

**LOCAL GOVERNMENT LIABILITY POOL  
BOARD MEETING  
Cheyenne, Wyoming  
November 5, 2009**

Board Members in Attendance:

Ron Crook, Chairman, Lincoln County Weed & Pest District  
Brad Basse, Vice-Chairman, Hot Springs County Commissioner  
Linda Smith, Secretary, At-Large Member  
Don Richards, Shoshone Municipal Pipeline  
Bob Wood, Mayor of Dayton

Board Members Absent:

Will Davis, Treasurer, Mayor of Evanston  
Jim Hudelson, Goshen County Commissioner

Staff and Guests in Attendance:

Mark Pring, Executive Director  
Shuler Boone, Administrative Assistant  
Richard Rideout, LGLP Attorney  
Monty Lauer, Consultant

• **APPROVAL OF MINUTES**

Chairman Ron Crook called the meeting to order at 9:00 A.M., and asked for a motion to approve the minutes from the June meeting. Brad Basse made a motion to approve the minutes from the meeting of June 26th, 2009. Linda Smith seconded the motion, and it passed unanimously.

• **EXECUTIVE DIRECTOR'S REPORT**

Mark Pring thanked the Board for rearranging their schedules to attend the meeting, as the meeting scheduled for October 28th was postponed due to a snowstorm. Mark stated that the office had been busy with many claims, lawsuits, and meetings. He mentioned that he had attended the WACO Conference, the WAM Executive Committee, a senior center, and a couple meetings with elected officials. Mark also added that he and Monty Lauer were scheduled for two mediations the following week. He said that he suspected the increase in claims and lawsuits was due to the economic downturn. Linda Smith asked Mark what type of lawsuits and claims he had been seeing, were they personnel issues or sewer claims. Mark replied that the lawsuits were more in the civil rights area, but the claims were more sewer issues.

### **A. New Members**

Mark Pring stated that since the last board meeting, four new members had joined the Pool. There were no terminations of coverage. Mark added that several applications had been forwarded to Richard Rideout for his review. He explained that unless an entity's eligibility is obvious, their application is sent to Richard for review. Mark stated that all eligibility application reviews were current. Brad Basse asked what size the four new members were. Mark replied that one was Glenrock Hospital District, which really was not a hospital district, but a clinic with nurses. The Platte County Hospital District, Platte County Memorial Nursing Home, and the Valley Community Center were also new members. Mark explained that the Valley Community Center was not a nursing home, but a community center. He said that another nursing home was looking at the Pool for coverage. There was a short discussion concerning the fact that the Pool only covers medical malpractice for medical services provided in jails.

Don Richards asked the outcome of the special meeting held in the WAM Executive Committee concerning sewer backups. Mark replied that he and Mark Harris, an attorney for WAM, provided a joint presentation, in which governmental immunity and potential liability issues were discussed. Some participants understood that an entity had to be negligent before the Pool would pay a sewer claim, while others did not. He added that they had also discussed the importance of documentation in routine maintenance schedules. Don Richards said he had hoped that some type of proposed legislation would be discussed. Mark replied that it was merely an informational-type meeting. Don asked where the legislation effort stood. Mark answered that no one wants to spearhead the issue, so it is at a stalemate. He suggested discussing the issue further in Executive Session.

Mark Pring stated that currently the Pool had 418 members, depending on how you count them, as some members separate themselves into divisions and pay separately.

### **B. Budget Report**

Mark presented the end of fiscal year 2009 budget report and the one for fiscal year 2010. He stated that the Pool had gone over the fiscal year 2009 budget on claim settlements and attorney fees, which was discussed in the last board meeting. Linda Smith said that she recalled that as long as the bottom line of the budget was okay, there was no need for a formal motion. Mark suggested that a keen eye be kept on the budget, as one large claim settlement can push the settlement amount over budget. He explained that the pending claims figure reflected those claims that have actually been submitted to the office. He added that the "IBNR" figure was from the actuary and depicted those claims that had been incurred but not yet reported. Mark stated that the Pool had ended its fiscal year, considering both the IBNR and reserves for pending claims figures, with \$14,069,000. This figure for fiscal year 2008 was \$11,800,000, so the Pool's surplus had increased a bit. Don Richards asked how the surplus had been gained. Monty Lauer said that he felt that most of the disparity between the 2008 and 2009 figures was due to the IBNR figure being reduced by the actuary. After some discussion, it was the general consensus that this was true.

