington Cause No. C03-5615FDB) wherein Mr. Crawford determined the complaint triggered two policy years (2001/02 and 2002/03), each with a \$250,000 deductible, and thus a total deductible of \$500,000. Questions were asked by Steve Clem, Randy Watts and David Goldsmith. Mr. Goldsmith presented the Pool's position, then Mr. Murray a brief rebuttal. Additional questions were asked by Mike Shelton, Steve Clem and Craig Vejraska.

The chair recessed the hearing/meeting at 10:15 a.m. for ten minutes.

Lewis County: With Harry Green present, Michael Golden explained why Lewis County was aggrieved with regard to Wallace v. Lewis County (Thurston County Superior Court Cause No. 02-2-00918-1) and Gee Cee's, Inc. v. Lewis County (Lewis County Superior Court Cause No. 04-2-01353-1) whereby Executive Director Crawford determined the two lawsuits arose from the same conditions and events, but triggered four policy years (1998/99, 1999/00, 2000/01 and 2001/02), each with a \$25,000 deductible, and thus a total deductible of \$100,000. Mr. Golden informed the Committee that Lewis County's Summary Judgment Motion was recently approved, but the appeal period remains open. David Goldsmith presented the Pool's position. Questions were asked by Mr. Goldsmith, Ron Zirkle and Vyrle Hill. Mr. Golden provided a brief rebuttal.

At 10:50 a.m., for appearance of fairness and conflict of interest concerns, Herb Baze excused himself from the Committee and took a seat in the audience as a Mason County Commissioner.

Mason County: Darren Nienaber's request for a continuance was discussed. Mr. Nienaber stated that he and Mike Clift were present to present Mason County's case, and that they were voluntarily withdrawing the continuance request with a potential request to file a post-hearing brief. Mr. Nienaber explained why Mason County was aggrieved with regard to Sea Fresh Farms, Inc. et al. v. D&E Septic Services, Inc., Mason County et al. (Thurston County Superior Court Cause No. 04-2-01874-6) whereby Executive Director Crawford determined that the complaint alleged claims that are excluded entirely from coverage pursuant to the pollutant exclusion contained in the Pool policies. Questions were asked by Mike Shelton. David Goldsmith presented the Pool's position with a brief rebuttal from Mr. Nienaber.

Steve Clem moved to grant Mason County the opportunity to file a post-hearing brief with the Risk Pool electronically by 9:00 a.m., Monday, December 20, 2005. The motion was seconded by Rose Elway and approved.

The chair recessed the meeting at 11:35 a.m. for five minutes.

Executive Session: From 11:40 a.m. until 1:25 p.m., the chair conducted the meeting in executive session in accordance with WCRP Bylaws Article 8 B.5.c. and RCW 48.62.101 to discuss the coverage determination appeals with Pool coverage counsel.

The chair recessed the meeting until 1:38 p.m.

**Continued Meeting:** Rose Elway made a motion to continue this meeting telephonically Tuesday, December 28, 2004 at 10:30 a.m. to consider and vote on any motions made to determine the appeals. This would allow sufficient time for distribution and review of Mason County's post-hearing brief and coverage counsel's opinion and draft responses. The motion was seconded by Mike Shelton and approved.

#### **APPROVAL:**

**Minutes:** Mike Shelton moved to approve the minutes of the October 5<sup>th</sup> meeting at Spokane; the motion was seconded by Leon Long and approved. The minutes of the November 3<sup>rd</sup> meeting were not available for action, and the minutes of the November 4<sup>th</sup> Autumn Board Meeting were simply placed in the meeting packet.

**Vouchers:** Leon Long moved to approve the vouchers (Voucher Approval Request No. 05-01 – Administration: check numbers 12549 through 12703 totaling \$7,250,796.16 and transfers in the amount of \$11,079.35; and Claims: check numbers 15139 through 15377 totaling \$3,125,132.67). The motion was seconded by Jay Winter and approved.

