

# Snowbowl Ski Patrol General Meeting Minutes

Date: February 12, 2019 Meeting Start 7 PM

Attendees: Christine Lustik, Joe Lustik, Cheri Thompson, Marea Kuehl, Neil Marjerrison, Tom Kerr, Jordan Rice, Stan Sneath, James Gardner, Karl Uhlig, Art Wear, Bill Bucher, Dennis Hardwick, Frank Scariano, Will Holm, Bruce Amrine, Jeannette Amrine, Eric Hardwick, Paul Janzen, Amberleigh Hammond, Art Wear, Cathy Scribner, Bynum Jackson, Erik Weckenbrock

Location: St. Pats

Typed up: 2/14/2019 by Christine Lustik, Secretary Called to order: 7:00 pm

## Mountain Update (from Art!)

- Skiing is good, more snow coming Thursday. (After note – turns out snow just keeps coming! Loving life on the mountain!)

## Insurance Discussion

1. **General Liability Update and Info:** It has been a goal to have General Liability coverage for anything we are doing as a patroller, so Joe has been researching. It's about \$300 for the 3 events we have scheduled for this coming year, 2019. The plan is to assess a fee to the event so we aren't out of pocket. This year's events are: 4/27 Riverbank Run, 6/6- 6/9 Marshall Mountain Biking Races, and 8/3 Seeley. We may do Brain Injury Alliance, but it's at Snowbowl and we are covered at Snowbowl. Joe asked if anyone knows of other 2019 events. If someone knows of one that needs support bring it to the patrol soon, so we can vote on supporting it. We are going to try this, get our own policy, assess a fee, and at the end of year decide if we want to do it next year. It's a special event coverage just for those events so we'd want to know any and all events before buying it.
  - **Questions:** Bill asked if we've checked if we are already on their policies, Joe said we have to ask to be named insurers and that's been a pain to do. It's what we did for the National Collegiate Championships last fall. Jordan asked, what's General Liability? It's an accident. Stumble and fall, drop a patient, etc.
  - **Short Version:** This is less than the \$500 that needs to be approved by the patrol, so the eboard has voted to do this for one year for peace of mind on off hill events to see if it works. If all goes well, the cost will be covered by the events we support. If you have an event you want us to help with in summer, contact Joe to bring it to the patrol to vote on in the next month. We vote as a patrol to support off mountain events.
2. **Workers Compensation (WC)** – Joe gave presentation on why we are looking at this. Following are his notes for those that were not there.

# SnowBowl Volunteer Ski Patrol

## Worker's Compensation Discussion

2/12/2019

By Joe Lustik

This is a presentation related to whether our Volunteer patrol should partner with SnowBowl Ski Area to help pay the premium to add all members of the Volunteer patrol to the ski area's Workers' Compensation policy through the Montana State Fund. This action will result in WC benefits for patrollers as well as improved benefits from ski area ownership. *In a future meeting this winter/spring you will be asked to vote for or against spending patrol/patroller funds to support this action.*

Imagine this: Any of us are up patrolling; We are rescuing a patient and transporting him/her down the mountain in a toboggan. During transport we sustain a debilitating injury (blown knee, etc.). We end up in the ER and explain to the admitting nurse how our injury occurred, reciting that we were on duty as a patroller and transporting a patient. Our health insurance company ends up getting the admitting paperwork as part of processing the injury claim. They see reference to us being on duty as a ski patroller and ask themselves: "Why is this not a WC claim through the ski area?"

In Montana, employers are exempt from having to carry workers compensation insurance for "volunteer" workers. The Discovery Basin Ski Area case of 2004 revealed that the claim of being a volunteer worker may be disputed if the benefits provided to/for that employee could be interpreted as compensation. It was ruled by the state District court in Anaconda that the ski passes awarded to the volunteer ski patroller injured in that case were a form of compensation. Even if you, as the injured volunteer patroller, bring no suit against SnowBowl for claiming that you should have been covered by WC, your personal health insurance provider may bring a suit independent of you to recover the costs of caring for your injury.

With the above understanding, Brad Morris carries a legitimate risk every day that a "volunteer" patroller is on the mountain in a parka, and said patroller is not covered under his WC policy. Brad has mitigated this risk in his mind by being very careful with what benefits he provides the volunteer patrollers. He has been unwilling to provide season passes because they have a clear monetary value directly to the patroller that could too easily be considered as compensation. The current "voucher" system has two protections for Brad: 1) they may be redeemed by a third party and thus need not directly benefit the patroller; 2) they have "no cash value" because they are redeemed for a "special" non-revenue ticket. Brad could have accepted the additional cost of adding us to his WC policy in the past, but he elected to forego that expense in favor of the current voucher system (and its predecessors) under which he feels protected.

