

Lawsuits, Lawyers, & Liability

Mastering Risk Management in Parks & Recreation – Part I

Pete Mayer, City of Tukwila

Andy Cooley, Keating Bucklin & McCormack

Robin Aronson, Washington Cities Insurance Authority

Jefri Peters, City of Tukwila

Introduction

Who are we?

- Presenters and Panelists

Why are we here?

- Purpose – Goal to train and educate on risk management

What will we present?

Over the next 2 days, we will explore Risk Management in Parks & Recreation thru:

- Part 1 – Wednesday - Fundamentals of Risk Management in Parks & Recreation
- Part 2 - Wednesday - Specific Risk Exposures and Risk Controls
- Part 3 – Thursday - Headlines – What Keeps Us Up at Night
- Part 4 – Thursday - Employment – Issues and Concern

Proudly co-sponsored by:

Washington Cities Insurance Authority & Washington Counties Risk Pool



Washington Counties Risk Pool
Created by Counties for Counties

- **Who are they?**
 - Created by local government to jointly group-self insure.
- **What do they do?**
 - Coverage
 - Defense Counsel
 - Training and Education
 - Risk Management Resources
- **Why are they important to WRPA?**

Roadmap for Today

- **Risk Management Fundamentals**
 - Definition and Principles of Risk Management
 - The Process of Risk Management
- **Laws & Regulations**
 - Your Role in Risk Managing Parks & Recreation
 - The Impact of Incidents, Claims & Lawsuits
 - What Helps Defend Parks & Recreation Losses
- **What are our Parks Professionals Experiencing**
 - Panelists Share Insights – Good, Bad, Indifferent

Risk vs. Risk Management

What is Risk?

- Any uncertainty about a future event that threatens your organization's ability to accomplish its mission

What is Risk Management?

- The process of making and carrying out decisions that will minimize the adverse affects of accidental loss upon the organization

Why is Risk Management Important?

- Helps Achieve Organizational Goals and Values
- Preservation of Assets



Why Practice Risk Management ?

- **Helps Achieve Organizational Goals and Values**
 - Is Risk Management an agency goal?
 - Is there a Risk Management policy at your agency/organization?
 - Where does responsibility for Risk Management rest in your organization?
- **Preservation of Assets**
 - People
 - Property
 - Revenue
 - Reputation



In other words....it's all fun and games at the park until it isn't!





Risk Management Process

Risk Management Fundamentals to Think Like a Risk Manager

5 Step Process:

- I. Identification & Analysis of Risks
- II. Evaluate Alternatives to Manage Risk
- III. Selection of Risk Technique
- IV. Implementation
- V. Monitoring



Risk Management Process

Step I. Identification & Analysis

What is the range of parks and recreation risks to which your organization is exposed?

Maintenance

Mowing/Trees

Auto Accidents

Employment

Volunteers

Playgrounds

Parks & Rec Programs

.....and more!

Risk Management Process

Step II. Evaluate Alternatives

Examine Methods to Reduce or Stop Risk

Preventing losses or mitigating their effect on your organization through:

- **Risk **A**voidance - Eliminate the Risk**
 - Remove or Don't Do
- **Risk **R**etention – Keeping the Risk**
 - Loss Prevention - Frequency
 - Loss Reduction - Severity
- **Risk **T**ransfer: Vendor has the Risk**
 - Contracts and Insurance



Risk Management Process

Step III. Selection

Choose the Risk Control and Risk Financing technique that best addresses the issue. Consider:

- **Risk Appetite**
- **Expense**
- **Politics**
- **Comfort Level**
- **Expediency**

Risk Management Process

Step IV. Implementation

Put in to practice the risk control technique you have selected

- **Risk Avoidance - Eliminate the Risk**
 - What did you remove, close or not do?
- **Risk Retention – Keeping the Risk**
 - Are you practicing Loss Prevention and Loss Control techniques?
- **Risk Transfer: Vendor has the Risk**
 - Did you have Contracts and Insurance to cover the risk?



Risk Management Process

Step V. Monitoring

Questions to ask yourself:

- Is the technique being implemented?
- Is the technique making a difference?

Ignoring the Risk Management function is like surfing the internet without anti-virus protection!

You can do it.... but it is ill advised.

You Are a Risk Manager!

Your role in risk management familiarize yourself with terminology:

- Risk Management – Preventing Incidents & Accidents
- Loss Control – Preventing Claims & Lawsuits

Questions to ask yourself when considering parks risks:

- What would a reasonable park employee do?
- How would a reasonable park be managed?

You Are a Risk Manager!

Your risk management key concern – Negligence:

- Defined – Duty owed, Breach of duty, Proximate Cause, Damages
- Negligence is failure to exercise ordinary care.
- Ordinary care is what a person in the same or similar situation would exercise.

Additional concerns -Types of Parks & Recreation Losses:

- Loss to your property (aka First party loss)
- Liability loss (bodily injury or property damage or personnel/ employment loss to third parties) (aka Third party loss)

Impact of Incidents, Claims & Lawsuits

Incidents

- An event that may result in a person alleging that the agency, or an employee was negligent in some way.

Claims

- When a person asks for money based on the agency's or an agency employee's alleged negligence

Lawsuits

- If a claim is not resolved a lawsuit may be initiated, asking a judge or jury to resolve the dispute

Will My Agency Get Sued?

Maybe... but you may have some defenses!

- Comparative negligence/fault
 - Comparative negligence defined (Washington State)
- Recreational immunity
 - RCW 4.24.210
- Standard of care
- Waiver and release forms
 - Assumption of Risk

Documentation is essential – Not documented – it didn't happen!

Risk Management Takeaways

Establish Risk Management Objectives

- Determine organization's risk comfort level
- Establish performance goals

Conduct Staff Training

- Individual & Organizational Risk Management
- How to Identify and Respond to Risks
- Importance of Reporting and Documentation

Utilize Resources

- Internal Assistance , Risk Pool or Insurance Provider, MRSC, WRPA

Resources

Risk Pool or Insurance Provider

- Training, Education, Publications, Risk and Consulting Services
 - Washington Cities Insurance Authority (WCIA) www.wciapool.org
 - Washington Counties Risk Pool (WCRP) www.wcrp.info

Municipal Research Services Center (MRSC)

- Local government legal and policy guidance, through research, training and publications www.mrsc.org

Washington Recreation and Park Association

- Parks & Recreation resources for training, legislative efforts, professional development www.wrpatoday.org