

WASHINGTON COUNTIES RISK POOL
Roundtable (for County Claims Administrators and Risk Managers) and
Property Appraisal Presentation
NOTES

Thursday, March 26, 2009
Skamania Lodge, Stevenson, WA

ATTENDANCE:

* denotes Executive Committeeperson

Adams County: Linda Reimer, Risk Manager – Alt. Director
Benton County: Melina Wenner, HR/Risk Manager - Director
Bryan Perry, Safety & Training Coordinator – Alt. Director
Chelan County: *Keith Goehner, Commissioner - Director
Cathy Mulhall, County Administrator – Alt. Director
Cindy Dietz, Administrative Supervisor
Clallam County: *Not represented at Roundtable*
Clark County: Mark Wilsdon, Risk Manager
Bronson Potter, Sr. Deputy Prosecuting Attorney – Alt. Director
Columbia County: Drew Woods, Public Works Director – Director
Cowlitz County: *Not represented at Roundtable*
Douglas County: *Steve Clem, Prosecuting Attorney/Coroner – Director
Thad Duvall, Auditor – Alt. Director
Franklin County: Bob Koch, Commissioner - Director
Ryan Verhulp, Chief Civil Deputy Prosecuting Attorney – Alt. Director
Garfield County: Dean Burton, Commissioner - Director
Karl “Butch” Low, Risk Management Services
Grays Harbor County: *Rose Elway, Director, Management Services/Budget – Alt. Director
Anne Sullivan, Risk Manager/Emergency Services – Alt. Director
Island County: Angie Homola, Commissioner - Director
Betty Kemp, GSA Director – Alt. Director
Jefferson County: Philip Morley, County Administrator - Director
Kitsap County: *Mark Abernathy, Risk Manager – Director / President
Ione George, Sr. Deputy Prosecuting Attorney – Alt. Director
Tim Perez, Risk Management Specialist
Anastasia Johnson, Claims Assistant
Kittitas County: Lisa Young, Human Resources Manger/Safety Officer - Director
Lewis County: *Lee Grose, Commissioner – Director
Harry Green, Risk Manager – Alt. Director
Mason County: Lynda Ring Erickson, Commissioner - Director
Ione Siegler, Budget & Finance Director – Alt. Director
Okanogan County: *Andrew Lampe, Commissioner - Director
Nanette Kallunki, Risk Manager
Pacific County: Bryan Harrison, County Administrative Officer – Director
Marie Guernsey, Assistant Risk Manager
Pend Oreille County: Diane Wear, Commissioner - Director
Don Ramsey, Risk Manager/County Engineer
San Juan County: Adina Cunningham, Deputy Director of County Administration – Alt. Director
Skagit County: Billie Kadrmas, HR/Risk Manager – Alt. Director
Skamania County: *Marilyn Butler, Risk Manager – Alt. Director
Debi Van Camp, Assistant Risk Manager
Spokane County: * Steve Bartel, Risk Management Supervisor – Director
Thurston County: *Tammy Devlin, Risk Manager – Alt. Director
Walla Walla County: *Jay Winter, Personnel / Risk Manager – Director/Secretary-Treasurer
Whatcom County: *Randy Watts, Chief Civil Deputy Prosecuting Attorney - Director

Yakima County: Larry Peterson, Senior Deputy Prosecuting Attorney – Director
Janet Kelly, HR/Program Analyst – Alt. Director

Broker Services: Liz Miser, Area Vice President – AJGRMS, Inc.
Tim Chace - AJGRMS, Inc.

WSAC: Eric Johnson, Executive Director

Speakers: Mike Tardif, Freimund, Jackson & Tardif, LLP (Bicycles)
Ramsey Ramerman, Foster Pepper PLLC (Public Records)
Mark Hessel, Hirons & Associates, Inc. (Property Appraisal)

WCRP Staff: Vyrle Hill, Executive Director
Jill Lowe, Loss Control Coordinator
Susan Looker, Claims Manager
Mike Cook, Claims Analyst
Candy Drews, Claims Analyst
Tammy Cahill, Claims Representative
Claire Thompson, Claims Assistant
Lisa Daly, Claims Assistant
Sue Colbo, Auditing/Accounting Officer

ROUNDTABLE

Welcome: Claims Manager Susan Looker welcomed the attendees at 8:35 a.m.
Eric Johnson, Executive Director of WSAC, gave a legislative update report.