I began this journey in an effort to improve the benefits that the mountain currently offers us. While there are other ways to mitigate expenses associated with the injury of a volunteer on duty, those other methods fail in two ways: 1) they do not preclude the possibility of an injured patroller's own health insurance provider suing the ski area for the absence of WC; 2) these alternative protections have not been tested in court, in Montana. This brings us back to WC as the surest (though most expensive) way to protect the ski area while also offering several benefits to us as patrollers.

What are the direct benefits to having volunteer patrollers covered by WC?

- 1) No risk of coverage denial by your personal health insurance provider
- 2) No out-of-pocket expense (no co-pay, no deductible, etc.)
- 3) Lost wages benefit, currently capped at \$529/week

What is the cost of WC through the MSF (Montana State Fund)?

- 1) It is based on the number of SCHEDULED patrol duty hours.
  - a. 40 days @ 8 hours per = 320 hours x 15 patrollers on duty = 4800 hours
  - b. Average paid patroller wage is \$9.95/hr = \$47,760 of assigned payroll
  - c. SnowBowl's current risk rate is tier 3 (out of 5) at 10.42% = **\$4976.59**
  - d. Risk tier and tier rate may change from year to year
  - e. Other modification factors may come into play in any year
  - f. The Montana State Fund may issue a dividend (refund for overpaying) any given year
  - g. Coverage year begins July 1
- 2) We could acquire our own policy from the MSF but we would be considered a "new mod" with no claims history. This would have our premium set at the tier 5 rate of 15.11% = \$7216.53 for at least the first three years as a claims history is accumulated.
- 3) The annual premium may change if we raise or lower the number of scheduled patrollers on duty days.
- 4) The annual premium is NOT affected by the size of our patrol, as it's based on the # of scheduled hours.
- 5) For the sake of budgeting, the annual WC premium could be as low as \$4000 and as high as \$8000 in the next few years for the addition of the volunteer patrollers.
- 6) I have asked Brad to "partner" with us to cover this expense since he also benefits by removing the risk he has endured while having an uncovered volunteer patrol to date.
- 7) Seeking a fixed expense that we can predict, Brad and I settled on the patrol paying \$50 per year for each and every patroller (candidates and transfers included). Brad will pay the balance of our premium (regardless of amount), and he will also receive any dividends when applicable.

How do we pay for this?

- 1) The patrol cannot currently cover this additional expense out of its coffers.
- 2) The patrol is exploring new potential funding streams, but nothing is in place yet.
- 3) We could assess a \$50 annual fee to each patroller.
- 4) We could return to having each patroller pay their own NSP & ND annual dues (currently \$103)

What new benefits will we get from the ski area?

- 1) Exact benefits are still in the formative stages, but the conversations have centered around the following.
- 2) Choice of "vouchers" or "season pass" made independently by each patroller.
- 3) Season Pass:
  - a. A single volunteer patroller can ski all season without wearing a parka, except on duty days, OR they may assign the pass to their non-patrolling spouse/partner.
  - b. A patroller parent may apply the value of an Adult Season Pass (\$621) toward a Family Season Pass (\$1528) and pay the balance (\$907) out of pocket

- c. Families who have two members on patrol may have a Family Season Pass
- 4) Voucher changes being discussed:
- a. Restore redemption of one voucher for two child tickets
  - b. Change how expiration dates are handled
  - c. Make vouchers redeemable for summer Zip-Line and Mountain Bike lift access.

Final Consideration – we may vote in favor of doing this for the 2019-2020 season, and then choose in subsequent years to return to the current “voucher-only” system. I advocate trying this out for a year or two and measuring the results of the improved relationship with mountain ownership as well as the real value of WC benefits.

*Back to Christine’s meeting notes:* Discussion and questions after Joe’s presentations.

- Joe addition: Brad’s unwilling to be the guinea pig for something that hasn’t been tested in court. Other patrols have different policies, but they haven’t been tested yet in the courts.
- Joe addition: State fund is a non-profit fund that has to maintain funds, so that’s why year to year assessments are different, depending on how many claims were made.
- Questions:
  - Karl - \$50 per head is that based upon # of patrollers? Yes, each patroller that we have on the mountain would pay.
  - Dennis -- Would that affect us skiing on off-duty days? No. We would still be able to ski with our parka on week days and days in addition to those we are scheduled.
  - Bruce shared history info. Brad was one of 7 doctors that bought Snowbowl and he’s the only guy that stuck it out. Thankful some of the others that would have built condos didn’t stick it out. He asked the following question, could the voucher system work for alumni? Our voucher system is for working patrollers and wonders how that would work for alumni. Joe says alumni haven’t been part of the discussion. He’s not sure how that would work, since it goes by shifts worked.
  - Jordan – Asked if it’s a signed piece of paper or a handshake. Joe expects it to be on paper, possibly not a signed paper, and he expects it to evolve.
  - Bill – Thinks patrol needs to provide a P&L so we know expenses before the vote.
  - Amberleigh – Is it clear if we are up free skiing that we are legal and there’s no duty of care. Correct, if we don’t have a parka on there’s no requirements at all. You are just a patron that day.
  - Jeannette – if we do it year to year can we really turn on work comp policy and cancel. Yes, rates are set in April and published in May, that gives us a few weeks to decide if we are going to join in for the July 1 rate.
  - Bruce - Gave info on the fund. He said, there are three things that the fund looks at for rate: claims for policy holder, claims for the class of ski operations employee, claims against the whole fund.
  - Tom asked if we have a list of hurt patrollers from the past? No.

