

***School Pool for Excess Liability Limits Joint Insurance Fund  
SPELL JIF***

**RPA, a Division of Gallagher  
6000 Sagemore Drive, Suite 6203  
Marlton, New Jersey 08053**

**OPEN SESSION MINUTES**

**Friday, February 7, 2020**

**I. MEETING CALLED TO ORDER**

The meeting of the School Pool for Excess Liability Limits Joint Insurance Fund (SPELL) was held at the Arthur J. Gallagher Risk Management Services Offices on Friday, February 7, 2020 at 10:00 a.m., with Thomas Grossi, Greater Egg Harbor RHSD, Chairperson, presiding.

**II. STATEMENT OF COMPLIANCE WITH THE OPEN PUBLIC MEETING ACT**

Notice of this meeting was given by sending sufficient notice herewith to newspapers recognized by owner groups; filing advance written notice of this meeting with each member and their members districts; and by posting notice on the public bulletin boards of all municipalities served by the member districts of each owner group.

**III. ROLL CALL**

**2019-2020 Trustees present**

Thomas P. Grossi, Greater Egg Harbor RHSD, Chair – ACCASBO JIF  
Cherie Bratty, Upper Deerfield Township School District, Vice Chair – GCSSD JIF  
Robert Wachter, Jr., Mt. Laurel Twp. BOE, Secretary – BCIP JIF  
Joseph Smurlo, Egg Harbor City School District – ACCASBO JIF  
Joseph Collins, Elk Township School District – GCSSD JIF

**2019-2020 Trustees absent**

Richard J. Kaz, Jr., Northern Burlington County RSD – BCIP JIF

**2019-2020 Alternate Trustees present**

Christopher Veneziani, Folsom BOE, Alternate Trustee – ACCASBO JIF  
Michael Colling, Medford Lakes SD, Alternate Trustee – BCIP JIF  
Diana Schiraldi, Eastern Camden County RSD, Alternate Trustee – BCIP JIF  
Rose Wang Chin, Woodstown-Piles Grove, Alternate Trustee – GCSSD JIF

**2018-2019 Alternate Trustees absent**

Kim Robinson, Mainland Regional High School, Alternate Trustee – ACCASBO JIF  
Chris Rodia, Westville/Woodbury Heights, Alternate Trustee – GCSSD JIF

**District Personnel present**

No one

**District Personnel absent**

John Serapiglia, Jr., Passaic County Manchester – SE JIF  
Karen Yeamans, Nutley – SE JIF

**Fund Professionals present**

Craig H. Wilkie, Sr. Program Administrator – RPA, a division of Gallagher  
Scott C. Tennant, Sr. Program Strategist– RPA, a division of Gallagher  
Bradford Hoffman, Director of Program Administration – RPA, a division of Gallagher  
Jennifer Fox, Sr. Account Manager – RPA, a division of Gallagher  
Louis J. Greco, Esquire, Fund Solicitor  
Lorraine Verrill, CPA, Fund Treasurer – Verrill & Verrill, LLC (left at 10:03 am)  
Annette Reap, Recording Secretary

**IV. APPROVAL OF MINUTES**

*Motion* by Mr. Smurlo, second by Mr. Veneziani, to approve the Minutes of the October 4, 2019 meeting of the SPELL JIF. All in favor. Motion carried.

**V. PROFESSIONAL REPORTS**

**A. Accountant/Treasurer**

Ms. Verrill reviewed the October, 2019 through January, 2020 Bill Lists and Cash Reconciliation Reports for September through December, 2019 found in the agenda. She noted that a CD matured in October at 1.6% which she was able to renew at 2.5% interest rate for one year.

*Motion* by Ms. Bratty, second by Mr. Smurlo, to approve the Bill Lists and Treasurer's Reports. All in favor. Motion carried.

Ms. Verrill left the meeting at 10:03 am.

**B. Attorney – No Report.**

**C. Student Accident Program Report**

Mr. Hoffman reviewed the summary report provided by Hardenbergh Insurance in Ms. Ridolfino's absence. As noted, there are two vendor renewal programs to be considered; one from Catlin, the current insurer, and the second from Hartford. Catlin is offering a 3% decrease in premium and Hartford is offering a 9.3% decrease. He advised that all current members are renewed under either option and BMI will still handle the claims with either carrier. It needs to be decided if the -6.3% difference in premium offered by Hartford outweighs the potential benefit of continuing to foster a relationship with the current carrier, Catlin. He explained that constantly changing carriers runs the risk of losing leverage that is gained if the market turns in any significant regard. Based on that assumption, both Mr. Hoffman and Ms. Ridolfino make the recommendation to remain with Catlin.