Mark explained that from a staff and Board perspective, the budget report was not the ideal account of how the Pool was performing as the contributions figure was a blend of contributions from fiscal year 2008 and 2009. He stated that in the future there would be a better report from Risk Envision that would help provide a better picture for the fiscal year. Formerly, Monty Lauer used the loss ratio report to present a clearer picture, but with the transition to the Risk Envision upgrade, a report would not be available until the software upgrade was completed. Brad Basse asked about additional ratios that Mujtaba Dattoo had in his presentation of the Pool's actuary report last year. Mark explained that these benchmarks or formulas for calculating a pool's performance in comparison to other pools were discussed at the ArmTech Conference. He added that on the request of Board member Jim Hudelson, he had also asked Mujtaba if using payroll was an appropriate way to base contributions. Mark said that Mujtaba had answered that calculating contributions based on payroll is the most effective method. Don Richards asked if there was a difference in the increase in contributions when the switch was made to calculating contributions using payroll instead of expenditures. Mark replied that there was an increase for some entities, but other entities are still below where they should be. He said that the move to use payroll as a method to calculate contributions was intended to be a gradual process for entities whose contributions were far below where they should be and that by next year, most entities will be where they should be. Mark said he was currently working with ArmTech for the actuarial report for fiscal year 2010. He added that since the Pool has decided not to purchase the excess coverage, it needs to increase its surplus. There was a short discussion concerning the need of setting a reserve or surplus cap. Chairman Ron Crook asked for a motion to accept the budget report for fiscal year 2009. Linda Smith made a motion to accept the 2009 budget report. Bob Wood seconded the motion. There was a vote, and the motion passed unanimously.

### **C. ArmTech Conference, Torrey Pines, CA**

Mark stated that he had attended his first ArmTech Conference. He said that of all the presentations he had attended, he enjoyed Mujtaba Dattoo's presentation he most. He indicated the ArmTech Conference is more risk pool specific than the PRIMA Conference. Monty Lauer stated that the PRIMA Conference is beneficial, but is geared more toward communities. Brad Basse said that it was good to have Mujtaba come to the Board meeting last year to explain the actuarial report. He stated that he also had enjoyed ArmTech's preconference tutorial presentation.

### **D. Bill Miller's Report**

Bill Miller stated that the office had been very busy. He said that since the last Board meeting, he had visited with 31 entities on general liability, risk, and personnel issues. He added that it has become frustrating because he tries to instill the importance of documentation; however, many are still not doing it. He said he had numerous discussions with boards, helping them with personnel issues and training. Bill said he had also worked with 12 entities on their policies and procedure manuals, and had held three different training sessions, and one OSHA-type inspection. He stated that of the 40 senior citizen centers in the state, 32 are members of LGLP and others are showing an interest in joining. Bill said that he had visited with several directors from the senior centers. He said that the more he gets involved, the more he seems to be learning. Brad Basse cautioned Bill on what he tells the members or facilitating change. Bill

stated that he was simply giving advice, and when he makes suggestions on documentation, he informs them these are merely guidelines, with no specific detail. He expressed his concern to the Board regarding entities that have been given advice, but have not implemented our recommendations which later result in a claim or lawsuit. Ron Crook suggested that Bill follow up his visits with a letter specifically stating the recommendations in order to reduce the risk and have a record on file.

Bill stated that he had been invited to do a training session for the WAM Winter Meeting in February and another for a weed and pest district.

He added a couple of building issues including a minor roof repair and the LGLP sign that was damaged by the snowplow operator. He mentioned he was currently getting quotes for the repairs. In addition, he explained that the LGLP office was going to install push bars on all the exterior doors. The Cheyenne Fire Department, during a previous inspection, had requested the push bars to be installed in order to meet the fire code. Bill explained the push bars would meet the fire code and provide additional security for the office.

