

RISKY BUSINESS

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MIAMI VALLEY RISK MANAGEMENT ASSOCIATION



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AUGUST 2012

From the Board Room...



At the June 18, 2012 Quarterly Board meeting, the following actions were taken:

- Approved the Open Claims & Incurred Losses Report
- Accepted the Actuarial Report for the Year Ending 12/31/11
- Approved the PEPiP property renewal for the period 7/1/12-7/1/13
- Approved the 2011 Safety Awards (see the article on Page 4)
- Approved the winners of the Public Risk Achievement Awards (see the article on Page 3)
- Approved elimination of the Public Risk Achievement Awards going forward
- Approved Minutes of the Special Board Meeting May 7, 2012
- Approved Minutes of the Strategic Planning Retreat May 7, 2012
- Approved Extension of Mike Hammond's Employment Agreement through July 31, 2012

To: Mike Hammond as he retires,
May you have warm words on a cool evening,
a full moon on a dark night
and a smooth road all the way to your door.

Regards from your staff,
Craig, Starr and Kathy
You will be missed!

FYI - Final Say

-Mike Hammond

Not often in life does one have the opportunity to have the final say. However, this may be one of those moments. As I approach the end of my time at MVRMA, rather than write my usual risk management message, I decided to make my final column a little more reflective.

I have been very fortunate to work with many dynamic people representing some great organizations during the last 43 years. But, nothing compares to my 12 years at MVRMA. It is the people who make this organization great, and each of you has been an important part of my MVRMA experience. I couldn't have asked for a more exciting and fulfilling way to end my public sector career. Thank you for making my life just a little bit better.

First Words

- Tom Judy

We all want to be associated with great organizations. For the last 14 years, I was blessed to be a part of the City of Sidney. Now, I get the opportunity to serve the members of MVRMA as its new Executive Director. I am truly fortunate.

These days inter-governmental cooperation is all the rage; but, MVRMA was successfully demonstrating the value of inter-governmental cooperation long before it became fashionable. Its success has been due to the commitment of the member cities both to risk management and to the organization they created.

In my 14 years on the MVRMA Board, I was impressed by the professionalism of the member cities

It has been especially gratifying for me to work with so many dedicated officials from all the cities that MVRMA serves. This opportunity has strengthened my respect and admiration for those who commit to public service and work so hard for the betterment of their communities. I leave knowing that your well-managed cities are making risk management a priority.

I could never have done my job here without the support and hard work of the MVRMA staff. They are some of the best people I have had the opportunity to work alongside. They are truly committed to serving our members and delivering the best possible service. Kathy, Craig and Starr, I will miss working with each of you.

My career has included stops along the way as a high school business teacher, school business manager, and (Cont. on Page 6 - See FYI)

and the trustees selected to represent them. Those trustees are active and engaged, giving the organization the benefit of their knowledge and experience. As we move forward together, I realize the successes we will enjoy will be due, not to my efforts, but to the continued support of the members.

In my new position, I have the luxury of working for an organization that is already efficient and highly functioning. I believe in the old adage "if it ain't broke, don't fix it." On the other hand, I also subscribe to the maxim that goes something like this: "Your organization is either moving forward or falling behind - there is no in between." With those thoughts in mind, I look forward to working with the MVRMA Board to maintain the association's solid (Cont. on Page 6 - See WORDS)

Counselors' Comments



Dinsmore & Shohl

DOL Guidebook Simplifying the FMLA Now Available

On June 27, 2012, the Department of Labor (DOL) issued a new guidebook intended to assist employers and employees with navigating the historically complicated Family Medical Leave Act (FMLA). Titled "The Employee's Guide to the Family and Medical Leave Act," the guidebook uses a "plain language" approach to explain and analyze the rights granted by the FMLA. The guidebook does not change any of the FMLA's regulations but rather attempts to set out the FMLA's requirements in simple terms for the asserted benefit of employees and employers alike.

