

Commission Meeting Minutes  
June 14, 2022  
NC Department of Insurance  
Raleigh, NC

**In Person:**

|                     |                |
|---------------------|----------------|
| Sheriff Len Hagaman | Tommy Sutton   |
| Michelle O'Connor   | Jackie Ireland |
| Michael Kelly       |                |

**Present Via Zoom Call:**

|                 |                   |
|-----------------|-------------------|
| Robert Broome   | Chief James Avens |
| Melody Hairston | Tom Anderson      |
| Will Polk       |                   |

**Not Present:**

Owen Thomas

**Others Attending:**

|                                    |                             |
|------------------------------------|-----------------------------|
| Latarsha Silver (NC DOI-In Person) | Bryan Heckle (NC DOI-Zoom)  |
| Elizabeth Hale (NCAIA-In Person)   | Lisa Weatherly (NCAIA-Zoom) |
| Dan Johnson (NC DOJ-Zoom)          |                             |

*Please note that this a summary of the minutes. An exact recording of minutes is housed at the NC Department of Insurance Risk Management division and can be provided at your request.*

**Call to Order and Roll Call**

Meeting was Called to Order at 10:04 by Tommy Sutton.

Roll was called by Latarsha Silver. See above for attendance. Quorum requirements have been met.

**Minutes**

Tommy asked if there was a motion to approve the previous minutes.

Motion of minutes approval was made by Sheriff Len Hagaman. 2<sup>nd</sup> by Chief Avens. There was no discussion or corrections. All voted in favor of the March 8, 2022 minutes.

Minutes approved.

**NC Department of Insurance**

Latarsha provided update on appointments. Michael Kelly, James Avens, and Robert Broom term will expire June 30, 2025. This has been corrected and updated with the Ethics Commission.

There is 1 person that has an outstanding ethics training and 1 person that still needs to complete their statement of economic interest. The deadline was April 18 but is normally April

15. There has been contact from the Ethics Commission regarding these incomplete filings and apparently are fines associated with this. If help is needed to complete, please let me know.

Update to next meeting date. Liz and Latarsha will be in Indiana at an insurance conference. The September 13 meeting has been moved to the following Tuesday, September 20. The update is on the last page of your meeting packet. This will be a hybrid meeting. Please update your calendars.

See "Other Discussions" for comments and concerns.

### **NCAIA**

Liz advised that NCAIA is keeping up the notifications and claims that come to them from the Department of Justice. In reviewing previous years, this has been the items that have slowed down the process. There is a due process in place between DOJ-Melody's department, Tarsha, and Liz. There is record keeping of what's going on under \$500k. This is something that the insurance company, Ambridge would like to keep them informed throughout the year, rather than give them the information with the applications for renewal.

We've started a new process this year and there has been one meeting with the Ambridge claims manager who personally oversees every single claim that comes in from the state. She has been with us since 2018. The meetings will continue regularly with the goal of making the renewal process run more smoothly and provide a renewal quote to this committee and to the state earlier.

### **Discussions:**

**Michelle:** *Are they asking you to do that so if the claims exceed the million dollar liability, they are informed, or do they just want to know what kind of activities are happening?*

**Liz:** *They want a better understanding of what's happening under the \$500k limit. So, they're being notified all the time we've been with them since 2018, they have received notifications regularly. So, they're looking for a little different information than that. We made an arrangement to meet with them quarterly, and perhaps more often, depending on what's going on.*

*They just wanted a view, some sort of window, into the types of things that are developing under about a \$500k. Normally, they wouldn't see those things. They would see things happening above \$500k. It helps them to underwrite and rate the policy.*

*It is a very difficult policy to rate. How do you charge for this type of coverage? As you've already mentioned, there's a lot going on....it's the whole state of North Carolina. It's hard to wrap your arms around it. They asked us for very little underwriting information in comparison to what's really going on in the state. Because there's a million dollar (deductible) retention, the best way for them to understand what's happening in the state of NC is to have a better understanding of those developing claims under \$500k. Instead of asking us to report in December, they're now asking us to provide an ongoing, continual communication. We're hoping that'll be the answer to the challenge in the last couple of years is to get the quote on time.*

**Sheriff Hagaman:** *What is the biggest exposure, DOC?*

**Liz:** Melody may want to chime in on that, but I think DPS (Department of Public Safety) is definitely a big exposure.

