

ATLANTIC COUNTY INSURANCE COMMISSION
OPEN MINUTES
MEETING – May 10, 2019
Freeholders' Meeting Room
Stillwater Building
201 Shore Road
Northfield, New Jersey 08225
11:00 A.M.

Meeting was called to order by Commissioner Robbins. Open Public Meetings notice read into record.

PLEDGE OF ALLEGIANCE

ROLL CALL OF COMMISSIONERS:

Jacqueline Woods	Present
Tammi Robbins	Present
Janette Kessler	Present
Joseph Giraldo	Present
Michael Fedorko	Present

FUND PROFESSIONALS PRESENT:

Executive Director PERMA Risk Management Services	Brad Stokes
Claims Administrator	<u>Qual-Lynx</u> Karen Beatty Kathy Kissane
	<u>Conner Strong & Buckelew</u> Michael Cusak
CEL Underwriting Manager	Conner Strong & Buckelew
Attorney	James F. Ferguson
Treasurer	Bonnie Lindaw (not present)
Safety Director	J.A. Montgomery Risk Control Glenn Prince
Risk Management Consultant	Insurance Agencies, Inc. Michael Ridge
	Glenn Insurance Michael Thomas

ALSO PRESENT:

Rachel Chwastek, PERMA Risk Management Services
Ed Cooney, PERMA Risk Management Services
Chandra Anderson, Atlantic County
James Dugan, Atlantic County
Angelier Hurt, Atlantic County

Jim Ferguson explained that the first order of business is for Commissioner Woods to take her oath of office since she was not present for the January reorganization meeting. Commissioner Woods is sworn in. Commissioner Woods takes over the running of the meeting.

APPROVAL OF MINUTES: OPEN MINUTES OF APRIL 5, 2019.

MOTION TO APPROVE OPEN MINUTES OF APRIL 5, 2019.

Motion: Commissioner Robbins
Second: Commissioner Kessler
Vote: 5 Ayes

CORRESPONDENCE: None.

EXECUTIVE DIRECTOR’S REPORT:

Brad Stokes presented the Executive Director’s report. Mr. Stokes welcomed Commissioner Woods back and thanked Commissioner Robbins for filling in.

There first reading of the proposed amendments to the rules and regulations occurred at the prior meeting in April. Mr. Stokes reported that in addition to the amendments previously reviewed, Commissioner Kessler found two other items that needed correction. A definition for health insurance will be deleted. On page 20 a further reference to health insurance benefits will be removed. Those two changes will be added. Today is the first reading of the additional changes and the public hearing will be held during the July 12, 2019 meeting.

MOTION TO APPROVE THE FIRST READING OF AMENDMENTS TO THE COMMISSION’S RULES AND REGULATIONS AND SCHEDULING A PUBLIC HEARING AND ADOPTION AT THE JULY 12, 2019 MEETING.

Motion: Commissioner Woods
Second: Commissioner Robbins
Vote: 5 Ayes

Payment of the EPL/POL claims was discussed at the April 5, 2019 meeting. The Commission has been making payments on behalf of the members. There was an error as far as the request for reimbursement to the County and that amount is now approximately \$426,000. There was a meeting on Monday, May 6, 2019 to review the procedure for the handling of the County EPL/POL claims. The County will be issuing the reimbursement to the Commission fairly soon. Going forward, Qual-Lynx will continue to handle and pay bills for the EPL/POL claims on behalf of the member entities. Qual-Lynx will supply a member report to PERMA on a monthly basis. PERMA will then issue a monthly invoice to the member entity for their reimbursement owed to the Commission. PERMA will send that monthly invoice to the Treasurer for payment. In May 2016 a resolution was passed by the Commission authorizing this procedure.

Commissioner Kessler stated that the resolution gives approval for the Commission to follow this procedure, however, the rules and regulations on file with the Department of Banking and Insurance which allow the Commission to be self-insured does not allow for it. Mr. Stokes explained that they followed the procedure Camden County uses to handle EPL/POL claims. Commissioner Kessler suggested the rules and regulations be amended to include a sentence that provides for any other coverages as necessary.

Commissioner Woods asked whether an executive session would be necessary to discuss this matter and Mr. Ferguson indicated it would not be necessary. Mr. Stokes went on to explain that Camden and Gloucester counties have been following this procedure for six or seven years and they did not amend their rules and regulations. The rules and regulations do not say this procedure cannot be followed.

Mr. Ferguson noted that he does not believe the rules and statutes that govern an insurance commission address this situation directly one way or the other. The rules and regulations or by-laws as they are currently written do not say the Commission can follow this procedure, however, on the other hand the procedure is not prohibited. He believes that since the procedure has been established by other insurance commissions in the JIF, our Commission is well within its rights to proceed in this manner. However, if a majority of the Commissioners believe the rules and regulations should be amended that can be done. He does not believe there is anything improper with following the procedure as it has been outlined.