Premium allocation strategy, under either carrier, was discussed. Mr. Hoffman explained that all members can receive the same decrease or the percentages can be adjusted up or down, depending on an individual district's loss ratio. Ms. Bratty felt the tiered schedule was the fairest, allowing districts without a lot of activity to be rewarded with the biggest decrease. All Trustees agreed to use the tiered schedule provided in the handout. Mr. Grossi felt a decision should first be made on which carrier to place the coverage and he asked the Trustees for their opinions. After some discussion, the Trustees agreed to say with Catlin to build the relationship, acknowledging there was still a decrease in premium with Catlin.

*Motion* by Ms. Bratty, second by Mr. Smurlo, to retain the coverage with the current carrier, Catlin, and use the tiered schedule based upon a member's five year loss ratio. All in favor. Motion carried.

D. *Executive Director/Underwriting Manager Summary*

1. UNDERWRITING AND FINANCE DIRECTOR

*State of the Market Update* - Mr. Hoffman distributed his report as a handout. He said the main objective for today's meeting was to update on the state of the market. He indicated that a number of issues are going on causing the property market to harden significantly, increasing rates. He reminded the members that, three years ago, the SPELL took a -43% in premium, but gave back 24% last year. This year, there will be another +20%, bringing premiums back to where they were. A number of factors are driving this and Mr. Hoffman referred to the Winter Market Update publication by Gallagher that the members can read at their leisure.

Mr. Hoffman explained that carriers are looking at their book of exposures more closely and drilling down into what those exposures are and where they exist, applying rate factors to them, which is driving everything up. New Jersey is in the same property class as Florida, noting that even though in the SPELL's history the losses have been low, the market looks at where we are located. Mr. Hoffman noted an article published in Best's Review on the casualty market crisis as a result of the insurers underpricing casualty risk for the past decade.

*Layered Property Program* - Mr. Hoffman referred to the puzzle chart that shows the coverage program structure. He noted that Nate Berns, the property broker, put together a good narrative on where the property market stands and what is driving the overall market, summing up that there have been a number of catastrophes over the last 3-4 years and it's the United States property market catching up with it. There have been significant losses, not only from hurricanes and earth quakes, but Midwest flooding and hail, in addition to the wildfires in California.

Mr. Hoffman noted the advantage of using an RPS or AmWins because they basically market the program every year because they have a number of carriers at their disposal to piece together the different layers. The carrier names may change and certain limits may change, but the SPELL will get to the same limits on the layered program, with a projected renewal rate increase of +15% to +25%. While there are currently 10 carriers, it may take 15 carriers to achieve those layers. He explained that some carriers are backing out of the coverage while others are reducing their limits. Mr. Hoffman is confident that the SPELL will get where it needs to be and there will be an increase, but it will be absorbed by the budget without issue.

*Package Reinsurance – Great American* – Mr. Hoffman advised that a call is scheduled with Great American on February 19<sup>th</sup>, which is a little later than usual. Great American is evaluating their overall exposures at this time and that is what is driving the delay. The other factor driving the market is liability. The market is seeing rate increases and, more importantly, limit decreases, mainly as the result of the sexual abuse and molestation issues and the recent Reviver Law and some of the verdicts coming out in relation to those claims nationwide. Great American is reducing the GL sublimit for SAM claims because of considerable losses recently. The ELL coverage never had a retro date, but one is now applied to new members of the Fund. Mr. Hoffman is not concerned over the rest of the Great American market because the SPELL's 20 year relationship has helped through previous hardened markets, even though it is changing dramatically. He noted key categories where rate increases are predicted.

*SPELL Corridor Deductible Update* – Mr. Hoffman addressed the current aggregate corridor deductible structure. He explained that Great American returned \$920K in reinsurance premium in 2016 and the SPELL assumed a \$1M deductible, which is fully funded within the budget. Any claim that pops thru the SIR, the SPELL pays the first \$1M, whether it is one claim or multiple claims, before Great American will take over. Mr. Hoffman added that there is the potential to hold on to \$1M that previously would have been paid as reinsurance premium because the budgeted monies are retained within the SPELL and earn interest over time.