**Melody:** With the individual claims (individual employees), it's a little harder to say what agency, but in the past few years, we've had more DOT claims than we've ever had in the past. As always, DPS definitely, I think is probably the highest, but I'd have to look at them. (Look at what agency the employees come from.) But I absolutely think that we're getting more of these because more attorneys are seeing this as a way to get more than the million dollars that they would get at the Industrial Commission. That is a concern. I think that the numbers are going to continue to probably go up. We've had an uptick in university claims because of some legislation in the past couple of years. That's spiked, but I don't know if that will continue to be the numbers that it currently is. That's just from my looking at the types of notifications.

**Will:** Speaking of DPS and given that the agency DAC (Department of Adult Corrections) is going to be pulled out that to create their own new agency, effective January 1, are the majority of those claims, the DAC or is it a mix of DAC and SHP? For the purposes of this Commission, will that deconsolidation change for us? I'm just curious to know if most of those upticks in claims due to some very prominent situations that has happened with DAC in the last few years.

**Melody:** Please don't take this as the gospel truth, but what I've observed over the years is less SHP (State Highway Patrol) type of claim. There are times where there can be excessive force type of claims that would or could fall under this policy. But because most of those are motor vehicle related, a lot of those get kicked out. Now we've got attorney's trying to get around the motor vehicle exception. Most of those go through Travelers and a lot of them end up being filed at the IC (Industrial Commission) instead of against the individuals because plaintiff's attorneys understand that they're gonna be stuck at that million dollar cap no matter what. So, based on that I would say the majority of those are Adult Correction because the majority of those are not motor vehicles. It's something that's happened inside the prison. This policy also has the medical malpractice exception which cuts out a lot of those, which is a good thing. We don't have to deal with that, but we do have claims that may come through with the prisons where the individual employees could be named.

**Jackie:** Melody, can we go back to your statements about workers' compensation? I want to clear up what I heard there. Was there a rise in claims because of some efforts of work comp?

**Melody:** No, it wasn't workers' comp. There was some legislation dealing with child sex abuse cases that had occurred. I don't have the exact language, but it allowed for some individuals who claimed that they were sexually abused at School of the Arts and certain other state agencies (DHHS homes implicated). Essentially, they were allowed a waiver of the statute of limitations so that they can bring claims from literally the 60's, 70's, and I think even up until the early 80's. So, we had some university claims that were filed as a result of that. That would normally not be we would have to worry about, because of that legislation that allowed for them to file (and it's closed now, the window closed Dec 30 or 31, 2021). There was an influx of claims for the School of the Arts. I believe there were a couple for DHHS and possibly some Juvenile Justice. I can't remember specially which ones we got. But, I know we got DHHS and School of the Arts. This year represents more than we would normally see, more claims against university employees.

As can imagine, that's tough to defend when you're dealing with things that happened in the 60's, 70's, and 80's.

### **Attorney General's Office**

Melody Hairston provided the following updates on claims notifications since March 8:

- 3 new
- 8 total for the year
- 6 dismissed or settled
  - 4 dismissed w/ prejudice
  - 1 dismissed w/o prejudice--can refile within a year
  - 1 settled
- 10 total dismissed or settled within the year

Other updates for DOJ, Dan Johnson is the section head for Insurance section at the DOJ. For the past 2 or 3 years, the amount of information and nature of the information that Ambridge is requesting in order to provide us with a quote.

DOJ is trying to have a process where we have expertise in the insurance area, which Dan has. We also have a new process for Ambridge through which Liz to be able to speak directly to and get updates from the attorney's that's handling these cases. This so we aren't in a situation where they're asking for all the information at the end of the year, which is what they've previously been doing. It's been problematic, as you can imagine because Liz, Tarsha, and I were scrambling to try to get information from attorney's about their cases at the last minute when we were on the line trying to get the renewal done.