Mr. Ferguson clarifies why the handling of the EPL/POL claims came up for discussion. After the April meeting there were internal discussions with the Treasurer, Bonnie Lindaw, wherein it was discussed the County's EPL/POL claims were going to be handled separate and apart entirely from the Commission. Commissioner Woods reminded him that the contract with Qual-Lynx (which is in year two of three) includes a provision for handling the EPL/POL claims for \$900 per claim and includes investigation, preparation of reports and payment of bills. If the County were to completely change the procedure and take on handling the EPL/POL claims, the contract with Qual-Lynx would have to be amended. In addition, attorneys who are on the approved list for the Commission and currently handle the EPL/POL claims are not on the County's approved list of counsel. Therefore, in order for the County to process payments to the attorneys, a request would have to be made to the Board of Freeholders to include the EPL/POL attorneys as approved counsel.

If the EPL/POL claims continue to be handled as they have been from the outset, with providing monthly statements for reimbursement to the member entities, the process should run smoothly with no need to amend the rules and regulations. Mr. Stokes confirmed that the County would be reimbursing the Commission, not Qual-Lynx. Mr. Stokes again noted that the Commission should have been issuing reimbursement requests to the entities prior to this, but it was an oversight and apologized. The question now is do we need to change the rules and regulations? Commissioner Kessler noted that in the rules and regulations on page 19, under coverages, it states the Commission may offer coverage to its members for the following purposes, property, auto, GL and workers' compensation. She notes that since health insurance is being deleted that she would be more comfortable adding a new phrase that Jim could craft, stating any other coverage that may be required. Mr. Ferguson noted he will craft the appropriate language to make this change to the rules and regulations. In light of these additional changes, the July 12, 2019 meeting will become the first reading of the proposed amendments and then the following meeting on September 13, 2019 will be the public hearing.

CERTIFICATE OF INSURANCE REPORT: 7 certificates were issued from March 1, 2019 to April 1, 2019.

MOTION TO APPROVE THE CERTIFICATE OF INSURANCE REPORT.

Motion: Commissioner Kessler
Second: Commissioner Robbins
Vote: 5 Ayes

The CEL had its meeting on April 25, 2019. Tim Sheehan of Gloucester County was elected to serve as Secretary for Fund Year 2019. The CEL has a table set up at the NJAC conference going on over in Atlantic City today. Commissioner Kessler noted Monmouth County, the Fund's tenth member, attended their first meeting.

The Insurance Commission financial fast track through February 28, 2019 shows the Commission's statutory surplus is just over \$5 million.

The CEL financial fast track report through February 28, 2019, shows a surplus of \$15.3 million.

Claims activity report for February and March shows 12 more open claims, the majority of which were liability.

The property and casualty assessments are due on June 15, 2019.

Members should also submit their list of properties for appraisal.

Commissioner Kessler had a question about reading the CEL financial fast track report. It was confirmed that the fund balance indicated at the bottom of the report under "surplus (deficits) by fund year", specifically for year 2015 where it shows the fund balance is \$1,174,962, that amount is the funds left for the year. During the claims meeting when PARS are approved, the fund balance for the particular year will be reduced by the amounts that are approved at that meeting.

The next meeting will be on July 12, 2019. There is no meeting in June.

Mr. Stokes also noted that Atlantic County was well represented at the MEL educational seminar on May 3, 2019, and it was a very educational event.

Ed Cooney, PERMA's underwriting manager, was present and spoke about three Bills that are pending in the Senate. They are monitoring three bills. One has to do with firefighters which does not affect this Commission. However, S477 will affect every public entity in the State of New Jersey. It is currently on the Governor's desk. The Bill eliminates the statute of limitations for sexual misconduct, sexual harassment and those types of claims. Currently there is a two year statute of limitations. This Bill eliminates the statute of limitations completely and it eliminates Title 59 immunities. What this means is that in addition to the perpetrator being prosecuted for the crime, the public entity could be sued for hiring the individual, allocating the appropriate amount of funds for the training of the individual, actions of Sheriff's Officers, etc. and we will be dealing with all types of claims that we should not be and going well beyond the scope of what the Bill is intended for. Different groups including NJLM and NJAC are fighting this and trying to get the Bill modified to remove the elimination of the Title 59 immunities. If that is not successful, then control the statute of limitations more than the unlimited amount of years. This has the potential to cause drastic change to the EPL program, and possibly the general liability program. Schools

and other non-profits around the state have huge exposure from this Bill. The progress of the Bill is being monitored closely. If it is passed, the claims could cover multiple years. Mr. Stokes noted that if the Bill is passed, there will most likely be a mass filing of claims. Mr. Cusak asked whether the Bill was expected to pass and Mr. Cooney noted the Bill is on the Governor's desk and will expire on May 14th.