**Personal Services Agreement for Interim Management:** Rose Elway moved to approve the personal services agreement proposed between the Pool and David Goldsmith (DRG Sound Solutions) and Vyrle Hill (Vyrle L. Hill Consulting) for interim pool management with the contract term (section 12) modified to April 30, 2005 rather than March 31. The motion was seconded by Ron Zirkle and approved.

**Financial Reports:** Rose Elway moved to approve the 4<sup>th</sup> Quarter (Year P – 2003/04) financial and investment reports prepared by the Accounting/Auditing Officer and presented by Vyrle Hill. The motion was seconded by Leon Long and approved.

#### **REPORTS, DISCUSSION and ACTION:**

**Brokers Report:** Mike Croke noted that the property insurance renewals went very well; rates were quite favorable, and four counties were added bringing the total participating to eighteen with two more considering quotes presently. He also mentioned that Nationwide Insurance is providing special events coverage.

**WSAC Insurances Committee:** Mike Shelton informed the Committee of the establishment of a committee of county-related insurance programs and asked that WCRP participate. Rose Elway and Randy Watts agreed to represent the Pool.

**Coverage Counsel Agreement:** The chair asked Steve Clem to attempt to negotiate an agreement with Richard Dykstra and Stafford Frey Cooper to serve as WCRP coverage counsel.

**Consulting Management's December 2004 Report:** David Goldsmith and Vyrle Hill briefed the Committee with regard to their actions since assuming WCRP co-management in early November – Susan Looker was designated Acting Claims Manager, Kitty Bottemiller was (re)assigned as office support, and non-exempt staff were compensated for overtime earned. Internal controls are being enhanced, especially those associated with time reporting, payroll and direct depositing.

**Claims Manager:** Mike Shelton moved to appoint Susan Looker as Claims Manager with the condition that she perform a deficiencies self-assessment and suggest plans for improving such. Rose Elway seconded the motion. It passed unanimously.

**Claims Analyst:** Rose Elway moved to authorize recruitment of a replacement claims analyst as determined by the Claims Manager. The motion was seconded by Toni Gilbert and approved.

**Job Descriptions:** Rose Elway moved to forward the revised description for Executive Director for "fast track" review by the Personnel Committee, and to direct the co-managers to conduct a comparable market survey and present for action during the December 28<sup>th</sup> continued meeting. The motion was seconded by Mike Shelton and approved.

Toni Gilbert moved to forward the remaining job descriptions to the Personnel Committee for consideration with the suggested revisions. Rose Elway seconded the motion, and it was approved.

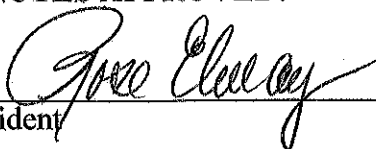
**Budget Amendments/Purchase Requests:** Leon Long moved to approve several budget amendments and/or purchase requests proposed from the overall budget approved in July including: a) adjustments in management personnel, b) replacing four desk chairs, c) retaining the actuary to rerun the reserving report with updated claims information, d) replacing the WCRP phone system, and e) upgrading the RiskMaster claims management system for web-based, WCRP-hosted operations and acquiring the "business intelligence" package. The motion was seconded by Jay Winter and approved.

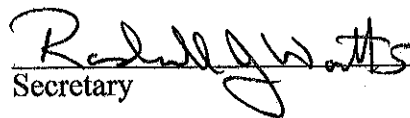
**Future Meetings:** In addition to the December 28<sup>th</sup> telephonic continued meeting at 10:30 a.m., President-elect Rose Elway determined that the Committee should meet February 17, 2005 and June 30, 2005 in SeaTac (specific location and times to be determined by Pool staff).

**Awards/Recognition:** President-elect Rose Elway provided Commissioners Herb Baze and Craig Vejraska with Certificates of Appreciation for their services to the Pool, and a plaque to Craig for his tenure as WCRP President.

With no further business, the meeting was adjourned at 3:46 p.m. to reconvene telephonically at 10:30 a.m., Tuesday, December 28, 2004.

**MINUTES APPROVED:**

  
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President

Attest:   
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Secretary