The DOL's position is that individuals who utilize FMLA leave are "not just workers" but also parents, grandparents, spouses and children. As such, the DOL believes a "partnership" between employers and employees is "required to successfully navigate the FMLA." The 16-page guide includes a flow chart that employees can follow to determine if they are eligible for FMLA leave and a description of the circumstances under which an employee can use FMLA leave. It also provides information about the FMLA's most significant issues, including sections that cover how employees request FMLA leave, medical certifications and return to work requirements.

The DOL hopes the new guidebook will benefit both employers and employees. Employees mainly will use the guidebook as a reference to determine their initial rights under the FMLA, such as whether they are eligible for FMLA leave, including that they must have worked for their employer for at least 12 months. The DOL also encourages employees to take a copy of the guidebook to their medical provider because there is a

detailed explanation, including an illustrative flow chart, describing the medical certification process. Employers are encouraged to use the guidebook to understand their workers' rights and how the FMLA can benefit their workplace.

Employers should be aware that this new guidebook provides employees with an easy-to-use manual to determine whether they are entitled to FMLA leave, equipping employees with a simple guide to "check" their employer's FMLA decisions. In fact, the end of the manual outlines how an employee can file a complaint with the DOL's Wage and Hour Division if the employee believes that his or her FMLA rights were violated. Employers could see an increase in the number of employees requesting FMLA leave because the manual provides employees with a simplified version of their leave rights. As always, employers must be cautious when dealing with an employee who has requested FMLA leave. Employers are not permitted to interfere with an employee's FMLA rights (for example, they cannot deny an employee's request to take FMLA leave when the employee is otherwise eligible) or retaliate against an employee for taking FMLA. Thus, employers are encouraged to undertake extra care when analyzing an FMLA request and be cognizant of the fact that their employees now have at their disposal a handy reference tool to quickly and easily check the FMLA's most basic requirements.

The guidebook is available on the DOL's website, and a guidebook concerning military FMLA leave will be provided in the future.

The Claims File



-Craig Blair

Several of our northern members experienced winds in excess of 50 mph during the weekend of June 29-July 1. This situation was somewhat unique because the events were two days

apart. The timing of the events prompted several questions which I thought might be of interest to all MVRMA members.

Question: Since there were two separate events, would MVRMA open two claims?

Answer: Under the property program, wind storms occurring within a 72 hour period are treated as one occurrence or claim. Thus, there is only one \$2,500 deductible.

Question: Since several departments are reporting damages, do we need a separate loss report from each department?

Answer: Only one claim will be opened, so only one "first report of loss form" is required. However, all other damages should be reported so that MVRMA can arrange to inspect them and assist contractors when necessary.

Question: What property is covered?

Answer: MVRMA covers all city owned property (i.e., tables or chairs at the pool, tents, fences damaged by fallen trees, etc.), buildings and vehicles as well as office equipment damaged by power surges due to downed power lines.

Question: Does MVRMA cover the costs incurred for debris removal, especially trees?

Answer: MVRMA does not have coverage for costs related to the general clean up involved with debris removal unless the trees or other debris have damaged city property. On golf courses, we provide debris removal if the fallen tree is on a tee, green or sand trap. Further, MVRMA does not generally have coverage for trees. However, there is limited coverage for landscaping for small trees (25 gallon limit) and plants and shrubs for beautification areas only, where the plantings were for cosmetic effect (i.e. gateways to the city, park entrances, etc.).

Hopefully, this information is of assistance to members currently dealing with storm issues and can be filed away for future reference for all other members.

2011 Public Risk Achievement Awards

The Public Risk Achievement Awards recognize member cities which have developed creative and successful risk management programs. There are two categories: (1) Innovation in Public Risk Management and (2) Outstanding Achievement for a Public Risk Management Program. The first category acknowledges a program that is notably innovative, successful and/or well received. One winner is named, and the prize is \$1,000. The second category recognizes programs or activities that are particularly timely and effective in reducing or controlling losses. A maximum of two prizes may be awarded annually, and the winners receive \$500 each.

