

## **WORKERS' COMPENSATION INDUSTRIAL COUNCIL**

**OCTOBER 16, 2008**

Minutes of the meeting of the Workers' Compensation Industrial Council held on Thursday, October 16, 2008, at 3:00 p.m., Offices of the West Virginia Insurance Commissioner, 1124 Smith Street, Room 400, Charleston, West Virginia.

### Industrial Council Members Present:

Bill Dean, Chairman  
Charles Bayless (via telephone)  
Delegate Nancy Guthrie  
Kent Hartsog  
Dan Marshall  
Walter Pellish  
Delegate Carrie Webster (via telephone)

### **1. Call to Order**

Chairman Bill Dean called the meeting to order at 3:00 p.m.

### **2. Approval of Minutes**

Chairman Bill Dean: Has everyone had a chance to look at the previous month's minutes?

Dan Marshall made the motion to approve the minutes from the September 11, 2008, meeting. The motion was seconded by Walter Pellish and passed unanimously.

### **3. Office of Judges Report – Timothy G. Leach, Chief Administrative Law Judge**

Judge Timothy Leach: Good afternoon, Mr. Chairman, members of the Council and members of the public. You should have a copy of my September statistical summary. While the number of protests for this year is going to come out several hundred a month lower than last year, we just can't figure out the trend on that and whether it has bottomed out. Our best estimate about it is a consequence of continuing to produce resolutions of the cases and fewer are coming in. Our Pending Caseload at the end of September is now at 4,837.

There are a couple of achievement notes I wanted to call to your attention. Our timeliness number for September was a tenth of a percent better than our average for last year, so that was a good outcome. A year-to-date, because of the stumble in January and February, is still eight tenths of a percent worse than last year. But we've got three more months to go to report.

Our Final Decision Timeliness was 100% for September. That's the best we can do, I'm happy to report. For year-to-date it's going to be right at 99.6% where it was 99.7% last year, so we are pleased with that.

We have a few non-statistical matters to report to you. We just returned a couple hours ago from our latest workshop. The one in Beckley was this morning at Tamarack. We have been well attended, with the exception of the eastern panhandle where we only had 12 attendees. So what we're thinking of doing for that audience in the future is try to get some kind of remote access by Internet, or perhaps audiovisual access instead of making the trip. The Beckley attendance was in the low 30's. That's acceptable, but I did boost those numbers slightly by coercing eight judges who would have gone to a Charleston meeting to go up there to make sure we had an audience to give us a listen. However, the remaining two workshops in Charleston have been well registered. We haven't done them yet. The next one [at the Marriott] is completely booked up and 100 was the limit for the room, so we expect a good attendance. We've received great feedback and information from the audience. Questions that had never occurred to us raised some interesting topics which caused us to go back to the office and start doing some research.

Our I-AIMS Project is the Internet access to our Adjudication Information Management System. It is scheduled to go "live" November 1. Actually that's a Saturday so it will be the following Monday. But over that weekend they will implement that, and people are registering for that service. We've been passing out registration forms at our workshops and already have several back in.

The case number changeover is also scheduled to change on November 1. Now it's not really a case number changeover, but we are going to add a third identifying claim number to our documents that go out which previously had our own OOJ Case ID number and also had the Carrier's Reference Number, if we could figure out what that was. But we're also going to start putting the Insurance Commissioner's own JCN number on those documents, so that will help people with some confusion. Some TPA's have been using the JCN and calling it an "internal carrier reference number" on their correspondence. Some administrators have been using Carrier Reference

Numbers on their correspondence. We've already had duplications of those two numbers, although they are different systems. So that's caused confusion. In fact, if you put in a Carrier Reference Number in the claims index and search under the claims index it will sometimes give you two different results – two claim numbers – because it will also search under the JCN number with the same format. Hopefully by using all three numbers in our documentation it will help the outside parties know which case we are referring to. Using the third number is supposed to start appearing on all documents mailed on and after November 1 as well. Mr. Chairman, that's all I have to report. I'll be glad to take any questions.

Chairman Dean: Are there any questions from the Council? Mr. Bayless, do you have any questions for Judge Leach?

Charles Bayless: No, I do not.

Chairman Dean: Ms. Webster? Thank you, Judge. We move on to Request to File Initial Draft on Rule 1. I know there are some questions on that. Mary Jane, do you want to handle that?

**4. Request to File Initial Draft on Rule 1 – Mary Jane Pickens  
Title 85, Series 1, "Claims Management and Administration"**

Mary Jane Pickens (General Counsel OIC): I am doing this one because I feel some responsibility and I take responsibility. This is Rule 1. It's a rule that, as everyone in this room probably recalls, was open for comprehensive changes fairly recently. I think it was brought before the Council maybe in May. We worked on it through the summer. There was a 30-day written comment period for the comprehensive changes, with a public hearing, and we got approval probably in July to final file it, and the effective date was August 17.

In fairness to some of the folks in this room, it was pointed out to us that there was a provision during the comment period – during the comprehensive changes – that that would be difficult to implement. As we were going through [Rule 1] again making a lot of changes, listening to a lot of comments, admittedly I think we just failed to consider all the different scenarios that we could have thought about. And the provision that we would like to have an opportunity to go in and amend is very limited in scope. We don't intend to open this rule for any purpose other than a limited purpose of addressing this eligibility for TTD section. And I think there might have been some confusion when we sent the rule back out in the e-mail that it was being opened for all kinds of purposes

and it really isn't because we've been through that just so recently and there was so much opportunity for comment and public participation. I feel like it is the responsible thing to do when you see something that needs to be worked on or needs to be corrected to come back to the Industrial Council to correct it. I didn't think the language that was in there – and is in there today – is really capable of being turned around in any other way through an informational letter. I really think this is appropriate for the Industrial Council to look at it and to make this change, of course, if they feel it is appropriate.

The change that we are seeking to make is in Subsection 5.1. It is under Section 5, Special Rules for Temporary Total Disability Claims. The problem that we've run into is the difficulty in implementing the provision as it exists today which would require three days of actual missed work before eligibility for temporary total disability would begin. There are so many different work scenarios and types of shifts that people can work that it is really very difficult to program. I think from a TPA or a carrier's standpoint the difficulty is implementation. And I think you end up with too many different types of results for claimants where you have perhaps one type of worker that might work very unusual shifts or perhaps works so sporadically that it's very difficult to determine when they are going to work.

