

## **LARM Board of Directors Meeting Minutes**

**April 24, 2019 10:00 am CT**

The agenda and supporting materials were emailed to the LARM Board of Directors, LARM members and LARM staff on April 19, 2019. Advance notice was provided to news media requesting notification of meetings of the time and place of the meeting and the subjects to be discussed at the meeting.

Board Vice-Chair Lane Danielzuk called the meeting of the League Association of Risk Management (LARM) Board of Directors meeting via phone conference to order at 10:00 am CT April 24, 2019 and announced that LARM is subject to the Open Meetings Act and that a memo stating this was posted in the meeting room at Gering. Danielzuk asked everyone to say the Pledge of Allegiance. After the pledge, the Board of Directors roll was taken.

For the roll call, the following members were present: Beth Bonderson, Hoskins; Lane Danielzuk, Gering; David Hunter, Auburn BPW; Shannon Stuchlik, NENEDD; and Andrew Ward, Valentine Absent: None.

Staff members present by phone were: Michael Nolan, Tracy Juranek, Fred Wiebelhaus, Paige Buffington and Diane Becker.

Guests present by phone: ex officio Lynn Rex, League of Nebraska Municipalities (LONM); Mark Nestor with Independent Consulting and Risk Management Services (ICRMS); Mark Weaver, York Risk Services; Chris Cadwell, York Risk Services; Cathy Duncan, Emerson; and others not identified.

Danielzuk read the Nebraska Revised Statutes - § 84-1412 (2) which states, "It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings." Danielzuk said a public comment period of 15 minutes would be held at the start of the meeting to discuss items on the agenda. Danielzuk subsequently opened the public comment period.

Rex said she was on as an ex-officio member and was participating "not because it's a lawful board but because it's not."

Motion to approve B-1 minutes from the February 6, 2019 and March 18, 2019 LARM Board meetings made by Danielzuk and seconded by Bonderson.

Rex said she renewed recommendations for changes to the minutes she had made in Pierce and prior to that.

Roll Call: Ayes: Bonderson, Danielzuk, Hunter, Stuchlic and Ward. Nays: none. Absent: None. Motion carried.

Motion of LARM Board to approve minutes from the January 28, 2019 LARM Board meeting due to an incorrect date listed for the December 21, 2018 minutes that has since been corrected made by Ward and seconded by Danielzuk. Roll Call: Ayes: Bonderson, Danielzuk, Hunter, Stuchlik and Ward. Nays: none. Absent: None. Motion carried.

C-1 -Weaver gave a special presentation on the financial assessment of LARM that included industry ratio tests, ten-year trend graphs and a cost structure analysis to the board which showed that LARM is in a healthy financial position.

Motion by Stuchlik and seconded by Hunter to accept C-1 special presentation by Weaver. Ayes: Bonderson, Danielzuk, Hunter, Stuchlik and Ward. Nays: none. Absent: None. Motion carried.

Discussion on D-1 the Village of Pilger claim LARN-04217 concerning an employee working on a garbage truck who experienced a back injury in 2000, in the amount of \$232,325.00.

Nolan said the amount exceeded what could be settled by the staff (over \$200,000) so was presented to the board. By state statute any amount over \$50,000 of claim settlement has to be on the agenda.

Moved by Hunter and seconded by Bonderson to approve the claim.

Rex asked if the two claims (D-1 and D-4) from Pilger were the same person and if either claimant was Kim Neiman or if either claimant had a relationship to Neiman. She said she had talked to Workers' Comp Court that morning and was told the claimant's name did not have to be kept confidential. She cited the City of Norfolk's Workers' Comp claimant whose name was on their website. She asked for how many years and how much had been paid to the claimant in Pilger. She asked why these claims hadn't been settled sooner and if LARM engaged a private investigator to look into the claims. She said it was important to obtain this information especially with Pilger's relationship to Midwest Bank and Stuchlik's relationship with the bank and a possible conflict of interest. Rex said when she and Christy Abram met with the State Auditor's Office they were complimentary about Midwest Bank's information related to Pilger. She said each LARM board member needs to be concerned about potential personal liability especially with the ongoing criminal investigation in Pilger.

Nolan said that the issues of the Pilger investigation had nothing to do with the claims presented to the Board and Rex's comments were out of order.

Rex said it wasn't out of order and that the claims were highly suspect in terms of their timing.

Nolan said, in all due respect, Rex was trying to cast aspersions on the LARM Board and was inferring that LARM had something to do with the issues of fiduciary investigation in Pilger.

Rex said there were issues here and was looking forward to hearing Buffington's response.