At the June 18 Board Meeting, the winners of this year's Public Risk Achievement Awards were announced. The City of Miamisburg received a check for \$1,000 for its Housekeeping Day Event, and the City of Centerville received a check for \$500 for its Safety Committee Accident Awareness Training Video. Congratulations to our winners!

Although only two nominations were selected for this year's monetary prize, the other three nominations were very worthwhile. We appreciate everyone's participation, and would like to share a summary of each of the programs submitted. We have included contact information for anyone wishing additional details.

City of Miamisburg's Housekeeping Day Event

Miamisburg's Safety Team is comprised of broad representation from each department and each of the four unions, and includes both supervisory and nonsupervisory personnel. For one of its annual events, the Safety Team decided to focus on general housekeeping. Not only would this activity correct safety issues that exist as a result of poor housekeeping practices, but it would also create a more professional and welcoming appearance to the public. Prior to the event, flyers were distributed so that all departments would have advance notice of the date for this competition. Employees responded to the event in a very positive way and a friendly rivalry developed between departments. On the scheduled "Housekeeping Day," the Safety Team was divided into "inspection teams" who evaluated a particular department based on specific criteria. Scores were tallied and a winner was presented the greatly coveted "Golden Broom Award." The impact of this event was even better than expected. Not only was the city a safer place to work, but it presented a more efficient and organized impression to the public. The event became a team building exercise for members of the Safety Team as well as members of each individual department, and it provided quite a morale boost when employees realized a clean, orderly workplace just "feels better."

CONTACT: Kathy Weisgarber (937) 847-6465; kathy.weisgarber@cityofmiamisburg.com

City of Centerville's Safety Committee Accident Awareness Training Video

The City of Centerville's Safety Committee is comprised of representatives from every major department. In 2011, the Committee began working on a project that would result in a creative, meaningful and interactive safety video that could be used as a training tool for various departments, new hires and seasonal workers. The video featured work environments that employees typically encounter and demonstrated how accidents could occur if unsafe procedures, unsafe apparel, unsafe housekeeping, improper attitude or other measures were not corrected. It emphasized the importance of following safety rules and procedures and how working together can be effective in preventing workplace accidents. The video was shown to various departments where employees were engaged in a discussion about the unsafe environmental factors showcased in each scene. This training video promoted "thinking safely" at all times during the work day, looking out for the safety of coworkers and led to other safety initiatives being identified and carried out.

CONTACT: Ginger Yonak (937) 433-7151; gyonak@ci.centerville.oh.us

City of Beavercreek's Traffic Sign Inventory Database

By using in-house talent, the City of Beavercreek was able to create and implement a traffic sign database at an estimated cost of \$19,000, whereas an outside vendor would have charged \$30,000-\$50,000. Parameters for the GIS data base were determined using input from city workers. During the winter, data was collected, and as a result, 55 stop and yield signs were identified as needing immediate replacement. All signs were addressed within two weeks of completion of the inventory. Other signs reported as fair will be reviewed again next winter for possible replacement. Impending Federal Requirements stipulate a data base be one of several methods for determining the conditions of existing traffic controls. By being compliant with Federal Regulations, the City can better defend any lawsuits claiming the traffic controls were deficient, and the immediate replacement of the failed Stop/Yield signs lessened the possibility of accidents at these intersections.

CONTACT: John Woltja (937) 427-5540; woltja@ci.beavercreek.oh.us

City of Sidney's Parks Maintenance Division Safety Policies

The City of Sidney has developed a comprehensive safety training orientation for its parks department. Each year, new and returning seasonal employees review this document with a department supervisor. At the completion of the training, the employee signs an acknowledgement form confirming he or she completed the orientation. The training is very broad in order to prepare workers for most situations that might arise and includes instruction in the safe use of motor vehicles, hand tools, power tools and motorized equipment. Although there is no data to support the number of losses prevented, the city believes this safety orientation greatly contributes to reducing injuries to employee and patrons and damage to mowers, tractors and other equipment.

