

June 7, 2011

Special Meeting

1:00 PM

The Council for the Township of Killaloe, Hagarty and Richards met on the above date with Councillors Isabel O'Reilly, John Jeffrey, Ernie Cybulski, Stanley Pecoskie, Carl Kuehl and Debbie Peplinskie present. Mayor Janice Visneskie chaired the meeting, which she opened and called to order.

Purpose of Meeting: To receive information re: municipal insurance coverage.

Delegations: Mr. Bill Riley from Municipal Insurance Services and a group of representatives from various volunteer organizations were in attendance. Mr. Riley provided a clear explanation of the current municipal liability policy and how it relates to coverage for its boards, committees of council, employees and volunteers of bona fide boards.

Mr. Riley explained the requirements that are used in determining eligibility coverage under the municipality's liability insurance policy. He stated that there are two types of volunteers, community and municipal, in assessing individuals or groups covered under the municipality liability policy. As a needs test, four factors are used to determine eligibility; individuals and groups are approved by resolution of council, council has to approve their budgets, a member of council has to sit on their board, and council has to approve all of the actions of the committee/board.

Councillor Kuehl asked if the volunteers for the Garden Club are covered under the municipal liability policy, as they do not act under the direction of council but receive funds to plant flowers on municipal property. Mr. Riley stated they are not considered municipal volunteers and are not covered. Councillor Kuehl advised that the municipality does give them funds to purchase plants and other materials. Mr. Riley advised that this does not attach them to the township and that if there is no tie between the club and the municipality as he had previously outlined, they are not covered.

Mr. Riley stated that once a committee is established council should have a written process which outlines guidelines, procedures and parameters under which the committee can operate. Council must ensure that there are proper procedures in place and that there is a clear connection, via the needs test outlined above, between the volunteers and the municipality to ensure that the municipality as well as the individuals are not exposed to personal liability.

Nicole Zummach, Librarian for the Killaloe and District Public Library requested clarification as to whether or not the library volunteers and its employees are covered. Mr. Riley stated they were covered, and that the "Friends of the Library" would also be covered because they act on behalf of the library board.

Barb Borutskie, representing the Killaloe Community Resource Centre, asked if those who volunteer on an occasional basis are covered. Mr. Riley stated that if they meet the criteria set in place for a municipal volunteer, and are acting under the control of Council or one of its committees or boards, they are covered. He suggested that it is important that volunteers are screened through the application process or registry that has been established in the municipal volunteer policy. This protects both the volunteer and the municipality in the event that something does happen.

Mr. Riley stated that municipal claims are not heard by a jury, just by a judge. He advised that it would be difficult to defend the municipality if they do not adhere to their policies, e.g. if you have a policy prohibiting alcohol on municipal property, but allow it in certain cases.

Tony Pearson, representing the Killaloe Heritage and Ecology Society, stated that the Society has its own charter. Mr. Riley advised that if you are asking volunteers from another club/society to assist with a certain event, they would be considered municipal volunteers only for that event. Mr. Pearson suggested that if these groups of volunteers were asked to fill out the application forms required by the municipality for municipal volunteers, they would refuse. Mr. Riley advised that if the municipality does not waive that requirement, these forms would have to be filled out.

Garnet Kranz advised that the Killaloe Heritage and Ecology Society is a registered society with its own board, and that they lease Hoch Park from the municipality. He asked if they are covered under the municipal liability insurance. Mr. Riley stated that the Society is a third party contractor and responsible for their own insurance. Since the Mayor is a member of the board representing the municipality the Mayor would be covered in the case of a lawsuit, but the Killaloe Heritage and Ecology Society members are not. They have to provide their own liability insurance and hold the township harmless. Mr. Riley stated that all 3rd parties that you enter into an agreement with should have a hold harmless clause, and should provide a Certificate of Insurance to the municipality. The Killaloe Heritage and Ecology Society

lease the property and it is their responsibility to have their own insurance. If the claim arises because of something that they did, their insurance would cover them to their limit, and then the municipal insurance would defend you as a member of Council, but not their board/committee/society.

Maria Mayville asked who would be covered if the township entered into a partnership with the Lions Club for an event. Mr. Riley stated that they are separate entities and have separate coverage. The municipality cannot transfer a risk that is not part of their normal operation to someone else.

Councillor Peplinskie advised that the municipality has given permission to the CRC to use Station Park for the Toy Bus Day in the Park, and again in August on an ongoing basis. Should the municipality be named on their policy? Mr. Riley stated if they are using the park for park activities and someone gets hurt, the CRC would be named first and township would be defended under our own policy. If someone gets hurt because the Township has not properly maintained the park, then the municipality would be held liable.

Barb Borutskie asked whose insurance coverage would apply if the Community Resource Centre Toy Bus uses township property and was invited by the municipality to come to a township event. Mr. Riley stated that the CRC has its own insurance and the liability would belong to them. If someone gets hurt on township property, then the municipal policy would cover the township. CRC would have operational liability for the activities on the bus. If there's a statement of claim, the municipality and CRC would be named. The resource centre and the township will have policies that will defend them.

Lee LaFont, chair of the Killaloe and District Public Library asked if the \$5,000 deductible for property insurance could be reduced. Mr. Riley stated the minimum deductible on a municipal program is \$5000.

Ms. Zummach asked who would be liable if the library were to hold a special event at the Lions Club which involved alcohol. Mr. Riley advised that the library could obtain their own alcohol permit, but if the Lions Club has their own permit, you would be covered under theirs as well.

Mr. Kranz advised that the Lions Club is planning to hold a soapbox derby on Annie Street and will close the street for a certain number of hours during this activity. Mr. Riley stated that in this case, the Lions Club insurance has the liability, but the township would have exposure if there is an issue with the condition of the road. He also suggested that if the condition of the road would put the participants at risk, the Lions Club would have to consider whether or not they want to risk this exposure.

Mayor Visneskie thanked Mr. Riley and all of the participants for attending, at which time they left the meeting.

Moved by Isabel O'Reilly
Seconded by John Jeffrey

That this meeting adjourn. Carried.

Mayor

CAO/Clerk-Treasurer