Buffington said the claimant was not Neiman. It was the same person and an investigation had been made into the claim and, though the injury had happened in years past, the claimant decided to make the claim at this time. Buffington said the claimant did have a prior back injury but it was the work injury that took her out of work. She noted that every claim is investigated and if there's a question, an outside investigator is brought in.

Rex asked who the claimant was and if she had kept working for Pilger.

Buffington said the claimant had been off work for many years.

Rex asked why the settlement was happening now and how much was paid out and she "appreciated Buffington's edification on the matter."

Buffington said the settlement was happening now because the claimant had finally agreed to settle it.

Rex asked if there had been other payments made to this claimant.

Buffington said this claimant continues to get permanent total disability payments and didn't have the exact amount but total disability payments totaled \$166,841.85.

Rex asked if the money is on top of what the settlement will be and Buffington said yes.

Rex asked if LARM had a private investigator for the claims.

Buffington said the injury happened in 2006 before she was hired so it was handled by Meadowbrook at that time so she couldn't answer that. She said that every claim is investigated and if there is a question as to whether it's legitimate, an outside company is brought in.

Rex asked Nestor if he reviewed these payments.

Nestor had no objection for the claim settlement, that it's prudent that LARM make the settlement and that claims of this nature never get better in total costs.

Danielzuk said LARM had done a good job of answering Rex's question and asked for a vote.

Rex asked if Pilger had been involved in loss control issues.

Nolan said that outside council had advised that Rex's hyperbole was out of order. Any issues she wanted to raise about the claims could be taken up with the Department of Insurance.

Rex said that she was bringing this information because of the relationship of the board with Pilger, to make sure board members were doing their due diligence.

Danielzuk called for the question.

Ayes: Bonderson, Danielzuk, Hunter, and Ward. Nays: none. Abstain: Stuchlik. Absent: none  
Motion carried.

Discussion opened on whether to approve of D2- LARM Board consideration of approval of an additional \$55,000.00 for City of Norfolk claim LARN-05064 regarding an employee who fell

into an empty trailer. (This additional sum is above approved reserves because the additional amount was submitted after the mediation date of October 19, 2018.)

Buffington said that the bills were beyond the settlement and that adjuster was not aware of them and these bills had nothing to do with the settlement.

Motion by Hunter and seconded by Ward.

Roll Call: Ayes: Bonderson, Danielzuk, Hunter, Stuchlik and Ward. Nays: none. Absent: None. Motion carried.

Nestor said he checked the audit information of the claims and these were legitimate longstanding claims and he wanted to reiterate these were legitimate.

Motion to approve D-3 of request by LARM's actuary Lisa Dennison of By the Numbers Actuarial Consulting Inc. for LARM to change its appointed actuary from Lisa Dennison to her associate Elizabeth Long who is preparing LARM's statement of actuarial opinion (SAO) that is prepared with the 9/30 actuarial report moved by Hunter and seconded by Stuchlik.

Roll Call: Ayes: Bonderson, Danielzuk, Hunter, Stuchlik and Ward. Nays: none. Absent: None. Motion carried.

Motion to approve D-4 to settle Village of Pilger claim concerning an employee working on a garbage truck who experienced a back injury in 2006, in the amount of \$178,000.00 plus an additional \$52,926.00 for a Medicare Setaside by Danielzuk and seconded by Hunter.

Rex asked if the two claim amounts of D-1 and D-4 should be added together.

Buffington said these were the same claim. The second agenda item (D-4) was the correct dollar amount.

Rex said she thought these were two separate claims from one employee.

Buffington said it was the same claim and that the correct amount was the second amount in D-4. The initial documentation she sent in was incorrect and apologized for D-1 being on the agenda but the second item (D-4) was the correct dollar amount.

Rex said that D1 needed to be negated because D-1 was the same claim as D-4.

Nolan said the motion could be made to correct D-1.

Danielzuk moved to rescind the D1 motion to approve the claim LARN-04217 of \$232,325.00 and Bonderson seconded it.

Roll Call: Ayes: Bonderson, Danielzuk, Hunter, and Ward. Nays: Abstain: Stuchlik Absent: None. Motion carried.

Buffington said the correct amount was listed in D-4.

Motion to approve D-4 to settle Village of Pilger claim concerning an employee working on a garbage truck who experienced a back injury in 2006, in the amount of \$178,000.00 plus an additional \$52,926.00 for a Medicare Setaside by Danielzuk and seconded by Ward.

Rex said that all facts should be reviewed with anything relating to Pilger.

Nolan said that he would like to state again Rex's attempts to disrupt the meeting.