- **APPROVAL OF EXPENDITURES**

After a short discussion, Don Richards made a motion to approve June, July, August and September expenditures. Linda Smith seconded the motion, and it passed unanimously.

- **RISK ENVISION SOFTWARE PROGRAM**

Mark Pring explained that Risk Envision was the claim tracking program the Pool had used for years. Recently, the Pool installed a recommended upgrade. New hardware had to be purchased in order for the new system to operate. He stated that there had been many issues with the new upgrade. He said that Risk Envision had been acquired in September by a company called EBEX, a large insurance company software provider. Mark indicated that the upgrade had been frustrating to work with and while some issues had been corrected, several still existed. Don Richards suggested that a representative from Risk Envision come onsite. Mark explained that meetings had been held online in which the Risk Envision staff could see his computer screens which helps them to identify exactly what the issues are. Mark stated he wanted to know what some of the options were should the issues with Risk Envisions continue. He stated that discussions were held with another claims software provider that they had met at the PRIMA Conference. They performed an online demonstration as well as provided the costs of a new claim tracking system. Don Richards suggested contacting Risk Envision with an ultimatum requesting resolution to the problems by December 31, 2009. Mark said he liked Don Richards' idea of giving Risk Envision a chance to resolve the problems. The Board meeting recessed at 10:32 A.M.

- **MEDICARE/MEDICAID SECONDARY PAYOR ACT**

Mark Pring explained that the Pool occasionally pays settlements that involve bodily injury. The settlements can include the cost of reimbursement for medical bills. Apparently, there have been times where the claimant's medical expenses have been paid for by Medicare or Medicaid. Upon settlement of a claim, the Medicare/Medicaid beneficiary is supposed to reimburse the federal government for the medical expenses they have paid out as a result of the injuries received from the other party. However, the claimants do not always inform the federal government of the settlements. In an effort to recover their payments, the federal government has instituted a mandate requiring insurance companies and risk pools to notify them whenever a settlement involves a bodily injury or reimbursement of a medical bill of any kind. Insurers and risk pools must notify the federal government of the claimant's name and social security number and other identification factors so that they can run the information through their database to see if they are Medicare/Medicaid beneficiaries.

Fortunately, LGLP has very few claims that involve bodily injury settlements. The reporting required by the Medicare/Medicaid Secondary Payor Act begins January 1, 2010. Mark stated that in cases that involve bodily injury, he would probably have to modify the settlement release form to request additional information from the claimant. He added that he would visit with Richard Rideout to see if something additional needed to be added, possibly a statement that the claimant would sign stating that he or she is not currently a Medicare or Medicaid beneficiary. After a short discussion, Mark stated that Medicaid is based on a person's finances, and Medicare is qualified by age or as a result of a disability. After receiving Social Security disability for 24 months, a person can become eligible for Medicare even though they are less than 65 years of age. He added that the Pool can receive a fine of \$1,000 per day for failure to report a payment. Mark indicated the Pool has registered via the online notification system. Later a data transfer test will be performed to make sure our computers will communicate to each other. Industry refers to this new mandate as Section 111 reporting.

- **BOARD MEMBER ELECTIONS**

Mark Pring stated that three board positions were coming up for reelection on January 1st. He said that in the past, the Board usually had nominated existing board members that plan to run again. Will Davis had previously stated that he did not wish to run again. Contacts have been made, but at the time of the meeting, only one individual seemed interested, Greg James, Mayor of Newcastle. Monty stated that Mr. James had been on the WAM/JPIC Board for years and had worked in the private sector and had been very supportive of the Pool. Mark stated that the election process involved multiple mailings, with nominations and actual ballots. He asked the Board how it felt about completing the nomination process electronically, as an electronic receipt could be requested in order to assure each email would be read. Monty Lauer stated that some small entities did not have computers. Mark added that he would still mail the ballots, just send the nomination request by e-mail. After a short discussion, Mark stated that nominations would be mailed as soon as possible, and ballots would be mailed with a return date no later than December 31<sup>st</sup>. Brad Basse made a motion to nominate Don Richards, Bob Wood, and Greg James as candidates for election and reelection. Linda Smith seconded the motion. There was

no discussion, and the motion passed unanimously. It was discussed that in the future, the election process should begin at the Board's July meeting instead of October in order to avoid any delays.