The amendment that we are proposing would clarify that the period of disability just needs to last for three calendar days after the date of injury, and then if that's the case the employee would be eligible for TTD. It's obviously favorable to claimants. On the other side though I also think that perhaps the difficulty of implementation outweighs any benefits that are on the other side. That's what we would like to do. Again, it's a very limited type of amendment. That's all we're bringing before the Industrial Council on this particular rule.

Chairman Dean: Any questions for Mary Jane from the Council?

Walter Pellish: I have a comment. I understand the problem with programming, but leaving out that word "consecutive" I think it's going to lead to more problems than what it solves. Maybe "consecutive" isn't the word that needs to be used. But I can see all kind of games being played with this if it just simply reads that you are out three calendar days. Nothing indicates that that can't be interpreted as one day this week, one day two weeks from now, and a third day 28 days from now. Somehow you've got to get the concept in that the individual has missed "X" number of consecutively scheduled days or seven scheduled work days. We're opening this up to all kinds of abuse.

Ms. Pickens: Your points are well taken. I think what the amendment now would just say "three days." I think what that really means is "three calendar days." That just means that the period of disability has to last three days.

Mr. Pellish: Somehow or another you need to clarify, Mary Jane, to prevent abuse. And I don't know what that is. You guys are smarter than I am. You can figure that one out.

Chairman Dean: Would the word "consecutive" not work?

Mr. Pellish: Well, that's what is taken out.

Mr. Pickens: I don't think that it would hurt to have "consecutive" in there because that is what we had in mind. And I think that is what the Code contemplates – three days.

Mr. Pellish: Put that word in and I've got no problem with it.

Chairman Dean: Mr. Hartsog, do you have a question?

Kent Hartsog: I understand the problem and it's a hard one to fix and what you're trying to get to. Just for my own understanding, a lot of people work a lot of different weird schedules, odd hours. If someone were to work Friday, Saturday, Sunday and that is their full week and they were to be off obviously Monday through Thursday of every week, and unfortunately somebody was injured late on Sunday and then went home. They recuperated in two or three days and then went back to work on their next regularly scheduled shift, which would be Friday. Would they qualify for temporary total disability benefits based on this – in essence, at home recuperating for two or three days that they were scheduled off but then be okay for their next regularly scheduled shift.

Ms. Pickens: This contemplates that if there is a doctor that says that the period of disability is three days after the injured worker leaves work due to the injury, then that qualifies you. Of course to get the first three days you have to be off the seven. But that would qualify you, which is my understanding the way it was interpreted before anyway. It was just "three calendar days."

Mr. Hartsog: Thank you.

Dan Marshall: Mr. Chairman, would it help to clarify this if we added "scheduled work days" so it would read "consecutive scheduled work days" thereby clearing up. . .they don't have to be consecutive days, but they are consecutive days of work?

Ms. Pickens: Well, that's where we were going with the version that is in existence today. That's where you get I think into a lot of your implementation problems. For example, we had one brought to our attention on firefighters that work five 24 hour shifts every two weeks, and that's their schedule. And that's perhaps an extreme example. But what is a work day in this scenario? I assume it's a 24 hour shift and there are days in between that they are not working. So if it's an actual work day that needs to be missed on that particular person, it would take a lot of calendar days for them to be treated the same as someone like me who works 9:00 to 5:00 Monday through Friday.

Mr. Hartsog: That was the problem I was getting at. It is hard to make a rule that fits all the different schedules that are out there.

Ms. Pickens: Exactly. We tried and it was just too hard.

Delegate Nancy Guthrie: Did you determine then that "days" would probably cover all of the scenarios without trying to micromanage this piece of legislation? Does "days" actually cover and protect for the most part?

Ms. Pickens: Yes. I think it does. That's the easiest rule to implement.

Delegate Guthrie: And Council feels comfortable that this really does solve the problem?

Ms. Pickens: Yes.

Mr. Marshall: If I understand, there is a perceived problem with the text as it presently exists. It's your belief that if we amend it as suggested that will take care of the problem. And I guess the worst case scenario, if it appears that problems of another type turn up as a result of what we do today, then we take another look at it at that time. But this appears to be the best solution available for the problem as we see it today. Is that a fair statement?

Ms. Pickens: Yes. You have summed it up.

Mr. Pellish: Bill, help me out here. You've dealt with hundreds of labor contracts. I have fears with this one. I can see grievances being filed because some guy hasn't been compensated because he had three non consecutive days.

Chairman Dean: Well, I think we have to go back to the word "consecutive," and I'm not sure if you have a problem with "consecutive" or what.

Ms. Pickens: I don't really because that's my understanding of what this says anyway, and I think that is what the law has been – three days.

Chairman Dean: I would interpret that if I just missed three days for the same injury – whether it's one this week, next week and the following week, I would be compensated for it.

Ms. Pickens: I think its three days in a row. . .

Mr. Pellish: Then you need the word "consecutive" in there because what Bill just said will happen.

Chairman Dean: And that's how the average person will interpret that when you say "three days." They will interpret that a day this week, a day next week, a day the following week.

Ms. Pickens: I believe it is three days in a row. I told all of our workers' comp gurus – we only have one of them here today – I told them they didn't need to attend. But that is my understanding. If that turns out to be different. . .this is just the initial presentation of the rule.

Mr. Pellish: For what it's worth, in my prior life I had 26 different operating locations with a dozen different unions, in ten different states, all kinds of labor agreements and people will look for loopholes. So we always insisted on stuff like this to have the words "regularly scheduled" and "consecutive" in the contract language to prevent the games.

Chairman Dean: Ms. Guthrie, do you have a question?

Delegate Guthrie: I hate to belabor the point. But it occurs to me – and correct me if I'm wrong – when would be the next time. . .if the heavens opened up and everybody. . .we just had a horrible crisis on our hands. When would be the next time, if you just

left it with "days," that we could take a look and re-review this to tighten it up and put "consecutive" in there if need be?

Mr. Pickens: I was of the opinion this was significant enough that we needed to bring it back. At whatever point we would make that determination if we needed to bring it back. My understanding is that in the past it was a period of disability that extended three days after the injured worker leaves the work place as a result of the injury.

Delegate Guthrie: Which would be the common sense reaction. It seems to me that in this clarification you have tried to apply some common sense to this.

Ms. Pickens: That was our plan.

Charles Bayless: I would like to know if Judge Leach has anything to say about this?

Judge Leach: I was just chatting with the Deputy Chief here [Judge Alan Drescher]. We are trying to remember if the law says "consecutive" or not, or if it is three cumulative days. . .(inaudible). . .temporary total on the fourth day. I was just trying to remember if "consecutive" is in the law.