Rex said she would also like on the record the State Auditor's report and the NLI Director's report.

Danielzuk said both would be recognized and called for the question.

Roll Call: Ayes: Bonderson, Danielzuk, Hunter, and Ward. Nays: Abstain: Stuchlik. Absent: None Motion carried.

Weaver gave E-1 Report on LARM's investments and IPS and said there were fairly perfunctory changes made on how the investments are managed as they go forward.

Motion to approve E-1 Report on LARM's investments by Ward and seconded by Bonderson.

Roll Call: Ayes: Bonderson, Danielzuk, Hunter, Stuchlik and Ward. Nays: none. Absent: None. Motion carried.

Discussion to discuss approval of E-2 notification by NLC Mutual of additional dividend to NLC Mutual members.

Nolan said the NLC Mutual is a non-admitted asset but he would be discussing it in the future with the Department of Insurance.

Moved by Ward and seconded by Danielzuk to accept emailed report.

Rex said she wanted to underscore fact that NLC bylaws were amended to allow assets to be admitted as an asset.

Nolan said this change in bylaws would not allow the asset within NLC Mutual to be listed as a liquid asset. There would have to be a declaration of the NLC Board of an emergency before LARM could access those funds.

Rex said she did not misstate the facts.

Danielzuk said the back and forth was disruptive.

Roll Call: Ayes: Bonderson, Danielzuk, Hunter, Stucklik and Ward. Nays: Absent: None. Motion carried.

Discussion on motion to accept E-3 actuarial report on LARM's reserve analysis as of September 30, 2018, including statement of actuarial opinion.

Nolan said it was standard to present this to the Board and questions could be sent to him and would be forwarded to the actuary.

Moved by Danielzuk and seconded by Ward.

Roll Call: Ayes: Bonderson, Danielzuk, Hunter, Stuchlik and Ward. Nays: Absent: None.  
Motion carried.

Discussion to accept E-4 the independent accountant's compilation report, prepared by Thomas, Kunc & Black, LLP of LARM financial statements – statutory basis December 31, 2018 and 2017 and September 30, 2018.

Nolan said that it was information required to submit to the Board and any questions about it could be emailed to him and he would get the answers from the accountant.

Moved by Danielzuk to accept the report and seconded by Bonderson.

Roll Call: Ayes: Bonderson, Danielzuk, Hunter, Stuchlik and Ward. Nays: Absent: None.  
Motion carried.

Discussion to accept E-5 letter dated February 28, 2019 from City of North Platte attorney Douglas Stack regarding City of North Platte's response to Mike Nolan's January 28, 2019 letter.

Nolan said he had no further comment and a meeting would be scheduled with the Department of Insurance to discuss the matter and he wanted to have a record that the letters were disclosed.

Rex said it was extraordinary that the Director of the Department of Insurance stated at the hearing that if the pool was a traditional insurer that the pool's activities constitute unfair insurance trade practices toward its members.

Moved to accept correspondence by Danielzuk and seconded by Ward.

Roll Call: Ayes: Bonderson, Danielzuk, Hunter, Stuchlik and Ward. Nays: Absent: None.  
Motion carried.

Discussion of E-6 Nolan's email response to Ben Hostetler of the Nebraska Department of Insurance regarding Mr. Hostetler's request concerning LARM legal and lobbying fees.

Nolan stated he was advised by legal counsel not to make any further comment about the letter he wrote but a meeting would be set up with the Department of Insurance if they asked further about the letter.

Moved to accept the response by Danielzuk and seconded by Bonderson.

Roll Call: Ayes: Bonderson, Danielzuk, Hunter, Stuchlik and Ward. Nays: Absent: None.  
Motion carried.

Discussion of E-7 coverage opinion from LARM's E&O carrier Allied World Surplus Lines Insurance Company concerning Errors & Omission coverage.

Nolan said this was on the agenda because questions had been submitted by members who are affiliated with a board set up by the League of Nebraska Municipalities (LONM) staff had

elected March 2018 asking if LARM would provide them with defense. Nolan said any further questions would be forwarded to the carrier.

Moved to accept the opinion by Danielzuk and seconded by Ward.

Rex said she would like to make a correction that the League staff did not set up the election.

Roll Call: Ayes: Bonderson, Danielzuk, Hunter, Stuchlik and Ward. Nays: Absent: None. Motion carried.

Moved to adjourn by Hunter and seconded by Ward. Roll Call: Ayes: Bonderson, Danielzuk, Hunter, Stuchlik and Ward. Nays: none. Absent: None. Motion carried. Meeting adjourned at 10:59 a.m.

DRAFT