- **CREDIT CARDS – WYOMING STATE BANK**

Mark Pring explained that the current LGLP credit card account was based on Monty Lauer's personal credit. The desire was to obtain a credit card account based on the Pool's finances. The current credit card company refused to make the switch, so a new credit card account was pursued. Wyoming State Bank has issued new credit cards for the office. The old credit card account will be cancelled as soon as all the automatic payments have been transferred to the new credit card account.

- **CERTIFICATES OF DEPOSIT**

Mark Pring stated that a certificate of deposit had been obtained for \$290,600, the amount the excess insurance policy would have cost. He suggested that each year, another certificate of deposit be obtained to supplement the reserves. Monty Lauer suggested adding an additional ten percent to the amount of the certificate of deposit each year since the excess insurance would have probably increased by that amount.

- **CPA AUDIT**

Mark Pring announced that James Childress, CPA, would be conducting the audit in a few weeks. Don Richards asked when the audit report would be coming. Mark replied that Mr. Childress had indicated to him that he would like to present it to the Board, so it would be on the agenda for the January board meeting.

The meeting recessed for lunch at 11:20 A.M.

The board meeting reconvened at 1:08 P.M.

- **ACTUARIAL REVIEW**

Mark said he was beginning to gather the data required to submit to ArmTech, the Pool's actuary, for the Pool's annual actuarial review. Monty stated that the actuarial review is statutorily required. Brad Basse asked if Mujtaba Datoos would be available to come to a Board meeting and explain the results of the review. Don Richards stated that he would rather have Mr. Datoos come to a retreat and explain the results. There was a short discussion. Mark said that since the Pool is self-funding its excess insurance that Mujtaba Datoos may want to set aside a specific reserve for that purpose. Richard Rideout stated that the Pool has been very fortunate as there have not been large settlements lately, but that could happen at any time. Linda Smith stated that there would be an eventual decline in payroll, because of the poor economy, which

will affect the contributions. There was a short discussion concerning if an entity could be liable for necessary layoffs. Richard Rideout stated that a reduction in force was not a termination, as the position is eliminated on the budget. He added if a layoff is “a bona fide reduction in force and done legitimately”, you cannot do it for the wrong reason; i.e., discrimination. Monty Lauer said that the key is that the employer cannot come back and hire someone else for the same job. Linda Smith stated that it is not always who was hired last, it depends on the position. Richard Rideout stated that the “position” is eliminated, not the person.

- **RETREAT**

Shuler said if the Board wished a retreat for next summer, that she needed to collect ideas of where and what they wanted to do so that she could investigate options and see what would be available. Different areas of the state were discussed. Possible dates for the retreat that were discussed were either the last week of July or first week of August. The Board asked Shuler to provide several options at its next meeting, in January.

- **EXECUTIVE SESSION**

Linda Smith made a motion that the Board meeting enters its Executive Session for matters allowable by law. Don Richards seconded the motion, and it passed unanimously. The Board meeting entered Executive Session at 1:45 P.M.

Linda Smith made a motion that the Board meeting exit Executive Session. Bob Wood seconded the motion and it passed unanimously. The Board meeting exited Executive Session at 4:00 P.M.

- **OLD OR NEW BUSINESS**

There was no further business discussed.

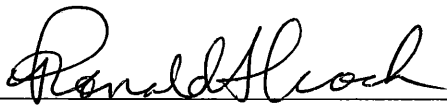
- **NEXT BOARD MEETING**

The Board decided to have its next meeting on Thursday, January 28, 2010, at the office in Cheyenne.

- **ADJOURNMENT**

Linda Smith made a motion that the Board meeting adjourn. Bob Wood seconded the motion, and it passed unanimously. The Board meeting adjourned at 4:02 P.M.

Approved:



Ronald Crook, Board Chairman

1/28/10

Date