Chairman Dean: Judge Leach, do you think "consecutive" creates a problem?

Judge Leach: Well, if it's not in the law and you try to put it into a regulation it could create a legal problem.

Chairman Dean: Okay.

Delegate Carrie Webster: I think I will direct this to Mary Jane. In looking at what the current language is versus what you are attempting to do, it seems to me under the scenario that Kent Hartsog used – and then I think maybe you did as well or a similar one – that if we leave it as it is now and you have a situation with a fireman, like you said was probably a rather extreme example. But let's take a nurse that is working shifts like a lot of different workers where you work a couple of days and then you are down a couple of days and they are injured. At the end of one shift if you say "consecutive working days" and they are off those three days, then as I read the current language they wouldn't even count those days in between the time they were injured – between that time and the time they went back on. Where if you used "consecutive calendar days" would that then take care of what could possibly be an inequity as it relates to claimants? I mean, is that the objective?

Ms. Pickens: That is the objective. The intent of this proposed amendment is to clarify. We're not talking about counting scheduled working days because you get all these different situations where someone may only work one day a week or two days a week, or something unusual. I've got the Code here in front of me. In §23-4-5 it says, "If the period of disability does not last longer than three days from the day the employee leaves work as the result of the injury. . ." That to me, the pure common sense reading, is "three consecutive calendar days" following the day. . .

Delegate Webster: Now that you've read it I would agree. The first reading could be. . .well it says "consecutive working days," and if you're off those three days afterwards you're unable to otherwise work, then it would not trigger potential eligibility. And I agree with "consecutive calendar days." I think that does clarify that if you change it to not only say "missed three calendar days before being eligible, etc.," and add or amend if it's proposed and adopted the word "consecutive" as suggested. I think that certainly goes a long way to being more consistent with the statute. And as you noted, there apparently have been programming difficulties because there is so many different workers that have so many different kinds of working shifts. Right?

Ms. Pickens: Yes.

Delegate Webster: Okay. I think the proposal makes sense when you read the statute and when you compare it to what the current language is.

Chairman Dean: Any other questions for Mary Jane?

Ms. Pickens: Do we need some action on the addition of the word "consecutive?"

Chairman Dean: Yes, if somebody would make the motion.

Mr. Hartsog: Are we ready for a motion?

Chairman Dean: Yes.

Mr. Hartsog: If I could move that we file the rule as written with the exception of adding in the second line, ". . .more than three consecutive calendar days. . ."

Chairman Dean: Is there a second to that motion?

Mr. Marshall: Second.

Chairman Dean: We have a motion and a second. Are there questions on the motion? Mr. Marshall. . .

Mr. Marshall: My question would be do we also need to add that language in the second line from the bottom of that paragraph where it refers to "seven days?" Or is it unnecessary?

Ms. Pickens: I think you would because the statute goes on to repeat the same language about "seven days from the day the employee leaves work. . ."

Mr. Hartsog: In the previous version why wasn't "consecutive days" with that also?

Ms. Pickens: I don't know.

Mr. Hartsog: But you feel it's prudent to add it?

Ms. Pickens: It is perhaps understood, but it doesn't hurt.

Chairman Dean: It clarifies. . .

Mr. Hartsog: Mr. Chairman, if I could amend my motion to add "calendar days" after "seven" also, I would like to do so.

Chairman Dean: Very good. Do I have a motion to amend it to "consecutive calendar. . ."

Mr. Hartsog: Consecutive calendar days.

Chairman Dean: On "consecutive calendar days," is there a second to the motion?

Mr. Marshall: I'll second.

Chairman Dean: A motion has been made and seconded. Are there any questions on the motion? Mr. Bayless, do you have any questions?

Mr. Bayless: No, I do not.

Chairman Dean: Ms. Webster?

Delegate Webster: No, sir.

Chairman Dean: Hearing no questions, all in favor signify by saying "aye." All opposed? The aye's have it. [Motion passed on Title 85, Series 1.]

We voted for the amendment, but now we need to vote for initial filing.

Mr. Hartsog: Well, I made that at the beginning of my motion to file it with that change.

Chairman Dean: Very good. We're done.

## **5. Request to Final File Rules 11, 19 and 31 – Ryan Sims**

Ryan Sims (Associate Counsel, OIC): Good afternoon Chairman Dean and members of the Industrial Council.

Mr. Sims: We are bringing three Title 85 rules that have been previously submitted to you in August for public comment. Public comment was received during the 30-day period and concluded during your September meeting with the public hearing.

### **Title 85, Series 11** **"Employer Default, Enforcement, Collections and Related Matters"**

Mr. Sims: The first regulation is Title 85, Series 11, "Employer Default, Enforcement, Collections and Related Matters." The only substantive change in that was in Section 18 dealing with the procedure for placing default employers into default status and there was a due process issue there. We are asking you for permission to final file it with the Secretary of State.

Chairman Dean: Does the Council have any questions on Title 85, Series 11? Chairman Bayless, we're talking about Title 85, Series 11. Do you have any questions on that one?

Mr. Bayless: No, I do not.

Chairman Dean: Ms. Webster?

Delegate Webster: No.

Chairman Dean: Is there a motion for final filing on Title 85, Series 11?

Mr. Hartsog: So moved.

Mr. Marshall: Second.

Chairman Dean: A motion has been made and seconded. Any questions on the motion? All in favor signify by saying "aye." All opposed? The aye's have it.

[Motion passes to final file Title 85, Series 11, with the Secretary of State.]

**Title 85, Series 19, "Self Insurance Risk Pools"**

Mr. Sims: This is a rule which addresses Self Insurance Risk Pools. We made a few substantive changes in that pursuant to changes we previously made in Rule 18, which is the primary rule which regulates self-insured employers to make sure that the two were consistent with each other. If you'll recall there was substantial overhaul in Rule 18. We actually did receive a fair amount of comments, particularly from the self-insured community as well as the Chamber of Commerce. We reviewed those comments very carefully and also met last week with members of those organizations. Most of the changes suggested actually tied back into Rule 18 and we assured them that when we re-visit Rule 18 we would also take a look at those. There was also some other issues dealing with our financial model and our security model that we said we would take a careful look at to make sure those are modernized. The changes that were made were relatively minor and ready to present to you for final filing.

Chairman Dean: Questions for Ryan on Series 19?

