

Joint House/Senate Subcommittee on Claims
Subcommittee Minutes

Wednesday, May 15, 2009
State Office Building 5
9:00 a.m.

In Attendance

Rep. Lyle Koenen
Rep. Bruce Anderson
Sen. Ron Latz
Sen. Rick Olseen
Craig Lindeke, Counsel

Not Present

Rep. Mary Murphy
Sen. David Hann

Call to Order by Chair Latz: 9:13 a.m. Senator Latz announced that a quorum was not present.

Senator Latz welcomed the members of the I-35W Bridge Special Master Panel composed of Susan Holden, Esq., Steve Kirsch, Esq., and Michael Tewksbury, Esq. After introductions Senator Latz invited Ms. Holden, Chair of the Special Master Panel to present the special compensation process.

Ms. Holden advised that the members were appointed on May 29, 2008 by then Chief Justice Russell Anderson to the panel that the Joint House/Senate Subcommittee on Claims helped design. The role of the panel was to consider claims, make settlement offers and enter settlement agreements with the survivors of the August 1, 2007 I-35W Mississippi river bridge collapse, and to design a claims process that would allowed the panel to perform those duties within the deadlines of the statute that was passed. The claims process was restricted to benefit of the survivors of the I-35W bridge collapse as defined in the law authorizing the process.

The panel started work immediately after their appointments. They designed standardized forms that included a claim form, a list of documents that a survivor had to submit in support of their claim, and disclosure information. Additionally, the panel developed settlement agreements and release forms, in consultation with the Office of the Attorney General, so that individuals would know ahead of the time that if they accepted compensation from this special compensation process that they would have to release their claims against the state of Minnesota, or any municipality, or any employee of those governmental units. Early in the process the panel convened joint meetings for input of the Office of the Attorney General related to the development of the forms and for the consensus of the lawyers that represented the survivors regarding refinement of the process. A website was designed so that individuals would have accurate all-hours access to forms and process information: www.bridgecollapseclaims.com. The website was launched on July 28, 2008.

The panel received 179 claims by the October 15, 2008 deadline as specified by statute. Claimants were given the opportunity to identify what type of meeting they would like with the panel. 100 claimants selected individuals meetings with a single member of the panel. However, even with the individual meetings, all members of the panel reviewed the claims submissions and met weekly to deliberate the claim reaching together a consensus on damage calculations and potential settlement offerings. 70 claimants selected full panel hearings which were held each week. Survivors were able to submit personal injury, wrongful death or property damage claim as their case warranted. As a part of their claim package, Survivors were required to submit a damages adjustment form which identified any benefits plan or other compensation that the survivor may also be receiving. This was done so that the offering of settlement by the panel would not duplicate compensation. Claimants were also encouraged to submit with their claim package any additional information that they felt would be helpful to the panel members in their deliberation efforts.

Meetings with the survivors were held from immediately after the October 15, 2008 deadline through the end of January 2009. No settlements were offered until after all the meetings were held. The meetings were an important part of the process and offered the survivors a chance to express how their lives were affected by the bridge collapse in addition to offering and up to date supplemental information. After the conclusion of the meetings, the panel reviewed each of the cases including damage determinations. The \$36.64 million dollar compensation fund was made up of two appropriations. The first appropriation of \$24 million, termed by the panel as the "general compensation fund", was used to compensate any damages that could be claimed under the state tort law however was capped at \$400,000 per individual. The remaining \$12.64 million was used for supplemental payments of uncompensated medical expenses, lost earnings or lost financial support.

The deadline for the panel to make settlement offerings was February 28, 2008 which was met by the panel. The offerings of settlement detailed the survivor's total settlement amount, from which fund their settlement came from and, if the survivor did not receive a supplemental payment, they were informed that they were not eligible under the law for supplemental payments. All claims were verified as eligible survivors. The settlements also included a notice of the state's right to be reimbursed under subrogation. As indicated by statute, survivors had 45 days to accept or reject the settlement offer. The deadline of the last offer was April 16, 2009. All 179 settlement offers by the panel have been accepted and 178 of the 179 claims have been paid. The last unpaid claim is a death claim which is subject to court approval. Once a court order has been received by the panel, a final settlement may be made.

Senator Latz announced that a quorum was present at 10:15 a.m. Senator Olseen **MOVED** to approve the minutes from April 14, 2009 Subcommittee meeting. **MOTION PREVAILED.**

Ms. Holden recognized the work of the many lawyers that represented the survivors in this process. A pro bono consortium was formed where lawyers skilled in personal injury and wrongful death claims donated their time to help the survivors through the compensation process. Mr. Kirsch reviewed the factors and considerations of the panel in respect to the hearings with the survivors and deliberation of the settlement offerings. He advised the subcommittee members that the statute was well crafted and served well to guide the panel in

their work. Mr. Tewksbury detailed the process used to determine the final settlement offerings and the creation and use of a new release document.

Senator Latz expressed thanks on behalf of the people of Minnesota to the members of the special master panel for their time, commitment, expertise and compassion.

Meeting adjourned at 10:40 a.m.

Respectfully submitted,

Senator Ron Latz, Chair
Joint House/Senate Subcommittee on Claims

Representative Lyle Koenen, Co-Chair
Joint House/Senate Subcommittee on Claims

Diane Henry-Wangenstein, Staff Support
Joint House/Senate Subcommittee on Claims