Mr. Hoffman reviewed the aggregate corridor deductible development value as of 12/31/2019. In 2016-2017, \$595K erosion of the \$1M layer that consists of 3 claims, on an all reserve basis. Each subsequent year will work the same way, but the corridor structure has changed in some cases. In 2017-2018, it was increased to \$1.2M; \$1M for workers' compensation and \$200K for all other lines. In 2017-2018, \$440K eroded the layer on a reserve basis, which would deplete the \$200K. Mr. Hoffman advised that the corridor experience in each applicable fund year is closely tracked and will continue to be reported out at each meeting.

Regarding the most recent two fund years, a claim in 2018-19 includes one paid penetration on property that will be discussed in closed session today. In 2019-20, property was excluded from the program, which Mr. Hoffman feels is an advantage because most of the penetration usually comes from the property side. If it is removed from the corridor, the \$200K is less at risk from that regard. There is nothing currently penetrating that layer for the current year.

*Initial Budget Outlook 2020-2021 – MOTION REQUESTED* – Mr. Hoffman presented the Preliminary Budget for the 2020-2021 year. He compared the budget model for the current year and what is being projected for 2020-2021. Mr. Hoffman noted an increase in Traveler's for Boiler and Machinery to the deductible from \$1K to \$2500. He explained that the Aggregate Contingency Account usually has \$250K allocated in the budget depending how negotiations end. Last year, a portion had to be used for some of the property increases and any other worst-case scenario premiums that were not expected.

Under Operating Expenses, Mr. Hoffman advised that it is standard to build in a +2%, same at the local level, until vendor review is performed. Two new items are included this year, Claims Management System, will be discussed in Closed Session, and Safety Director, which is a continuation of previous discussions. Mr. Wilkie reiterated that the SPELL has no formal relationship with John Geitz, the Safety Director. As the JIFs grow, Mr. Geitz needs to expand his services and a question arose as to who owns the training programs as it is currently at the local level. This is just a budgetary number to allow the Safety Director to expand the program and hire trainers as needed. Discussion continued on the history of the safety program and how the JIFs have expanded since then and the need for an expanded training program which will allow Mr. Geitz to focus on developing new programs as needed and farm out the training aspect to others.

Mr. Hoffman concluded that the overall SPELL budget is increasing by 10.7%. He reviewed the basic breakdown of how that applies to the local funds, in very manageable ranges. All local funds are doing very well from a loss standpoint, so there will be a decrease in the loss funds. The actuary provides a range to work with from year to year and projections will be conservative on GL and ELL, as well as loss funding. At this time, it is unknown how the SAM claims will develop, but nothing significant has been reported so far. The Finance Committees will be meeting in the next couple of weeks. The audits are recommending a surplus distribution and those numbers will be provided to the members towards the end of the month.

*Motion* by Ms. Bratty, second by Mr. Smurlo, to accept the preliminary budget for 2020-2021. All in favor. Motion carried.

## 2. Executive Director

*2020-21 Membership Renewal* – There are 27 districts within the local owner group funds that are up for membership renewal on July 1, 2020. They are broken down as follows: ACCASBO - 6 districts, BCIP - 16 districts and GCSSD - 5 districts.

Mr. Wilkie reported that all districts have renewed in ACCASBO. BCIP has 13 currently renewed and the remaining 3 districts have indicated that they were renewing at their January Board meetings. In GCSSD, one district will renew in January and the last one, Washington Township, goes through

a coverage review process using an independent broker. They will be making a request to provide a decision beyond the April 1<sup>st</sup> deadline. This process is normal for them since 2005, when they joined GCSSD.

With regard to prospects, Mr. Wilkie reported that Stowe Creek for July 1<sup>st</sup> in GCSSD. He advised he had a conversation with Berlin Borough. The BA is from Weymouth/ACCASBO and she is looking at membership in BCIP. An application has been received from Roosevelt, in Monmouth County, who shares a BA with Millstone, a member of BCIP. Lastly, Mr. Wilkie has spoken with the BA in Millville. He is formerly from Fairfield and Pennsville/GCSSD. He instructed the members to advise him if there is any district that they would like him to approach.

*2019 Fall AGRIP Conference* – Mr. Wilkie advised that the reports of Tom Grossi and Cherie Bratty, who attended the fall AGRIP Conference last October, are included in the agenda.