CONTACT :Duane Gaier (937) 498-8105; dgaier@sidneyoh.com

Wilmington's Development of Emergency Action Plans

The Wilmington Fire Department has designed a power point presentation to assist companies and assisted living facilities with development of an emergency action plan (EAP). The intent of the presentation is to proactively ensure the safety of all citizens, especially the staff and residents of local nursing facilities. It leads the employer through a thoughtful process of preparing his own unique step by step EAP. By educating local employers about the importance of a sound EAP, the Wilmington Fire Department is hoping to further protect the lives and property of its community.

CONTACT: Mark Wiswell (937) 382-2244; mwiswell@ci.wilmington.oh.us

2011 Safety Awards

At the June 18, 2012 Quarterly Board Meeting, the MVRMA Board approved the 2011 Risk Management/Safety Awards. The Overall Award is presented to the city with the lowest dollar losses per full-time employee. A plate engraved with the winner's name and the year of the award is added to a traveling plaque which the winning city may display for one year. The runner-up city is presented with a smaller plaque honoring its accomplishment.

The 2011 overall winner is the **City of Montgomery**. The runner-up is the **City of Madeira**. Both cities had zero losses, but because Montgomery has more full-time employees, it was named the winner. Congratulations to both cities!

Departmental awards are given to the departments with the lowest dollar losses per full-time employee. If there are several departments in a category with zero losses, the winner is determined by the department with the most full-time employees. The winners receive a plaque, and their employees are treated to a breakfast or other celebration, or the department may choose to receive \$250 toward any safety related training. Individual certificates are provided for each

employee of the winning department.

The 2011 winners are as follows:

Police: **Sidney**

Fire/EMS: **Troy**

Water & Wastewater: **Troy**

Parks & Recreation: **Vandalia**

Streets & Refuse: **Indian Hill**

There were several departments in each category with zero losses. We would like to recognize those departments and congratulate them on a job well done. Although these departments will not receive a plaque, they will receive individual certificates for their employees and a celebration or \$250 toward training. The zero loss departments are:

Police

Bellbrook, Indian Hill, Madeira, Montgomery, Piqua, Tipp City and Wilmington

Fire/EMS

Bellbrook, Englewood, Mason, Montgomery, Sidney, Wilmington and Wyoming

Water & Wastewater

Mason, Miamisburg, Piqua, Sidney, Vandalia, West Carrollton and Wyoming

Parks & Recreation

Indian Hill, Madeira, Montgomery, Piqua, Springdale and Wyoming

Streets & Refuse

Madeira, Montgomery, Tipp City, West Carrollton and Wyoming

Safety Performance Awards are presented to departments with three or more consecutive years of zero losses. Plaques for the period 2009-2011, or longer, will be presented to the following departments:

Police

**Bellbrook (7 years)
Montgomery (3 years)**

Fire/EMS

**Bellbrook (7 years)
Englewood (3 years)**

Water & Wastewater

**Vandalia (18 years)
Wyoming (8 years)
Miamisburg (3 years)**

Parks & Recreation

**Madeira (17 years)
Montgomery (11 years)
Indian Hill (3 years)
Wyoming (3 years)**

The Standard of Excellence Award is given to cities with \$100 or less per (Cont. on page 6 - See AWARDS)

Loss Control Lowdown

- Starr Markworth

OSHA Publishes New Hazard Communication Standards

OSHA has updated its Hazard Communication Standard (HCS) to harmonize with international standards. Companies that manufacture, transport or have chemicals in the workplace were to begin complying with the new standard on June 26. The standard will be phased in during the next four years.