Mr. Hartsog: Mr. Chairman, I just have a couple of questions to get more information. Is there a protocol set up, or that the OIC has set up with regard to if a self-insured were to default what process or methodology they would use with regard to assessing the security that is posted? Anything else like a pecking order?

Mr. Sims: You mean like a written standard operating procedure of some sort?

Mr. Hartsog: Of some sort.

Mr. Sims: I'm not sure if we actually have that. Our general procedure is to first draw down on any existing security at the point we determine a self-insured employer has defaulted. Secondly, . . .and I think I actually addressed this at the very end of our public comment responses. That was one issue we discussed with the self-insureds and Chamber folks last week. The second would be to obviously do what we can to go after the self-insured employer themselves. . . .Thirdly, of course, would be to look towards the pool and make assessments if necessary. Now I stress our first and primary goal is to make sure that checks aren't cut off and that checks keep coming because there is some money in the pool already. We don't have a problem with that. After that, the procedure would be of course to draw down on security; pursue remedies directly against the self-insured employer; and as the last resort, pursue assessments if need be.

Mr. Hartsog: Okay. That would be the process you would follow?

Mr. Sims: That generally is the process we follow.

Mr. Hartsog: I don't know if that's happened or not.

Mr. Sims: We've had one significant instance of an inactive self-insured employer resulting in that procedure.

Mr. Hartsog: Another question. I know there has been some discussion about loss portfolio transfer by a company perhaps that's left the state that is inactive, that they may desire to move that to an insurance company or someone else. Is that possible for the OIC to do that or to allow that without recourse back to that employer?

Mr. Sims: You're asking is it possible – and again we discussed this last week. It would absolutely require some amendment to Rule 18, and we are not sure. We believe the Code might not permit that. Again – to be clear – your question is could we allow a loss portfolio transfer where the inactive self-insured employer becomes forever not liable – loses their liability forever.

Mr. Hartsog: Yes.

Mr. Sims: My belief is that the Code is at least very questionable whether that is permitted under the Code. I think we talked about that last week and we'll take a very careful look at the Code in §23-2-9, and it very well might require some legislative action.

Mr. Hartsog: Well, I'm sorry I wasn't there last week.

Mr. Sims: But we are discussing – when we get back to Rule 18 – the possibility of a loss portfolio transfer where a company could transfer to appropriately rated insurers or some other financial. . .that could take the liability over. As long as that company did its job then it would for all intent and purposes not be a liability of the self-insured employer. So, that is something we are going to take a good look at when we get back to Rule 18.

Mr. Hartsog: One more question – excess liability coverage that a lot of self-insured employers have. Has that been addressed? I didn't really see it with regard to taking that into account with regard to the security that a self-insured must post with regard to the liability that they might have out there; given that that excess coverage would cover all or some of those claims that are out there, depending on the limits of the policy.

Mr. Sims: Sure. That is one additional topic we discussed last week in that meeting. That's also something we think would be appropriately addressed in Rule 18, not Rule 19. In other words it would have to be addressed first in Rule 18. I think it is certainly potentially viable to consider the fact that excess insurance is in place for a self-insured employer as providing some amount of surety. Of course it would tie into whether it is aggregate or whether it is occurrence based, how high the SIR was and those type of things. I think if that were to occur we would have to get Rule 18 and permit it. Secondly, we would have to create an established methodology within our Self-Insured Unit so that everyone is treated fairly and these policies taken into account in a fair across the board manner.

Mr. Hartsog: I wish I was at that meeting last week I wouldn't take up your time today. What you're saying is that an amendment to Rule 18 is necessary in order for you to take excess liability insurance into account as far as surety goes.

Mr. Sims: Rule 19 is really focused on the pools. Rule 18 is the main rule that regulates self-insured employers and really gets to the heart of this surety. They need to post the security, what forms they can post, and that type of thing. And really what you are saying is you want excess insurance to be considered to have some credit on the self-insured employers' surety. In order to do that I really think we would have to get into Rule 18. And that is something we have told the self-insured community we are amenable to when we address Rule 18.

Mr. Hartsog: Thank you.

Mr. Pellish: Ryan, what is your schedule for looking at Rule 18?

Mr. Sims: As we are able to. We are trying to address all these rules. As you know we recently had Rule 18 opened not too long ago and we did a pretty comprehensive overhaul on it. We are certainly amenable to doing some of the things we talked about with Mr. Hartsog and what we've been talking about with the self-insured community in providing more options and more flexibility for self-insured employers. It is something that will be on our agenda to revisit as soon as possible.

Mr. Pellish: Well it seems to me because of the relevance to 19 and keeping it fresh in front of everybody, I would have it pretty well up there on your priorities if that's possible.

Mr. Sims: Sure.

Chairman Dean: Any other questions from the Council? Chairman Bayless, do you have any questions?

Mr. Bayless: No, I do not.

Chairman Dean: Ms. Webster?

Delegate Webster: No, sir.

Chairman Dean: Is there a motion to approve final filing on Title 85, Series 19?

Mr. Marshall: So moved.

Chairman Dean: Is there a second to the motion?

Mr. Hartsog: Second.

Chairman Dean: A motion has been made and seconded to approve final filing for Title 85, Series 19. Are there any questions on the motion? All those in favor signify by saying "aye." All opposed? The aye's have it.

[Motion passes to final file Title 85, Series 19, with the Secretary of State.]

**Title 85, Series 31, "Professional Employer Organizations"**

Mr. Sims: Title 85, Series 31, is a rule which addresses Professional Employer Organizations or PEO's as they are known. PEO's are organizations that essentially provide employment services to employers to allow particularly smaller, mid-size, or even some large employers to streamline their services such as payroll, workers' compensation, health care, that type of thing. This year the Legislature created legislation to address PEO's. Also this rule has been on the books for a while and has not been updated since we've privatized. In light of that, we felt it was appropriate to really rewrite the entire rule. And what we did is we rewrote Title 85, Series 31, to essentially create a modern regulatory framework in light of privatization for PEO's. We looked very carefully, particularly at the NAIC model for PEO's. And, again, this is just for the comp aspect of PEO's. There is another rule under our Title 114, insurance rules, that addresses other aspects of PEO's because the Legislature has us regulate these entities on a larger scale. This is that rewritten rule. We did receive a number of comments as you will see in your packets about this, and we spent a substantial amount of time talking to different stakeholders about some of the issues they had with this and how to address PEO compensation policies. In fact just this morning we had a meeting with an insurance carrier that had some concerns about the way this reads. But we believe that it is fairly consistent with the NAIC model on PEO's, how it works, and how it relates to PEO's in states that are privatized. We believe it is a solid rule as it reads right now. We did make a few changes here and there that you can see are highlighted in yellow.