Mr. Wilkie also reported that the SPELL Retreat Planning Committee met prior to the SPELL meeting and drafted a program agenda. The committee plans to meet again in April. He noted that the venue has been changed to The Grand Hotel from Congress Hall.

*SAM Claim Management Protocols* – **MOTION REQUESTED** - Mr. Tennant provided a recap of a SAM claim management meeting that was held on January 14, 2020 with individuals who are managing claim activity. There was discussion on how the claims that are coming in managed and what is the impact of these claims going forward. He noted that there aren't a lot of these claims right now and the ones that have been received are not driving any serious concerns. Ms. Schiraldi asked how many claims so far. Mr. Tennant stated there are five total of which two are by rumor and have not been noticed. He explained these claims can be troubling because it is the date of when it happened that drives it. The claim could be covered under some other GL policy, which is not the JIF's, and it is important to help the member find that policy/coverage.

Mr. Tennant reported that discussion included hiring investigators to help find the applicable GL policy and start an investigation of the facts. Once the date is established and it doesn't indicate the JIF's policy, those relevant policies need to be found. Mr. Tennant stated that it was concluded that the best people to help find the policies are retired BAs, who know how these things are recorded and coded and can be trusted because they are not an insurance person, but a peer. Mr. Tennant stated that it is in the district's best interest, as well as the JIF's best interest, to help them find these policies.

It is important to find out as much information as possible to see what liability the JIF has, as well as the liability of the member, so they can make better decisions. Mr. Tennant stated that it is best to consider all threats as claims and put protocols in place to start an investigation. Defense counsel would be assigned immediately to determine if there is a legal basis for a potential or real claim. Mr. Tennant stressed that anyone who refuses may jeopardize potential coverage because they are putting the SPELL at risk if it is unable to evaluate the liabilities. Mr. Smurlo asked why a district would refuse. Mr. Tennant explained that these claims are horrible and the initial reaction is to keep the matter quiet. Ms. Bratty suggested presenting this to superintendents to make them understand that the JIF is there to help. Mr. Greco recommended an addition to the Retreat agenda on disclosing information regarding the SAM claims.

Mr. Tennant explained that he is presenting to SPELL today to formally approve the process, then approach Great American to get their approval, so that all claims or perceived claims, are seen as claims by all parties, including the reinsurer.

Mr. Tennant addressed the Reviver Law, which has changed the Statute of Limitations permanently. Students that graduate now have up until age 55 to bring a claim. This also changes record retention and the need to address how members manage those issues and maintain those files.

Mr. Tennant reviewed Items 1 through 4 and asked for a motion by the Trustees.

Item #1 – Formally recognize that the threat of a SAM claim is considered the same as actual SAM litigation and that the JIF has the right to immediately assign defense counsel, which cannot be denied or rejected by the affected member school district (SPELL/ACCASBO/BCIP/GCSSD/SEJIF).

Item #2 – Permit the retention of 2-3 retired BAs to conduct insurance archeology investigations upon receipt of threat of a SAM claim or SAM litigation. BA to be compensated up to \$150/hour, capped at \$500/day, plus mileage. These investigators will be assigned by Qual-Lynx and Mr. Greco and paid for as an allocated cost of the claim file through Qual-Lynx by each JIF dependent upon which JIF's coverage may be involved. Member districts will have the option of refusing this service if upon advice of local counsel they are told not to permit the JIF to conduct this investigation.

Item #3 - Adopting a new hourly fee for defense counsel beginning July 1<sup>st</sup> of \$165/per hour for SPELL/ACCASBO/BCIP/GCSSD. Mr. Greco advised that this item is separate from the SAM claims. The JIF hourly rate has not been increased for over ten years.

Item #4 – Authorize Mr. Greco to organize a SAM defense professional development program with a budget not to exceed \$10,000. Mr. Tennant said these claims are going to be very new to the JIFs and it would be of value to the defense team to have access of people who have dealt with these claims who can provide insight.

*Motion* by Mr. Smurlo, second by Ms. Bratty, to approve Items 1 through 4, as listed above, including the modifications. All in favor. Motion carried.

*Third Party Management/Certificate of Insurance Policy & Procedure – MOTION REQUESTED* - Mr. Tennant discussed the newly revised Third Party Management Including Certificates of Insurance Guidelines included in an Addendum in the agenda.