"Exposure to hazardous chemicals is one of the most serious threats facing American workers today," said U.S. Secretary of Labor Hilda Solis. "Revising OSHA's Hazard Communication Standard will improve the quality and consistency of hazard information, making it safer for workers to do their jobs and easier for employers to stay competitive."

The HCS is now aligned with the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). This update to the HCS will provide a common and coherent approach to classifying chemicals and communicating hazard information on labels and safety data sheets. Once implemented, the revised standard will improve the quality and consistency of hazard information in the workplace, making it safer for workers by providing easily understandable information on appropriate handling and safe use of hazardous chemicals. This update will help reduce trade barriers and result in productivity improvements for American businesses that regularly handle, store and use hazardous chemicals. It will also provide cost savings for American businesses that periodically update safety data sheets and labels for chemicals covered under the HCS.

HCS - In order to ensure chemical safety in the workplace, information about the identities and hazards of the chemicals must be available and understandable to workers. OSHA's

HCS requires the development and dissemination of such information:

- Chemical manufacturers and importers are required to evaluate the hazards of the chemicals they produce or import, and prepare labels and safety data sheets to convey the hazard information to their downstream customers.

- All employers with hazardous chemicals in the workplace must have labels and safety data sheets for the exposed workers, and train them to handle the chemicals appropriately.

Major Changes to the HCS

- **Hazard classification:** Provides specific criteria for classification of health and physical hazards, as well as classification of mixtures.

- **Labels:** Chemical manufacturers and importers will be required to provide a label that includes a harmonized signal word, pictogram and hazard statement for each hazard class and category. Precautionary statements must also be provided.

- **Safety Data Sheets:** Will now have a specified 16-section format.

- **Information and training:** Employers are required to train workers by December 1, 2013 on the new label elements and safety data sheets format to facilitate recognition and understanding.

The new standard's key provision involves communication about carcinogens in the workplace and combustible dust, plus new requirements for hazard labels and Material Data Safety Sheets.

Employee training will be the most pressing issue for most employers. The regulations require employees to be trained on the new labels and safety data sheet format by December 1, 2013, and training on the carcinogen and dusts standards must be in place by June 1, 2016

OSHA says the new standards will prevent an estimated 43 workplace deaths a year nationally.

For a Q&A on the new regulation, visit www.osha.gov/dsg/hazcom/index.html, and watch for training announcements from MVRMA in 2013.

Brokers' Beat...



One of the issues municipalities frequently encounter is the rental of vehicles by employees in the course and scope of their duties while traveling out of the area. This article will focus on the liability exposure for this issue.

Often, employees believe when they rent a vehicle in conjunction with their employment, they are renting on behalf of the City and believe the City will assume all of the risk. And, conversely, the City believes it is only responsible for reimbursement of the rental charges. In fact, the rental car transaction is a contractual relationship between the employee and the rental car company as evidenced by the rental contract in the name of and signed by the employee, with no reference to the City. However, if a serious accident occurs while the employee is operating the rental vehicle in the course and scope of his employment, the interests of the City and the employee will be intertwined.

For the liability exposure, the rental car company generally provides primary liability insurance that meets the minimum financial responsibility requirement in all 50 states and provides coverage for the renter/employee and the rental car company. This primary coverage may provide some coverage for the City's vicarious liability exposure in the operation of the rental car, but, again, the primary liability coverage is generally minimum limits and will exhaust quickly for the employee, City and rental car company in the event of a serious accident.

Because the rental contract is a personal contract in the name of the employee, the employee's Personal Automobile Policy (PAP) will automatically provide limits for the employee's interest excess of the primary liability coverage of the rental car company. Of interest here is that the PAP, with some exceptions, will follow household drivers, on an excess basis, no matter what vehicle they are driving, (Cont. on Page 6 - See ALLIANT)

Awards (Cont./Page 4)

employee. Plaques were presented to these recipients at the June 18 Board Meeting. The following cities were recognized:

- Montgomery (\$0 losses/employee)
- Madeira (\$0 losses/employee)
- Piqua (\$9.85/employee)
- Wyoming (\$42.55/employee)
- Sidney (\$44.26/employee)
- Indian Hill (\$60.20/employee)
- Kettering (\$76.20/employee)
- Blue Ash (\$79.35/employee)
- Vandalia (\$97.08/employee)

Congratulations and thanks to all our 2011 Safety Award winners. Your attention to safe practices benefits your city as well as the pool. And, remember, working safely may get old, but so do those who practice it.