One thing I wanted to address with you is a change we made based on some dialogue we had yesterday with a carrier – that actually is not in your rule – but it's a relatively small change in 7.4. Basically in the first proviso, "*Provided*, That notice of cancellation of coverage. . .," and it goes on to say shall be at least 30 days before its valid. We added the words, "under a master policy." Essentially what this is doing is making sure that client employers that are clients of a PEO receive a little bit of extra notice before their policy is canceled since the PEO under a master policy situation has the relationship with that carrier and the clients don't directly deal with the carrier. It was pointed out to us that this extended 30 day notice normally can be 10 days if it's for failure to pay premium. I pointed out that this extended 30 day notice should only apply in master policy situations because it is unnecessary in what are called multiple coordinated policies that are just policies directly with the client/employer. And that extended notice period is not required there. What we did, we added that phrase under a master policy and that was after we received some comments about that. That isn't in your copy, but that is what we added under a master policy.

Mr. Marshall: Mr. Chairman. . .Ryan, can I ask you exactly where did you add that in 7.4?

Mr. Sims: The first proviso which had *Provided* in italics and then comma and then "That" – right after the word "That" we added a comma and then the words, "under a master policy," comma. We basically qualified that provision with the fact that it is under "master policy." We'll need a motion to adopt that change.

Chairman Dean: Are there any other questions for Ryan on this?

Mr. Hartsog: I'm apparently lost. Can you point me to where. . .?

Mr. Sims: 7.4.

Mr. Hartsog: I am on 7.4.

Mr. Sims: The first proviso which starts with the word "*Provided. . .*" It's in italics; middle of the third line.

Mr. Hartsog: Okay.

Mr. Sims: It says, "*Provided, That. . .*" And right after the word "That" we added comma, "under a master policy," comma.

Mr. Hartsog: And why did you think that was necessary?

Mr. Sims: Well, without getting too much into the depth of the different kinds of policies that are issued to PEO's, master policies are basically policies that are between the insurer and the PEO. And they add client employers as the client employers are added to the PEO relationship. But the insurance relationship is between the client and the PEO. We originally had a 30-day advance notice from any type of cancellation whether it's for failure to pay premium or otherwise for all PEO policies. After hearing some comments and reviewing it we believe that 30 days of notice which goes beyond the normal Code section that says "10 days of notice" if its for failure to pay premium, or "30 days of notice" if its for any other reason. We are just making it 30 days for all situations under this master policy situation. In other words, we don't believe it was necessary in the type of PEO policies where the insurance relationship was directly with the client part.

Mr. Hartsog: Okay. Thank you.

Chairman Dean: Mr. Pellish, do you have any questions?

Mr. Pellish: No.

Chairman Dean: Ms. Guthrie, do you have any questions?

Ms. Guthrie: No.

Chairman Dean: Mr. Bayless, do you have any questions on Title 85, Series 31?

Mr. Bayless: No, I do not.

Chairman Dean: Ms. Webster?

Delegate Webster: No.

Chairman Dean: Is there a motion to approve the request to final file Title 85, Series 31, with the changes to subsection 7.4?

Mr. Hartsog: So moved.

Mr. Marshall: Second.

Chairman Dean: A motion has been made and seconded to approve the final filing of Title 85, Series 31, with the change. Any questions on the motion? All in favor signify by saying "aye." All opposed? The aye's have it. Thank you, Ryan.

[Motion passes for final filing on Title 85, Series 31 with the Secretary of State's Office.]

## **6. Update on Employer Collection Data – Mary Jane Pickens**

Mary Jane Pickens (General Counsel OIC): At the last meeting Mr. Dean handed me a short list of questions and kindly allowed us to report back at the next meeting. These questions relate to default employers and the different types of activities that the Insurance Commissioner engages in, in terms of collecting money due to the Old Fund or uninsured fines that we assess when we find an employer operating uninsured.

The first question relates to default notices that are posted. Chapter 23 allows the Insurance Commissioner to put a posting – a yellow document that we stick on the doors of employers that are operating uninsured. And it is essentially a notice to that employer's employees that that employer does not have coverage and they are subject to being sued civilly, and it is illegal to remove that notice. So we do engage in this. I've got some information back to 2006. This is just since the Insurance Commissioner has been engaging in these activities. In response to the question, "How often do we post these notices?" In 2006 we posted 177; in 2007 we posted 186; and year to date – and this is probably three week old information – for 2008 it was 114. And those are actual postings that we put on the door. You've got to keep in mind that we attempt many, many more than this. But often our investigators go out and the employer can't be found. They aren't there at the location where they are supposed to be. So there are a lot of attempts that keep our civil investigators very busy. These numbers represent actual postings where we're successful. The postings are a matter of priority with our civil investigators and it usually takes between two to five days to complete a posting.

Another question was, "How much time and effort has been or will be expended to find and identify the employer before simply putting it on the courthouse door?" – which is a default option that is in the Code. Again, it's two to five days to complete the average posting. We do put a lot of effort into it and we have a lot of resources. We do have civil investigators that go out there and physically beat the bushes and try to find these folks. We look on the Secretary of State's website; we do Internet searches; phone book searches; Rand & McNally map searches; post offices get visits; municipal and county buildings are visited; law enforcement officers; local area businesses; we interview people living in the designated area; try to find any information that NCCI might have; we look at the old WCIS system; I-Comp; we've got the proof of coverage database now and we look at that. Also through LexisNexis we have some products called "Accurint" and "Law Enforcement Solutions." These are fraud type of products that Lexis sells, and we have access to those. We either search these sources or we visit these places and try to talk to people and actually spend quite a bit of time trying to successfully post these businesses.

In terms of follow-up, we do follow-up on the postings. The rule of thumb is that the follow-up is about two weeks from the date of the original posting. Our investigators go back out to make sure the posting is still there. If it has been removed the investigator photographs the area, tries to find someone to talk to, tries to find out why the posting was removed, and request some documentation regarding coverage. Perhaps they removed it because they went to BrickStreet or now to another company and got coverage. They really try to verify just what the status is of the employer, if the

employer is there. Then they complete a follow-up sheet confirming what they have done and what the status of the employer is. If they go out and the posting is still intact and there is a reasonable amount of time that's passed, the investigator tries to find the business owner and talks about whether they have gotten their coverage or not and answers any questions that they can. If there is anything that the investigator can't answer, they provide the employer with the contact information for a credit analyst in our Revenue Recovery Division and encourage them to talk to someone here in Revenue Recovery.

