

Minutes
Tennessee School Boards Risk Management Trust
Friday, June 23, 2004

The trustees of the Risk Management Trust met at the offices of Bone, McAllester, Norton PLLC in the Nashville City Center in Nashville on Wednesday, June 23, 2004. Trust Chairman Patricia Gruenewald called the meeting to order at 2:05 p.m. The trustees present were Dr. Darryl Deason, Dawn Robinson, Dr. Gordon Morris, Mark Farley, Robert Stidham, Gloria Sweet-Love and Trust Administrator Dr. Dan Tollett. Also in attendance was John Evans of Next Generation Underwriters, Charles Love, a member of both the TSBA Board of Directors and the Hamilton County Board of Education, Keith Dennen and Sheri Jacobs both of Bone McAllester Norton, PLLC. Trustee Tony Tucker joined the meeting at 2:15. Trustee David Jones participated by conference call.

Ms. Gruenewald reported that David Jones was unable to attend the meeting because of business and dental problems and asked if there was objection to his participation by speaker phone.

SWEET-LOVE/MORRIS. Motion to permit David Jones to participate by speaker phone.
CARRIED UNANIMOUSLY

Invocation. Dr. Darryl Deason gave the invocation

Remarks by Chair. Patricia Gruenewald welcomed the trustees and apologized for what she called "her ineffectiveness" in presenting the proposals adopted by the Trustees to the TSBA Board of Directors. She pointed out that the reason for the Trust is to provide excellent coverage for school boards at the least cost in order to save money which can be used for the benefit of children. She expressed confidence that each member of the Board of Trustees wants to strengthen TSBA as well as the Trust. She said that sometimes our relationships are similar to that of members of the church in that those who love best sometimes become most estranged. She encouraged members to speak freely and to ask whatever questions they have but she challenged participants to remember that we are all family.

Consent Agenda. The chair requested approval of the consent agenda including the minutes of the June 4, 2004 meeting and the proposed agenda for this meeting. At the request of Darryl Deason, approval of the agenda was withdrawn from the consent agenda.

DEASON/ROBINSON. Motion to adopt the consent agenda with adoption of the agenda removed. **CARRIED UNANIMOUSLY**

DEASON/ROBINSON. Motion to add to the agenda (after the historical overview) a report of relevant meetings which have occurred to date.
CARRIED UNANIMOUSLY

Overview of Meeting. Ms. Gruenewald called on Dr. Tollett to give an overview of the meeting. He explained that this meeting was necessary because the TSBA Board of Directors had failed to accept any of the proposed agreements adopted by the Trust and offered to TSBA. He expressed hope that after hearing a historical overview and a

presentation by Keith Dennen of the legal status of the Trust, that the Trustees would be able to act to end the conflict between TSBA and the Trust today. He suggested that the agenda includes time for development of a plan of action to move the Trust forward and resolve the conflict with TSBA.

Historical Overview. Dan Tollett presented a historical overview of the development of the Trust which began in 1986 with 13 school boards. He identified current Trustee David Jones as one of the seven original trustees and told how a Workers Compensation Trust was started in 1987 with a separate board of trustees and how the two eventually became the Tennessee School Boards Risk Management Trust. He said that the trusts originally contracted for services but eventually gained employees consisting primarily of a claims staff dedicated entirely to the trust although technically TSBA employees. He said that the Trustees had voted to seek county governments simply because the trust for county governments had begun to recruit school boards for membership into their trust. Partly as a result of that decision, the Trust grew rapidly and the governmental entities other than school boards now were requesting representation on the Board of Trustees. This issue along with (i) the purchase of a new headquarters building with TSBA, (ii) the complications of financial responsibilities associated with the building, and (iii) the appointment of a new Executive Director for TSBA prompted the Trustees to offer TSBA several agreements to document the relationship between the two parties. He reported that the TSBA Board of Directors took no action to accept any of the agreements at its recent retreat.

Report of Relevant Meetings. The chair asked Dr. Tollett and Mr. Evans to excuse themselves from the meeting during a report of the previous meetings which were relevant to the proposed agreements.

After a lengthy discussion concerning the various meetings that the trust and TSBA had since May 1, 2004, Dr. Tollett and Mr. Evans returned to the meeting.