What we're hoping is that it will allow Ambridge to feel comfortable with the information they're receiving throughout the year and there won't be any questions as to whether they have what they need at the end of the year when it's closer to the renewal. I think this will work very well having Dan involved will also help, even though the individual attorneys will be more involved than they have been in the past. It'll be very helpful just to have the specialization, the expertise in the insurance area.

I've been on the Commission since 2017 and it's always been done out to the Tort claims because of the fact that we handle the claims and notifications. Dan will be taking over as a representative for DOJ at whatever point that occurs. I will be available to you all, just as Amar and other people who previously were involved at DOJ, to the extent that you need me to assist with any aspect of the business of the Commission. So, I just wanted to introduce Dan again as the person who who'll be taking over that roll. I just thank everybody for being so great to work with over the past 5 years. I think this will be very helpful in the future for making sure that it's a smooth process, because it has gotten more complicated over the years. I just think we need to rise to that challenge and I think we are. I just want to say thanks! If you've got any questions, let me know.

### **NC Association of County Commissioners**

Michael Kelly advised that the renewal season has gone as expected, it been an "extremely hard market". Some counties have approached us for quotes that haven't in over 10 years. To date, we haven't lost any, and we haven't really gained any. We still have a handful at play, but I don't know if we'll gain anymore. We're at 71 right now.

***Tommy:** You said you've had contact from those you heard from before, is it because they're having problems?*

**Michael:** *They're either having problems, anticipating problems, or told by their brokers that we've got problems. But, none of them have left yet or come to join us. They are getting really close to renewal dates.*

**Tommy:** *You're not aware of anyone that has do not have coverage within the county structure?*

**Michael:** *No.*

Michael officially resigned from as the chair of the legislative committee but will remain on the Commission. This has been placed in the minutes for record keeping purposes.

**Michael:** *At my management meeting at the Association, I was telling them about the plans to try and get legislative help and because of what I do as the pool director I don't typically get involved with advocacy at all. And that's what I learned, we're not supposed to do that. We have a legislative goal process that going on now, actually that's formal process by way of all the counties let us know what they want us to work on legislatively. There's no doubt in my mind that we wouldn't have a conflict where this is concerned, but the protocol is such that they just don't want anybody doing anything legislatively. So, that's why I had to resign off of that committee.*

*I apologize. I didn't know that. I've been on this Commission more than 10 years, and that's the first that it's come up.*

Michael announced he will be retiring as Director of the NCACC Risk Pools at the end of the year and Charlie Eaton will be his successor. He wants to know the process to make this happen. Charlie has served as proxy for him whenever he couldn't make a meeting.

### **NC League of Municipalities**

Tom Anderson states they are also full blown into renewal season and haven't been aware of any bumps in the road with that. Everything is pretty much on track to be a healthy renewal.

**Tom:** We've got a variety of new programs we're rolling out. As some of you might know, I came on with the League as the Public Safety Risk Manager after serving as the police in Statesville for many years. That's where my profession took root. I started police program for the League, and did that for a number of years and now I'm the Director of Risk Control. But I'm very fortunate to have a member of our staff that was a career firefighter from the New York fire department. He was actually there during the 911 event. He has a lot of experience, he actually teaches fire related classes through Wake Tech. He's a member of my field control staff. We are developing programs on the fire side that mimic what we did not the policing side; risk reviews, agency reviews, policy reviews and recommendations, site surveys, those types of things. We're starting to ramp up that part of public safety risk management.

Tom noted that he anticipated retirement this year but decided to stay on a couple more years.

### **NC Police Chiefs & NC Police Executives Association**

Chief Avens advised of the 76<sup>th</sup> NC Police Executives annual conference in Wilmington; 24-27.

## **NC Sheriffs' Association**

Sheriff Hagaman advised of their upcoming conference.

## **Other Business**

Dan Johnson introduced himself to the Commission. He is coming to the Commission by way of the AG's office Insurance Section to step in for Melody Hairston. He will officially join once he is nominated and approved.