We also have Access databases and Excel spreadsheets that we keep updated with the current status of each employer that we've tried to post, and that gets e-mailed daily to each investigator. Weekly meetings are scheduled in our Regulatory Compliance Unit, which is in Legal, to discuss any delinquent or problematic employers. I think Revenue Recovery representatives attend those meetings as well. Periodically Revenue Recovery, as they get information about an employer that's been posted, will send either a request up to Regulatory Compliance for further effort to be made on that employer, or perhaps they have learned that the employer is compliant and they notify Regulatory Compliance that they can cease their efforts on that employer. So there is a lot of back and forth between our Revenue Recovery Division, which is part of Legal also because it is so intertwined with Legal, and the lawyers and investigators.

The next question had to do with audits of employers. There are two small subsections in Section 5 of Rule 11 that was just before the Council. Honestly this has not been a big area of focus more or less because of resources since the transition has occurred. We have had to expend so much of our resources on uninsured employers that are operating today. The authority that we have for audits of employers would be to audit an employer that owes money to the Old Fund in premium tax. We inherited that debt, meaning that the debt came here for us to collect. Our focus really has been with employers that are out there operating today that are uninsured that are exposing the state uninsured fund. It's just really been kind of a resource issue. That doesn't mean that we ignore those old accounts and don't try to collect them, we do. But in terms of audits – actually going back in and auditing those employers to confirm the amount due – I don't know that we have done any of those.

The next question had to do with filing civil actions or liens regarding defaulted accounts and how many have been filed. August of 2006 is when our statistics began with liens. From August to December of 2006 we filed 349 liens. We sent those off to the various county clerks' offices in West Virginia. In 2007 we filed 1,615 liens. In 2008, through the end of August, 699 had been filed. So we are filing those when we need to do that.

The next question had to do with blocking other types of business permits and things of that nature. We've had some good standing relationships with certain agencies like DEP and Labor. I think those are probably the primary agencies that we have historically worked with, and continue to have really good working relationships with those agencies. Earlier this year, Ryan sent a memorandum out to a whole bunch of different agencies that issue permits to let them know about Rule 11 and the authority that we had to ask another state agency to withdraw some certificate, or authority, or a permit. I don't think he received a lot of response. What we were looking for was input and feedback because we want to make sure there is due process and that type of thing. But the process that we have we think certainly includes plenty of due process for the defaulted employer.

Pursuant to that process where Ryan informed everyone, we do work with those other agencies. I've received some information from Debbie Tincher on this topic. In 2007 she only recalls blocking one because there was a common ownership account that owed an uninsured fine. In 2008 we've blocked a total of 167, and the main cause was coverage issues – that they were operating without coverage. So, its way up in 2008. And honestly I really didn't get a chance to talk to Debbie Tincher in detail to find out why 2007 was as low as it was. It could be, and I suspect, that the answer is because we hadn't yet really started working with those other agencies and hadn't set up a process here whereby we could ensure appropriate due process before other agencies started pulling licenses. That's my report.

Chairman Dean: Very good. Do any members of the Council have any questions?

Mr. Pellish: Mary Jane, twice in your comments you referenced the allocation of your resources to looking at uninsured companies. Can you give us a flavor where that subject is at this point? How serious an issue?

Ms. Pickens: Just the resource issue generally, or what?

Mr. Pellish: No, the issue of dealing with uninsured companies. What have you found?

Ms. Pickens: I do have some numbers, and I don't know if this is what you're. . .

Mr. Pellish: I am just looking for a flavor because you referenced it.

Ms. Pickens: I've got a report from Revenue Recovery for September of 2008. Through one means or another in the month of September they resolved 613 uninsured accounts – which means that 613 times during the month of September they were able to collect an uninsured fine from an employer so that employer got their insurance and they became compliant. They paid their fine. Or they terminated their account by either proving to us that they were out of business or that they qualified for some type of statutory exemption. They just weren't subject to being required to have workers' comp. I don't know if that's really what you're looking for – and this is a pretty typical number.

Mr. Pellish: Yes. That's a pretty significant number.

Ms. Pickens: It is. They are very busy in Revenue Recovery and they have considerable employer contact on a daily basis.

Mr. Pellish: Thank you.

Chairman Dean: Does anyone else from the Council have any questions?

Delegate Guthrie: On this handout on the new data requirements [on the fifth page], one of the things that this says that you are going to do is. . .“Prospective loss costs will be based on industry loss costs by NCCI classification.” Where are you getting that information from?

Ms. Pickens: I think that's a matter that Melinda Kiss is going to cover, and it is kind of confusing because we decided to put her report under “new business” rather than give it its own item on the agenda.

Chairman Dean: Mr. Bayless, do you have any questions for Mary Jane?

Mr. Bayless: No, I do not.

Chairman Dean: Ms. Webster?

Delegate Webster: No.

## **7. General Public Comments**

Chairman Dean: Does the general public have any comments today?

## **8. New Business**

Melinda Kiss (Assistant Commissioner of Finance): Good afternoon. I'm Melinda Kiss and I am the Assistant Commissioner of Finance here at the Insurance Commission. At the express request of Ms. Angela Shepherd, Director of Self-Insurance, she nominated me to introduce the new security model to you all.

We have been looking for quite some time at updating our security model, which is the methodology that we use to estimate the claims liabilities of our self-insured employers. It's a pretty large task that we have been undertaking over the past year. What you have in front of you is a hand-out to try to give you at least a little bit of background on what we did and why we did it and to discuss that with you and hopefully answer any questions that you might have.

The first thing that we did was look at what other jurisdictions do with regard to estimating their self-insureds' liabilities, or indeed how to handle security requirements for their self-insured community. We are looking, as we have done with many things, for best practices that are out there in a private competitive workers' compensation market. We wanted to make this change, but we actually have to make a change because the data that drove the old system and the old methodologies is really no longer available in the format that it was in. So it was definitely time to update. The MIRA system, which was at least a part of the methodology that we have been using, is not really based on new workers' compensation law, and we wanted something that was a little bit closer and more in line with what other jurisdictions do.