Program (8:40 am): Susan introduced Mike Tardif, who presented a program on “Understanding Tort Liability Challenges Presented by Bicycles.”

Tardif discussed the common allegations related to bicycles: failure to maintain roads and/or trails, failure to make bicycle-related capital improvements, failure to design or construct roads/trails to standards, and failure to warn of hazards. He followed with standard defenses to those allegations: lack of notice of defects, reasonable maintenance programs, factual causations, and comparative or contributory negligence. He also shared some sample bicycle claims. He concluded that liability can be significantly mitigated by active road and trail maintenance programs, but realized that capital funding can be a political matter not within the control of risk management officials.

Program (10:20 am): Jill introduced Ramsey Ramerman, who presented a program on “5 Points of Risk: Where PRA lawsuits arise and what you can do to help avoid them.” (Ramsey has completed five training sessions for the Risk Pool.)

Ramerman discussed the heavy burden placed on government entities by the Public Records Act (RCW 42.56), that there is no burden on the requester to cooperate, and there are harsh consequences and penalties for not complying with the statutes. He discussed 5 points of risk: mishandled requests, attitude, failure to locate responsive records, being overwhelmed with requests, and misapplication of exemptions. He identified appropriate solutions for each risk, with TRAINING as the primary solution. He also made some suggestions where legislative changes might be necessary, especially to help smaller jurisdictions.

County members asked questions about third-party vendors, acceptable formats for requests, and when an injunction can be obtained against a person for requesting records.

Announcements: The programs were followed by announcements. Jill Lowe noted Tim Chace, AJG, wrote two documents included in Roundtable materials: Risk Control Report regarding the Mason County Transfer Station, and Recommendations for closing a County Park Facility.

Roundtable Items: There were no pre-submitted items. The microphone was passed around the table and the following items were announced/discussed:

1. Steve Bartel announced his committee was working on the Booking Fees issue.
2. Betty Kemp introduced Angie Homola as her new Commissioner.
3. Mark Abernathy reported GPS data collectors are located in some county vehicles. He has a concern regarding public records requests. Have other counties had requests for this data? His concerns relate to privacy for his officers and their personal home address information. Mark Wilsdon asked if the officers could “switch on” their equipment a few blocks away from their home, so the data about their addresses would not be recorded.
4. Lee Grose reported they had settled an ADA issue that occurred close to the I-5 corridor. He cautioned other counties similarly situated to be on the lookout for similar complaints.
5. Jay Winter remarked, due to budget constraints, they have laid off employees. He expects personnel-related claims to increase. Another member commented that employees working “out of class” due to layoffs may also ask for additional compensation.
6. Lisa Young commented they have been inundated with public records requests.
7. Larry Peterson introduced Janet Kelly, Risk & Safety Analyst and Alternate Director.
8. Don Ramsey introduced Diane Wear, a new Commissioner in Pend Oreille County, who commented the county is also dealing with a lot of public records requests.
9. Anne Sullivan noted the new CDL training requirements and asked if anyone had experience with granting “waivers” to existing CDL drivers. Steve Bartel offered to send information, and will send to Jill to distribute.
10. Marilyn Butler responded to a question about road maintenance and setting priorities during times of reduced funding. Skamania County has rated all roads with a priority system for bad weather plowing based on usage and quality of the road. She reports that people know what to expect. Steve Bartel reported Spokane County has set up telephone lines so people can call to find out when roads would be plowed.
11. Ione Siegler commented a team approach to layoffs has been working well for her county.
12. Adina Cunningham reported that filling out the claim settlement release of liability form could be an “unauthorized practice of law,” and cautioned about being too aggressive with claimants. A lively discussion ensued.
13. Tammy Devlin reported Thurston County is experiencing big budget cuts. They have laid off 50 this year and expect more next year. She advises to try to reduce the less risky positions first, and that reorganizations have caused ripple effects they are working through with HR.
14. Ione Siegler commented she has concerns about her Sheriff’s Department broadcasting emails and making the budget concerns look worse than they actually are.
15. Philip Morley reported Jefferson County has had lots of snow and lots of small claims related to sanding trucks. He had been denying all, but he feels some are legitimate. Other members, and Susan Looker, urged him to investigate, determine liability, check maintenance logs for sanding truck schedules and locations, and pay the claims for those that are determined to be county responsibility. Mark Wilsdon also recommends the claimants work with their own insurance companies first, then negotiate the deductible.
16. Drew Woods asked the other members about arming paramedics for entry into possibly hostile situations like drug busts. Vyrle Hill reported he has received requests for information on this topic. He opines the county could move the paramedics to officer status to deal with the armament question, though he didn’t recommend that.
17. Andrew Lampe shared the county’s experience with blasting an ice dam and the repercussions of percussion. The county took responsibility for broken windows from the blasting.