FYI (Cont./Page 1)

25 years in city management. In July 2000, I joined MVRMA to focus on public sector risk management and pooling. It is my time here that has been the most rewarding.

Retirement is now the next step in life's journey. It has been said that retirement is a passage from one lifestyle to another. One way to think of it may be to create a new term: *re-tire* or "to put on new treads." I have always tried to view life as an adventure, and this next phase of my journey is no different. It is my hope to now take the treasure of time and convert it into an exciting new adventure.

Please accept my thanks and appreciation for the privilege of being part of such a great organization and for the opportunity to work and serve with so many fine people. I wish all of you the very best, and I am confident my successor, Tom Judy, will provide the outstanding leadership that MVRMA deserves. I leave you in very capable hands.

Be safe and remember: MVRMA is "more than insurance."

Words (Cont./Page 1)

foundation and to seek ways to even better serve the members' needs.

Much of the credit for the strength of this organization goes to the leadership of my predecessor, Mike Hammond. Mike is a steady leader and a man of integrity. It was our good fortune that he was at the helm during a key period of growth and maturation for this association.

I have had the opportunity to work closely with Mike while serving in various capacities on the Board. During the past few months, his instruction and sharing of information has been invaluable as I have prepared for my new role. I would be well-advised, as I am faced with various issues in the future, to take a moment and ask myself, "What would Mike do?" I want to thank Mike for helping make my transition a smooth one and wish him well in his retirement.

Again, thank you to the member cities for your confidence in me. I look forward to working with you and for you, in the years to come.

Alliant (Cont./Page 5)

be it a borrowed car or a rental car. But, in this case, the PAP will only provide coverage for the household driver and will provide no benefit for either the rental car company or the City.

MVRMA's Liability Coverage Document will pick up coverage for the City excess of the primary liability insurance. And, because the MVRMA Liability Coverage Document will also cover the employee as a Covered Person while in the course and scope of his employment, it will probably share coverage for the claim with the employee's PAP up to its limits. After the PAP limits are exhausted, MVRMA's \$10 million limits will provide coverage for the City and the employee, again assuming that the employee was in the course and scope of his employment.

The employee will probably be very upset to have his claim attach to his

Coming Events

September 24
 MVREMA Quarterly Board Meeting
 9:30am
 MVRMA Offices

October 14-17
 AGRiP Governance Conference
 Newport Beach, CA

October 18
 Law Enforcement Presentation by
 Gordon Graham
 "Why Things Go Wrong,
 Why Things Go Right"
 8:30am-3:00pm
 Yankee Trace

personal insurance, but the language of the standard PAP is very clear with regard to this exposure, and there is probably no option.

It is important that employees understand the issues discussed above. Most employees believe when they rent a vehicle under a reimbursement arrangement with the City, that the City assumes all responsibility for the rental transaction. In fact, the employee is renting the vehicle personally and it is his rental car, not the City's. Because it is a personal transaction, there is a strong possibility his PAP will be automatically triggered in the event of an accident, and that could result in higher premiums at the next renewal. And, because the employee also receives Covered Person status under the City's MVRMA liability coverage, there is a strong possibility the MVRMA coverage will become involved in the event of a serious accident. In other words, the liability interests of all three parties could become intertwined.

There are rare situations where a City might make advance arrangements with a single rental car company on a blanket basis to rent to individual employees in the course and scope of their employment. In these situations, the contract is probably executed with the City, and the employee's PAP may not be involved.