In front of you on the hand-out are the "reasons for the change." We have outlined those for you and can discuss those with you in any amount of detail. The next slide is going to tell you what the other jurisdictions do and that's the result of the survey that we did conduct. We got responses from 40 states and 35 of them do require submission of reserve data from their self-insureds. Sixteen actually have a requirement for a signed actuarial report. What we determined would be best practice was – and it is certainly right now the most comfortable change for the West Virginia Offices of the Insurance Commissioner to make – we are not going to require that all self-insured employers submit a signed actuarial report. For some of our self-insured employers that don't currently have one, which would include some of our municipalities, we did not want to place an additional cost or administrative burden on them when there is another way that we can closely approximate what their liabilities are. However, we have determined if a self-insured employer does receive a signed actuarial report in the ordinary course of their business we are going to require that it be submitted to the

Offices of the Insurance Commissioner for our review. So if they get it anyway for other purposes we are going to require that it be submitted to us, but we are not going to cause anyone to go out and have a full blown actuarial report.

I guess maybe I should have started out by saying we don't require an action from the Industrial Council on this. We just want to keep you all as well informed as we possibly can and members of the public on what we are doing here. This isn't anything that's in a rule and it doesn't have to be. This is informational and a communication thing only, because we plan to send out some information packets to our self-insured employers tomorrow and we want you all to hear it here first so that you know what is going on.

Basically after that, in the hand-out, we are going with exactly what the OIC is going to require to be sent in [to us] to use in the security calculation. And then it goes on with greater detail on exactly how we are going to use the data. The only other comment – and then I'm going to try to go through this briefly on the details and address specific questions – Commissioner Cline gave us two specific directives as we moved forward on trying to develop a new security model. The first directive that she gave us is that she wanted the new methodology to be absolutely transparent. And that is, we should be able to sit down with an employer or their representative and go over each step of the calculation, prove our numbers and explain to them exactly what we did and how we did it. The second thing that she requested is that the process and the calculations be somewhat simplified and be a little bit more readily understood. And I am proud to report we have succeeded totally in the transparency. We can tell anybody if they choose to come in, once the self-insureds submit their data, if they have questions about this they can come into the Insurance Commission and we can sit down with them and go over step by step and piece by piece of this process. So, we're successful in that.

The bad news is it is not overly simple. It does contain some actuarial methods. It does involve some higher math, so it isn't as easy as it might be. I would like to take this opportunity to introduce the staff member who is with us today – Amy Rhodes. She is an actuarial analyst here at the Insurance Commission. When we were developing this Amy came into my office and was explaining to me things about quadratic equations and third degree polynomials. And that's a part of this. So as I say, it is not absolutely a simplistic thing, but it is transparent. For anyone that has any questions they can send their TPA, their employees, and we'll go over it. The employers won't have to worry that there is something going on that they can't see. So we've been successful. We made it transparent, but it's as easy as we can make it and still be accurate. I'll leave it at that.

The other thing that we would like to request – we are going to tell our self-insured community that we would like to hear their comments on this and we welcome any input from them over the next couple of weeks. This is slated to become effective January 1, 2009, and we would like to have the comments in by November 1. I think they are going to be addressed chiefly to Ms. Shepherd, but Ms. Rhodes will obviously help her on some of the more technical aspects. That is basically my report and what I wanted to communicate with you.

Delegate Guthrie, to address your specific question, “Where are we getting the NCCI classifications?” How it’s basically going to work is we will ask the self-insured employers to provide us with basic industry. We have it for most of them anyway. For the body of our active self-insureds, we actually know the basic industry they’re in because they submit a lot of information to us – their annual reports. And we actually already have the map to the main NCCI class that all of them reside in. We are going to allow employers to provide us with additional information and if they don’t agree with the class or if they want to give us payroll by classes, we will certainly accept that from them. So we hope this involves good communication between the Offices of the Insurance Commissioner and the employer. But the NCCI classifications will be just the standard ones that are in use and are available on our website.

Delegate Guthrie: I guess then the follow-up question would be is this a new data collection for you?

Ms. Kiss: Yes, it is.

Delegate Guthrie: So the state then will have the capability of monitoring the self-insureds which they may or may not have had before?

Ms. Kiss: We can actually monitor them. I think it is going to be a better actuarial determination and it’s going to be a more current one to value their liabilities. We’ve got the pools. We have the Security Pool and the Guaranty Pool. And what the Insurance Commission is, as a regulator, is we’re trying to make certain we protect them from each other so that no self-insured has to pay for the default or bankruptcy of another. There are two ways to do that. We’re monitoring financial solvency of those employers and looking at the risk that they might pose and assessing their financial position. If we see something that causes us concern they are going to need to post us security. And then the question becomes how much security we need. Well we need enough security if we think they may go bankrupt to cover their liabilities. And how do we get that number? So what this is telling us – this is the method we will use to calculate the

security so that hopefully we have enough money in security to protect that pool from the potential default of that employer.

Delegate Guthrie: I guess the reason I bring this up. . .last year we had an occasion to advance a Bill on predatory lending practice and mortgage protection practices that were pretty much dismissed by the Department of Banking. They said, "We don't have any default or foreclosure problems here in West Virginia." Well it turns out that the Banking Commission itself is not collecting data that is very useful in determining what that loss is or that foreclosure. What I'm trying to determine I guess with the NCCI classifications is your degree of certainty that this type of data collection will protect at least this portion of our state agencies from similar types of occurrences.

Ms. Kiss: We're very, very comfortable with the solidness of this methodology for each piece of possible liabilities that we need to cover. You've got a variety of self-insureds and a variety of exposure. Some people have been self-insured for a very long time and they have claims that may go back to the 30's that are still active, that if they default somebody has to pay those people. And the answer is the pool. We have to make sure that there is money in the pool, and we don't want to make the other self-insureds pay it. So, we're good on that. The NCCI piece is for the prospective losses. We think it's the solid and the most reliable barometer, if you will, by which to use to assess how much risk is out there and how to put the dollars on it for how much those claims could cost that pool. We are very, very comfortable with this.

There are a couple other tools that the Self-Insurance Unit has for self-insured monitoring. The EDI process actually submits claims data and that's used in almost all jurisdictions for compliance monitoring, not for actuarial calculations. We try to use it for that and it just is not working for us. We need to get to actuarial triangles and that's what other jurisdictions do. EDI is very useful for claims monitoring. They are going to continue to do that, and as Ryan mentioned with Rule 18. The next big update will be an update of the financial model – the method by which and what we look at to assess the financial solvency of the self-insured employer. But that's for a different day.

Delegate Guthrie: Thank you.

Chairman Dean: Mr. Pellish, do you have any questions?