Lunch Program: Mark Hessel of Hirons & Associates, Inc. presented “Property Appraisal Program Overview” during lunch.

The firm of Hirons & Associates, Inc. was chosen to perform property appraisals of select county properties. Hessel spoke about why property appraisals are needed and some of the objectives of the program. He discussed the process of appraisal and what the counties can expect when their property is appraised. He concluded with a few county requirements that make the appraisal process go smoothly: review Statement of Values prior to the arrival of the appraiser, make blueprints available, review/prepare

recent construction cost documents (if any), and assist the appraiser with access to the properties with proper announcements and planning.

(Marilyn Butler won the “Cheese Head” presented by Mark for answering the trivia question he posed regarding the Packer’s playoff win at Lambeau Field on January 12, 2008. Congrats, Marilyn!)

Vyrle Hill expressed appreciation to Keith Goehner, Tammy Devlin and Lee Grose for their work on the property appraiser selection process.

Risk Management Training:

Program (1:00 pm): Bronson Potter, Chief Civil Deputy Prosecuting Attorney, Clark County, presented “The Dirty Dozen Contract Writing Mistakes... and Their Solutions.”

Contracts are important documents that legally obligate the county to provide services, pay funds, or share authority. Bronson had everyone’s attention during his discussion of what to do and what not to do when writing contracts. Here they are:

1. Getting the parties right. Who is the legal entity that can contract? Who are you contracting with?
2. Describing what you are getting. There has to be a meeting of the minds. If you want it, describe it; the more detailed the better. Assume the reader knows nothing. Write it for the judge or jury.
3. Exhibits. Get away from using exhibits that may not stay with the contract. Cut and paste the information into the body of the contract.
4. Schedules. Be specific about dates; don’t tie them to other occurrences. Give a schedule of deliverables and of payments.
5. Term. Specify the duration of the agreement, when it starts and when it stops. Include a provision for giving written notice of intent to terminate.
6. Knowing what referenced regulations require. If you are agreeing to do it, know what it is.
7. Update references to regulations. Statutes change; be sure you have accurate and up to date references to statutes in your contract.
8. Using different terms for the same thing. Pick a term and define it; then stick with it – be consistent.
9. No restriction on assignment. Do you care who provides the service or product? Probably.
10. Attorney’s fees and dispute resolution. Do you want to recover or be subject to attorney’s fees? Must be provided for by contract or statute.
11. Indemnity and Hold Harmless. From what? If the claim comes in, the contract language will provide you the ability to recover the costs of your defense which you would not have in a typical negligence action.
12. Misc. Include specification of venue, choice of laws, confidentiality, and integration clauses.

Bronson added a summary:

“Templates scare me, but we will use them. They are not an excuse to turn off the brain and go into cruise control. Read them. Use what applies and makes sense. Don’t feel obligated to use language just because it is in the template.”

Program (2:00 pm): “Mega Trends in Workers’ Comp Challenges Amid the Economic Crisis” presented by Carol Cashion and Jim Vita of Midwest Employers Casualty Company (MECC).

Carol and Jim discussed insurance industry trends, mega trends in workers comp, and supplied some benchmarking information for Washington State. The insurance industry is dealing with declining interest rates, declines in stocks, extreme volatility, decreased revenue for public employees, and job losses. Mega trends include 1) falling lost-time claim frequency and falling fatality rates, 2) an aging workforce, 3) inflation of medical claim cost, 4) inflation of indemnity claim cost, and 5) the obesity epidemic. MECC offers management reports, web seminars, case studies, and other web resources to assist entities.

The Roundtable concluded at 2:45 pm.