Legal Status of the Trust. Keith Dennen spoke to the trustees regarding the legal status of the Trust and duties of trustees. He called attention to the fact if Charles Love remained in the meeting during this presentation that his remarks would not be protected by the attorney-client privilege. The trustees elected to allow Mr. Love to remain in the meeting. Mr. Dennen pointed out that the Trust was organized under TCA 29-20-401 and is therefore a quasi-governmental entity. He said that the Trust is also recognized by the IRS under section 115. Tennessee statutes require that all members of the Trust be governmental entities. Further, these statutes require all members of the Trust to possess the ability to participate in the governance of the Trust, including representation on the board of trustees.

In contrast, TSBA is organized as a Tennessee non-profit corporation and is recognized as a tax-exempt organization under IRS Code section 501(c) (3). A 501(c) (3) organization is prohibited from operating any insurance program which competes with commercial insurance companies.

In further explaining the relationship between the Trust and TSBA, he said:

1. That the Trust is an entity entirely separate from TSBA
2. That TSBA has no legal control and may not have control over the Trust
3. That the Trust is owned by its members.

4. That membership on the Board of Trustees must be open to representatives of any member entity.
5. That the Trust is empowered to contract with whatever agencies it chooses (including TSBA) for services deemed necessary to the operation of the Trust but the contracts must not be for more than fair market value.
6. That the Trustees must appoint a Trust Administrator who is charged with the responsibility of running the Trust and serving as an advocate for the Trust. They may not delegate this responsibility to another organization.
7. That the Trustees have a responsibility to the members they represent to make decisions which are in the best interest of the Trust regardless of their membership on any other board.
8. That trustees who possess a conflict of interest by virtue of serving on the board of directors of TSBA must declare that conflict of interest and comply with the relevant laws when the Trust votes on an agreement, contract or sponsorship fee which would benefit TSBA.
9. That written contracts or agreements are necessary to the efficient operation of the Trust.

After responding to numerous questions, he offered the following recommendations:

1. Rescind all proposed agreements with TSBA immediately.
2. Notify TSBA that the Trust will offer the Risk Management staff employment after July 1.
3. Authorize the Trust Administrator to employ for the Trust a Director of Risk Management to manage the claims and loss control staff and a Director of Finance.
4. Appoint two representatives of the Trust to negotiate with two representatives of TSBA a sponsorship agreement not to exceed \$250,000. The agreement should detail what TSBA will do to earn the fee and should be defensible in terms of fair market value.

STIDHAM/JONES

Motion to adopt the four recommendations.

A lengthy discussion of the motion then ensued. At the request of Darryl Deason and Dawn Robinson, the maker and seconder of the motion, withdrew item #2 from the motion. After discussion of a timetable for the motions, it was agreed that #1 would be effective immediately and that items #3 and #4 would be completed by August 1. With agreement on these points, the motion was restated to adopt recommendations 1, 3 and 4.

MOTION CARRIED UNANIMOUSLY.

JONES /STIDHAM.

Motion to notify TSBA that the Trust will offer the Risk Management staff employment before August 1 and that the Trust extend a courtesy invitation to the TSBA Board of Directors to hear the presentation by Keith Dennen which the Trustees heard today.

After discussion on the dates and procedures, Mr. Stidham asked Dr. Morris if the motion was acceptable to him with the date of August 1. Dr. Morris said that it was. He asked Mr. Love if the motion, as amended was acceptable to him. Mr. Love said that it was.

MOTION CARRIED UNANIMOUSLY.

On the advice of attorney Keith Dennen, Ms. Gruenewald asked TSBA President Dr. Gordon Morris if he would acknowledge acceptance of notice relative to recommendation #2 on behalf of TSBA. Dr. Morris replied, "Yes, I will".

TUCKER/SWEET-LOVE

Motion to employ Keith Dennen as attorney for the Trust.

Ms. Gruenewald asked that it be understood in the motion that Mr. Dennen's presentation was to be done as a friendly representative rather than confrontational. Mr. Dennen said that he understood that charge.

MOTION CARRIED UNANIMOUSLY.

Ms. Gruenewald announced that she and Vice-Chair Tony Tucker would represent the Trust in negotiating with TSBA regarding Sponsorship Activities.

SWEET-LOVE/TUCKER

Motion to adjourn.


MOTION CARRIED UNANIMOUSLY.

The meeting was adjourned at 5:15 p.m.

Respectfully submitted,



Dan Tollett
Trust Administrator



Patricia Gruenewald
Chairman