Tommy brought everyone's attention to the flags in the room announcing that June 14 is the official Flag Day for the United States.

## **Comments and concerns:**

**Latarsha:** *For the past couple of months, I've been trying to get a background of the Commission as a whole and exactly what everyone's role is, specifically what we should be doing within the Commission. I've gone back to 1979 and looked at minutes. I'm still reading and trying to get an idea of exactly what suppose to go on in the meetings since the meetings go really fast. I felt like something else should be accomplished in these meetings and there should there be some type of report. I'm going to speak to Tommy later to get his background since has most of the history, but I wanted to look at the committees as well. From my understanding, none of the committees have been meeting and wasn't sure if people were kind of dropped into the roles that you're in. I'll send out something between now and September to kind of get your personal background as to what you should be providing to the meeting and how the meeting should go. I think we should be getting a little bit more accomplished in the meetings than just a report of "no report".*

*So, that is what I've been doing reviewing the minutes from like 1979 going forward. I'm in the mid 80's now. It's all about locating everything as well. DOI has done a lot of moving, so it's I'm just trying to make sure that I locate everything and kind of review at a glance on how this commission came to be, how it has progressed, and where we should go from here.*

**Tommy:** *What was the actual start date, effective date of the Commission?*

**Latarsha:** *DOI took over in 1985, but it was in 79'.*

**Tommy:** *I'm trying to think when I came on board.*

**Latarsha:** *Oh, I'm looking for you! I found something, but it's hard to search those forms because they are saved in a PDF format. I tried to convert the document into Word document to be able to search and it doesn't transfer over very well because the originals were in typewriter. So, it's a lot of squiggly lines. I did find something where you were re-elected in 87'.*

*I'm trying to find something where you actually came on.*

**Tommy:** *I think I came on in 84' or 85', somewhere in there. It's time for somebody else to take over. And that's been a standard for somebody else to take over. But as far as the committee meetings, really, the committee meetings are not scheduled on a regular basis like these are. The committee meetings are to respond to the needs to help Liz or if some of the cities or counties have problems and come before you and make you aware of them or whatever...they are more on a reactionary basis at this point in time to my understanding.*

Originally, the reason we got started was because back in the early 80's, historically there was a problem with general liability, especially in reference to the municipal liability coverage. The general liability was in a flux all over the place. Nobody wanted to write GL coverage by itself. I don't care whether it was landlord's liability on an apartment building or whether it's on an airport liability for the airport manager for what nobody wanted to write liability. So, basically we were set up to place the coverage. And basically, we're given the authority to even set up a self-insured fund is the way I understood it. It never went to that point, but we put out the bids and we usually had maybe two or three companies that would give us a proposal. That's gone by the wayside at this point in time since there's not many carriers out there. It's alleviated now because pricing has gotten a little bit better with the companies. This year has especially because I think they've gone overboard, but maybe not with what's going on. So, who knows. It's more of a reactionary basis as far as the committee meetings like the Bid Committee and Review Committee, that would be when Liz feels like we need to put out the bids to help draw to make specifications, make changes, this type thing. It'll even go to the possibility of inviting them in to make proposal presentations. It's more of just really reactionary if anything.

**Jackie:** That's historically how it's been, since I've been on the committee. I can't go back as a committee member to the time when you were addressing it so difficult to place the insurance. I remember as an agent having a difficult time, particularly with law enforcement liability, and things of that nature.

I think maybe looking at the subcommittee, or the committees on the Commission, and maybe reviewing those things might be a good thing to do now at this time. Not that we won't go back to this one day, but it seems that it's really not pertinent to current market conditions, right? Is that what you're saying?

**Tommy:** Yeah.

Essentially, we had to know whether we actually had the power, but it was perceived we had the power and the companies didn't object to it, but we actually could make the insurance company write the coverage on a specific municipality or sheriff's department or police department and they could change the pricing to through the approval of the Commission. So, we had a little more underwriting authority. It's not really what it was, but it was sort of guidance for the underwriting. And now, we're just sort of fall in step it looks like.