Mr. Pellish: I do. I am going back, Melinda, to your first requirement that the OIC will require historical loss development triangles, and then you have three bullets – total paid losses; outstanding known case reserves; total reported incurred loss. Where does that data come from?

Ms. Kiss: In the majority of cases it's going to come from the third party administrator that the self-insured employer has engaged to manage their claims. That's probably one thing that I should have mentioned early on. Again, in our research and our due diligence, one of the things we did was talk generically to some of the TPA's that do operate in this state and asked them how they store their data. Just hypothetically, "If we ask you for this data can you produce this data?" Almost all of the TPA's do their reserving and they all store the paid losses. Now one thing – and I probably should clarify – we are asking for 10 years back. We won't get that from all the self-insureds. Some of them may not have been self-insured for 10 years and they may not be able to produce that. We will take the data we get and start to build it. We know that from our active self-insureds eventually we're going to start getting everything that we are asking, as long as they continue to be self-insured and we will get our database built. It is to the advantage of the self-insured employer generally to give us the more robust data. The more information we have the more precise the calculation, and very likely the lower the security if their experience is exceeding the subscriber experience, which is generally what happens if they've got a better development. So it's to their advantage to give it to us if they possibly can because we think it will give a clearer calculation.

Mr. Pellish: I was concerned about your comfort level and checkpoint on the accuracy of reserve information you are getting.

Ms. Kiss: That's why you get the paid losses, if you will. There are several things at play. We also worked very closely with our consulting actuaries at Ernst & Young as we developed the methodologies in addition to our research. When you get the total paid losses, one of the things we're going to look at – paid is paid; cash is cash. We've got some other ways we can kind of match that. We have been collecting EDI data. And you have to remember the workers' compensation fund as a monopolistic entity. We had all paid indemnity data for all self-insureds through July 1, 2004. So as far as that paid number, we're going to have a very good feeling about whether we've got accurate paid data based on those paid losses. If the reserves do not appear appropriate or in proportion to those paid losses, that's going to set up some concerns and flags and then you do some other methods and that's kind of provided for in the methodology. We of course would talk with somebody and say, "We don't believe that these reserves look reasonable compared to the paid losses that you have and can you explain to us why." We will work with it.

Mr. Pellish: Thank you.

Chairman Dean: Mr. Marshall, do you have any questions?

Mr. Marshall: No. That was an excellent presentation and I appreciate it.

Mr. Kiss: Thank you.

Chairman Dean: Mr. Bayless, do you have any questions?

Mr. Bayless: Yes, it's on the same subject. Do we have a way of doing a mid-course reality check on the self-insureds? My question is if Citibank or Wachovia for instance would have been self insured they clearly by now would be out. . .So the people that we've checked on, you know, approved the last year or so, do we have a mid-course reality check that somebody could say, "Oh my gosh, look at these people. They are bankrupt."

Ms. Kiss: I can tell you exactly one of the things that helps me sleep well at night that our Self-Insurance staff does. They check the 10-K filings, the SEC filings on all of our self-insureds just in case they are having some kind of significant problem that they just might have forgotten to tell us about. As you know, you must file your quarterly filings with the SEC. They also read the Journal. We do our best to keep up with financial news and reports from other sources. We don't sit there and rely on them to come to us and tell us what's wrong. But the 10-K filings, the SEC filings are the strongest where you are publicly traded. Now with that said, for your privately held corporations that don't have that requirement we have more risk. There is greater risk that there may be something. Those are usually your small more locally type of entities. And then your state newspaper sometimes can provide you with some interesting information.

Mr. Hartsog: Melinda, do you all pull credit reports, DMV's, stuff like that especially on those smaller companies, private companies?

Ms. Kiss: I know they do annually. I don't know if they. . .

Angela Shepherd: (Inaudible). . .Even in a case of a bankruptcy, we're in a very secure position.

Ms. Kiss: She is offering a very good comment. Anybody that we've required to pay security. . .because we've really had excellent compliance from our self-insureds. They have all stepped up to the plate and posted the required security. I guess if your question is what about something we haven't seen, that we haven't had time to respond

to; to come to this Council and to ask them to post this security. I don't know. Maybe they could check some additional things if they're timely enough. We usually find that DMV is a little behind.

Mr. Hartsog: It's an indicator just like newspaper articles. Thank you.

Mr. Marshall: Is there any concern on your part with the security providers with what we're seeing with some of these large insurers? And if so, how are you dealing with that?

Ms. Kiss: I don't think we've had any correspondence from anyone.

Ms. Shepherd: We check the bank ratings. Anyone that provides security to us has to be rated so high and if they fall below that rating, then the self-insured has to replace their security through an institution that does meet our requirements.

Mr. Marshall: So you are keeping up with any changes that the rating agencies may make as far as these security providers are concerned.

Ms. Shepherd: Yes.

Mr. Marshall: That's excellent. Thank you.

Chairman Dean: Ms. Webster, do you have any questions?

Ms. Webster: No, I don't.

Chairman Dean: Very good. Thank you.

Ms. Pickens: I just wanted to clarify something because Melinda Kiss slipped me a note and I think I misspoke earlier. Obviously I misunderstood a point when I was doing the report on the collection efforts. I truly misunderstood some of the feedback that I got from the folks here, in particular our Employer Coverage Unit. Apparently the Employer Coverage Unit has completed a significant number of audits on Old Fund accounts. What I reported earlier was incorrect and I'm happy to return next month with further information about how often that happens.

Chairman Dean: Good information. Does anybody else have anything under new business?

Mr. Hartsog: Our next meeting is November 20. I would like to ask. . .to get on the agenda for the next meeting. If the OIC would please do a presentation on the Old Fund – what the revenue sources are coming into it; what the disbursements are looking at; trend line; and then also the most recent actuarial information that's available with regard to where we're at and how long it looks like; any sort of projects that are available. I was hoping that maybe we could get that on for next time. Is that possible?

Ms. Pickens: I think so.

Mr. Hartsog: Okay. Thank you. I'll look for that next time.

Chairman Dean: Chairman Bayless, do you have anything under new business?

Mr. Bayless: No, I do not.

Chairman Dean: Ms. Webster?

## **9. Next Meeting**

Chairman Dean: The next meeting is Thursday, November 20, 2008, at 3:00 p.m. here.

## **10. Adjourn**

Mr. Hartsog made the motion to adjourn. The motion was seconded by Mr. Marshall and passed unanimously.

There being no further business, the meeting adjourned at 4:25 p.m.