Mr. Tennant noted the inclusion of a Memorandum with the document that highlights and explains the new areas, such as cyber and SAM, which didn't exist, and also members didn't have the legal responsibility for vetting all contractors like they do now. Mr. Tennant has focused on those changes and has incorporated, with the help of Mr. Greco and other contributors, information that makes a critical difference on the claim stream in managing these third party relationships through the AIA form.

Mr. Wilkie noted that the document was provided to the Trustees prior to the meeting and asked if there were any questions. Mr. Greco stressed that these are guidelines/best practices. Mr. Tennant concluded that the document will be posted to the SPELL website after today's meeting and he'll notify the members via email. The Chair thanked Mr. Tennant for his hard work.

*Motion* by Ms. Bratty, second by Mr. Colling, to adopt the Third Party Risk Management Including Certificates of Insurance Guidelines, as presented. All in favor. Motion carries.

*Update on EHRIP* - Mr. Wilkie reported that there has been very little response to this program which was created to help identify environmental risk within the districts. To date, only two districts have utilized. Mr. Wilkie stated that there is a need to rebrand the program so that the members have a better understanding. Mr. Biluck is willing to visit districts to help them determine where there are risks. Mr. Wilkie noted that this is just an update on the program, as it was this time last year that the Trustees approved the hiring of Mr. Biluck. He signed a one year contract, but it will be extended as part of the renewal process that happens at the May meeting.

*SPELL Cyber/IT Advisory Committee Update* - Mr. Tennant reported on the Advisory Committee's meeting held on January 13, 2020. He advised the committee held a session at Techspo that went very well even though it was lightly attended.

Mr. Tennant stated the Committee discussed helping the members get their Incident Response Plans together because districts are struggling with it. He said it's a project that gets a little bit of attention and then abandoned for a longer time. He would like to hire a consultant who would help 3 or 6 member districts produce an Incident Response Plan. It would be the consultant's responsibility to create a model Incident Response Plan that will be placed on the SPELL website for all members' use. And, if it makes sense, have the consultant available on demand to individual districts to help create a plan. It becomes a practical approach to helping the members get something done that they have to do and permits a focus on the risk associated with cyber. Mr. Tennant suggested Ed Moskal (sp) from St. Peter's University who has built the University's Incident Response Plan as the consultant.

Mr. Tennant explained he is looking for approval to move forward with 3 - 6 districts and will reach out to ask for interested districts to be the models, as a competition. Mr. Veneziani asked if it would make sense to use a district that has been through this situation already. Mr. Tennant thought it would be of great value if one of those districts was interested. Mr. Tennant asked the Trustees if they were comfortable if the IT/Cyber Committee made the decision of which districts to use, if it was a competition. They agreed. Mr. Veneziani is on the Cyber Committee, so he is the direct link back to the SPELL. The committee would report back and then there could be a discussion.

Mr. Tennant discussed the Cyber Symposium to be held over the summer. He has spoken to Cherry Hill School District and they are willing to be a presenter. They went through a very difficult cyber attack that shut them down for quite a while, dealing with PR and the media and all the worst elements. Mr. Tennant is also trying to bring Galloway back into this year's program to present two perspectives over time. He asked for a consensus to allow the committee to move forward. The Trustees agreed.

**VI. MOTION REQUESTED** to go into Closed Session

*Motion* by Ms. Bratty, second by Mr. Smurlo, to go into closed session at 11:11 am.

Mr. Greco left the meeting at 11:17 am.

**VII. MOTION REQUESTED** to come out of Closed Session

*Motion* by Mr. Smurlo, second by Mr. Collins, to return to open session at 11:20 am.

Motion by Ms. Bratty, second by Mr. Colling, to approve the items presented in Closed Session. All in favor.  
Motion carried.

**VIII. MISCELLANEOUS BUSINESS AND PUBLIC COMMENT**

The next meeting of the SPELLJIF is scheduled to be held on Friday, April 3, 2020 at 10:00 a.m. at the Gallagher offices, 6000 Sagemore Drive, Suite 6203, Marlton, NJ 08053.

**IX. MOTION REQUESTED** to adjourn the meeting

*Motion* by Ms. Bratty, second by Mr. Collins, to adjourn the February 7, 2020 meeting of the SPELL JIF. All in favor. Motion carried by unanimous vote.

The meeting adjourned at 11:21 a.m.

Reef. West.