

**WASHINGTON COUNTIES RISK POOL  
EXECUTIVE COMMITTEE  
SPECIAL MEETING**

**MINUTES**

**9:00 a.m. Thursday, August 23, 2001  
WestCoast Sea-Tac Hotel, SeaTac**

**ATTENDANCE:**

President – Si A. Stephens, San Juan County Auditor  
Secretary/Treasurer – David Goldsmith, Jefferson County Deputy County Administrator  
Executive Committee –  
    Marilyn Breckel, Skamania County Administrative Services Manager  
    Vyrle L. Hill, Pacific County Administrative Officer  
    R. S. Zirkle, Yakima County Chief Deputy Prosecuting Attorney  
Leon Long, Spokane County Risk Manager (Executive Committee Member-Elect)  
Thurston County – Tammy Devlin, County Risk Manager, Alternate Director  
    Mark H. Calkins, Senior Deputy Prosecuting Attorney  
    Michael R. Wrenn, Attorney at Law, Heller Ehrman  
    Angela M. Niemann, Attorney at Law, Heller Ehrman  
Broker – Mike Croke, ARM, Senior Vice President, Willis Corroon of Seattle  
Risk Pool Staff - John Crawford, Executive Director  
    Alicia Johnson, Claims Manager  
    Jay Winter, Programs Manager  
    Robert A. Radcliffe, Attorney at Law, Karr Tuttle Campbell

**WELCOME and ROLL CALL:** President Si Stephens called the special meeting to order at 9:02 a.m., welcomed all in attendance, and announced that a quorum was present. The special meeting was called pursuant to Articles 8 of the Risk Pool Bylaws to hear Thurston County's appeal of the Executive Director's coverage determination on the *Vicwood Meridian Partnership vs. Skagit Sand and Gravel, et al.* lawsuit.

**COVERAGE DETERMINATION:** Vicwood Meridian Partnership filed a claim for damages against Thurston County on April 6, 2000. Richard and Christell Stickell, James Rozmaryn, Ursula and Joseph Picucci, and Renate Gillespie filed claims against the County on May 12, 2000.

On January 12, 2001 the county sent an Amended Complaint to the Risk Pool. The dates on the Complaint indicate that it was served on representatives of the County on August 17, 2000.

The Executive Director made a coverage determination and notified the County in writing on April 23, 2001. Rights to coverage or protection were denied to the County for all claims made in the Complaint. The Executive Director stated in concise form the reasons for denial of rights to coverages and also informed the County in the denial letter of its appeal process pursuant to Article 8 of the Risk Pool Bylaws.

**APPEAL:** Thurston County initiated an appeal on May 21, 2001, which was within thirty days following the mailing of the Executive Director's written determination denying coverage. The signed appeal provided a brief statement of facts identifying the determination of the Executive

Director from which the appeal was taken and the reasons why the County felt the decision was incorrect.

The parties agreed to a hearing date on August 23, 2001 at SeaTac, Washington.

**HEARING:** President Si A. Stephens conducted the hearing and made procedural rulings regarding time allotments and questions from committee members to attorneys for both sides.

Prior to the hearing, Thurston County provided a written appeal with legal arguments and supporting documents. The County also submitted a reply to the Executive Director's response. Attorney Michael R. Wrenn proceeded first for appellant Thurston County and discussed the Risk Pool's duty to defend the *Vicwood Meridian* lawsuit. Senior Deputy Prosecuting Attorney Mark H. Calkins described the Hawks Prairie Landfill and the odors and seagull problems. Attorney Angela M. Niemann explained how the Risk Pool's pollution exclusion did not apply to the facts of the case. All three attorneys answered questions from Executive Committee Members.

After the conclusion of the appeal, the Executive Committee took a break from 10:19 until 10:30 a.m. Attorney Robert A. Radcliffe then responded and provided argument and legal authority in opposition to the appealing party's position. He had provided a written reply prior to the hearing. He also answered questions from Executive Committee Members.

Attorney Mike Wrenn replied to the response with rebuttal argument from 11:10 until 11:25 a.m.

**DECISION:** Following the presentation of argument and legal authority, the Executive Committee retired into executive session at 11:25 a.m. to discuss the appeal. Thereafter, the Executive Committee reconvened at 1:22 p.m. in public session to consider and vote on the following motion made by David Goldsmith and seconded by Ron Zirkle to determine the appeal:

We find that the birds carrying paper, chicken bones, and the like, dropping feces generated by eating garbage, and the fumes and odors from the landfill are excluded from coverage.

We find the birds congregating in the vicinity of the landfill are not excluded from coverage.

Therefore, the Executive Committee upholds the Executive Director's letter of denial except those causes of action strictly related to the congregation of the birds in the vicinity of the Hawks Prairie Landfill.

The Executive Committee remands back to the Executive Director to defend those aspects of the Thurston County appeal related strictly to the congregation of the birds in the vicinity of Hawks Prairie Landfill.

It is further understood the cost of said defense shall only be those costs attributed to the strict issue of the congregation of birds.

The motion carried without dissent.

**ADJOURN:** With no further business, the special meeting was adjourned at 1:30 p.m.


MINUTES APPROVED: 10 11 01

  
Si A. Stephens, President

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Steve Lowe, Secretary

Attest:

  
David Goldsmith, Secretary ~~President~~