Commissioner Kessler asked which policy these types of claims would fall under and Mr. Cooney advised that if it is an employee making the claim it would be employment practices. If the claim involves a third-party and not an employee, then the claim would be liability. She asked if members would be covered if they did not give notice of the claim before the end of the calendar year. Mr. Cooney explained that a claim actually needs to be made, so if you are not aware of a claim it cannot be reported. Facts and situations can be reported, if known, but that is not a requirement. Mr. Ferguson noted this basically makes claims almost defenseless, since if the claim goes back 25 years it is very possible the individual being accused could be dead. Kathy Kissane commented that if someone is going to go back 20+ years to make a claim they will predate the Commission and there would not be GL coverage for those claims through the Commission. Mr. Cooney recommends the members go through and find old policies and create a list of coverages for all years for use should it become necessary.

Mr. Stokes noted the MEL is going to be putting out employment practices, best practices and procedures for Counties and municipalities to adopt and follow. Training will be offered as well.

Mr. Cooney explained that he follows cyber claims in the news and he has noticed that people are only talking about government agencies being hit. Counties are catching up with the municipalities on the amount of claims made. The FBI NJ office for cyber recently contacted him and is very interested in working with them to help prevent these cyber attacks and handle them better going forward. The coverage committee is going to be presenting a cyber risk management frame work for members to follow.

CLAIMS SERVICES:

Michael Cusak reported that the Claims Committee met immediately prior to this meeting and discussed PARS which were all recommended for approval as discussed.

TREASURER:

Commissioner Robbins reported that the Treasurer was unable to be present at the meeting. Commissioner Robbins confirmed the Treasurer did review the May bills list, resolution 14-19, which includes payments to the fund professionals and approved the payments. Commissioner Robbins also noted she had the checks ready for distribution. Commissioner Woods asked if there were any questions regarding the bill list and there were none.

MOTION TO APPROVE RESOLUTION 14-19 THE MAY BILLS LIST.

Motion: Commissioner Fedorko
Second: Commissioner Kessler
Vote: 5 Ayes

CEL SAFETY DIRECTOR – JA MONTGOMERY RISK CONTROL:

Glenn Prince of JA Montgomery presented the safety report. The last Safety Committee meeting was February 8th and the next meeting is today. Discussions will include regional training for a designated employee representative for those individuals with CDL operators and requirements. The safety director’s bulletin will include information on what is required with that training and the representative being designated. He provided a list of safety trainings scheduled through May 15th. He also provided a tool box talk for the parks department for playgrounds and the checklist. These materials have been provided to Adam Witcraft who is already utilizing them and does a great job keeping up the maintenance requirements for the playgrounds around the County.

Mr. Prince received communication from Lt. Brian Lee at the Prosecutor’s office regarding applying for the Brit safety grant for equipment and training. Once received the request will be presented to the grant committee for review and approval. Commissioner Woods asked about the 2018 Brit safety grant check and Mr. Prince advised the bills list was presented at the last CEL meeting so the checks should be issued soon.

MANAGED CARE – QUAL-LYNX:

Karen Beatty presented the claims services report. The Cumulative Summary shows that to date bills were received in the total amount of \$1,505,322.97 and repriced to \$501,827.85 for a total savings of \$1,003,495.17 or a savings of 66.7%. The top ten provider list has not changed. The intake reporting shows that from the beginning of the year there are 30 indemnity claims, 16 medical only claims, 1 occupational exposure claim, and 29 report only claims. One claim was deleted before finalization and brings the total to 121 claims reported.

CLAIMS SERVICES – QUAL-LYNX:

Kathy Kissane reported the Claims Committee met prior to the Commission meeting and reviewed 10 PARS. The PARS were recommended for approval by the Committee. Unless there are any other questions which would require a closed session, she requests a motion for approval of the PARS as reviewed and recommended by the Claims Committee.

MOTION TO APPROVE THE PARS AS REVIEWED DURING THE CLAIMS COMMITTEE MEETING OF MAY 10, 2019.

Motion: Commissioner Kessler
Second: Commissioner Robbins
Vote: 5 Ayes

RISK MANAGER’S REPORT:

Michael Thomas presented the Risk Manager’s report. The Risk Managers reviewed the claims summaries from Qual-Lynx and reviewed and approved various certificates of insurance for the County Law Department and handled inquiries about insurance coverages. They reviewed various loss control reports and recommendations prepared by Glenn Prince. Also, now that the Commission is in its fifth year they want to start a trend analysis for all lines of coverage.

OLD BUSINESS: None.

NEW BUSINESS: Jim Ferguson commented the MEL seminar on May 3, 2019 was a great program. He also noted that Glenn Prince and Angie Hurt have gone out and done a lot of inspections of County locations. One location in particular has resulted in a very nice clean up of the location, so they have done a good job.

PUBLIC COMMENT:

Commissioner Woods opened the meeting to public comment. Having neither heard nor seen any public comment the public session is closed. The public session is closed. The next meeting will be held on July 12, 2019 at 11:00 A.M.

MOTION TO ADJOURN THE MEETING.

Motion: Commissioner Fedorko
Second: Commissioner Kessler
Vote: 5 Ayes

MEETING ADJOURNED: 11:39 A.M.

Minutes prepared by: Chandra Anderson, Secretary