**Jackie:** Historically the Commission had the ability not only to do that, particularly if a company was already writing certain parts of the state, they're writing public officials liability, law enforcement liability, the Commission even had the power to subpoena their rates and things at one time to make sure they weren't gouging the counties and cities at the time.

So, the statute creating the power of the Commission is pretty broad. The Commission has more power and I think most of them of us sitting here really realize unless they've read that.

**Tommy:** Almost at the point where there was some discussion about even doing something similar to the beach or fair plans. Do it mandatory for everyone, everybody, every church carrier everywhere. But it didn't come to that point. As far as real property coverage it's done on a percentage basis for everybody who writes that type of coverage. Everybody who writes dwelling coverage or everybody who writes commercial properties, they have to participate based on their percentage. There's a way to write themselves out of voluntary writing for this

type of thing, but that's in essence, what it boils down to they could spread it around to all the carriers that are licensed in the state. That's my understanding. That's my interpretation.

Sheriff, do you have any thoughts? You've been on for some years now.

**Sherriff Hagaman:** This is obviously something that was very important, though. We're covering the whole state of NC. I know we're doing good and that's great. We just need to keep it up.

**Tommy:** Now we do have the state statutes that provides the basically the self-insured retention aspect of it. (**Melody:** Defense of State Employees Act)

That came about after this Commission was started. It might have been in place, but it's increased to the \$1 million limit now.

**Jackie:** That's how we've evolved. That's really our primary focus now, right? Rather than the individual entities, so to speak, but the primary focus is that act.

**Tommy:** The Commission here, and even beyond that, XYZ town or county has a problem, they come to the Commission for assistance and between us and between the department we could try and find a market for them or a system in finding the market.

**Liz:** Do they know that? Do they know they can come to this Commission to ask for help?

**Tommy:** It use to be broadcasted and discussed at the count Commissioners and the League of Municipalities meetings. How much of that is done nowadays, I don't know.

**Sherriff Hagaman:** Not much discussion, they get the same as this. Nothing really on the sheriffs side.

**Tommy:** You know whether they are at their annual meetings or some of their committee meetings whether it's discussed or not, I don't know. It might be something with some sort of notification to go out to them to advise them of what's going on...that we are here to assist them.

**Jackie:** So will you say it's primarily reactionary problems, Tommy?

**Tommy:** Yeah, don't dig it up.

End.

### **Other Business Discussions:**

**Tommy:** When is actually the renewal date? Are we on a calendar year basis?

**Liz:** February 1.

**Tommy:** We'll get back to the July 1 date, then it'll be the calendar year.

**Liz:** I can make that happen if you want.

**Tommy:** Liz, at what time to you think you anticipate the possibility of requesting activation of the bid committee, or the review committee?

**Liz:** We haven't done that since I've been working on this policy. I have not had the pleasure of asking the bid committee to participate, but I can certainly do it that way. I just need some direction on that if you want to have the bid committee involved.

Tarsha and I will start the process in August to begin to collect information. The first step to gather position counts. We begin to gather the information and we send it to the insurance company. We would love to send it to them in October or November. After that it's in the underwriters' hands. They will review everything and asking questions. An ideal situation we will have a renewal quote at the beginning of January. I'll have to account for the holidays, Thanksgiving and Christmas. But our goal is to get the underwriter all the information they need before the holidays, before Thanksgiving.

**Tommy:** Just to let you know the bid committee will be the ones involved in this. We might be able to involve them in a little bit of it to get some additional comments. Around September or October timeframe, Latarsha can send out a notice requesting people to meet, and I guess to ask if anybody else would like to meet with us. I don't want to burden you with it, but just need to get some involvement with some of the members. It's just looks like we're doing a review on a quarterly basis which is good if we're not being called upon because it does not to appear to be any problems out there. There may some problems starting to come up with Public Safety with things happening around the country, but who knows.

Next Meeting September 20, 2022

#### **Motion to Adjourn**

Michael Kelly made the motion to adjourn meeting; Michelle O'Connor 2<sup>nd</sup> the motion.  
Vote for All in favor: Aye.

Meeting stands adjourned @ 10:51.