- Amberleigh – suggested we may want to look into reporting and what it is. Is there a time frame? Art, said that if someone is hurt they need to let the hill and insurance know before you leave for your shift or when you get hurt. Just have to report, don't have to open a claim. You can open the claim later.
- Bruce confirmed he's used Montana workman's comp and they are pretty fair.
- Art has used them and it's been easy; you have a direct relationship with MT state fund.
- Will – summary clear, thanks for the clear info. Thinks worse case scenario is that if we ended up paying \$50 that is like giving up one ticket. He's for it.
- Cathy – would we be covered if we were doing a training off mountain in jackets. Nope not on another mountains. We are covered for general liability by NSP if we are at an official training.
- Amberleigh – will everyone be able to vote on Insurance. Yes. We need 51% of membership at meeting or online to vote for quorum.
- Tom thinks we are generous by paying half. Joe that's something each person has to answer for self; he's just trying to deliver a solution.
- Amberleigh just to put things in perspective – Snoqualmie pass has over 500 volunteers you pay all your dues and \$65/person to get a season pass.
- Erik – pointed out it has to do with other states have different precedents set so that's why some are different.
- Frank and Elliott helping Joe with other funding opportunities. Joe will flesh out exact benefits before the vote.
- Joe / re Brad – being a physician he understands risk and he's sensitive to it. So, this workers comp thing has crippled this relationship from growing. Brad and Joe worked together about solving the problem and Brad was excited to solve it.
- Whatever decision we make is an annual decision. We can try it for a year, see if it helps improve conditions and if not go back.
- **Listen, ask questions, understand, be ready to vote in March or April. Get with Joe with questions or what he needs to clarify for you.**

## Other

- **Patrol demographic** chart was handed around. (See attached.) It is a chart of the experience of our patrollers, # of years patrolling. We have a young patrol, so we *need more diligence* about getting things done on the mountain. Especially on opening sweep, the following all need to be done:
  - Investigate anything man-made, groomer track, boo, rope, signs, fences - wipe snow off, pull fences up, etc.
  - Morning Check Ins: 1) Sign in, name and if you are covering for someone. 2) Sign up for bottom bump. 3) Sign up for your opening sweeps in the book. We are responsible for opening all sweeps so after top hill is done, get bottom done, but then cycle back up.
  - Heat/chemical packs are at top and bottom of mountain. On cold days feel free to grab one on the way to a scene. They are also at the bottom. They are extra hot, don't waste them and don't put them next to bare skin.
  - Lap Loading toboggans – Joe talked to John John and we encourage you to ask for the lift to be slowed down. We look better doing things smoothly and slowly, than full

speed bobbling. We are just encouraging everyone to do things safely and at each person's comfort level. Nothing to prove other than we are safety focused.

- Joe is collecting first half unused vouchers – don't forget to pick up your second half vouchers from Joe also, they expire at the end of the year.
- **SOS Fair (Cheri)** – Background: SOS fair is run by a separate board, not the Snowbowl patrol board. Up until a few years ago, snowbowl patrollers were required to fill at least 2 spots as part of being on the patrol, since it's a way for us to make money. There are 125 shifts to be filled and since the year before SOS fair was short on help, in 2018 they offered to the Avalanche center to come and work. Snowbowl got \$7,000 this year and Avalanche center got \$3,000. They kept back some money for new electronic needs and new racks for next year. Snowbowl always has the first right to fill the slots so we can always fill more slots next year if we want to make more money. The Avalanche center reached out to more family to help fill slots.
  - There will be some changes to the fair next year. People may not bring more than 20 items in on that day that have not been pretagged. We are accepting clean, winter appropriate clothing. Not smelly, dirty clothes. People will hang up their own clothes. Things to streamline.

### Secretary

- Nothing specific to report. There's work to do on the website, which is my upcoming project. If anyone loves to work on websites and wants to help let me know. It was mentioned one of our new candidates has website experience – woohoo!
- **Social Media:** Feel free to text or email Christine pictures you take on the mountain and let her know if she can tag you as the picture taker when she posts them.

### Treasurer

- About \$25,000 so we are done putting money into DA Davidson account until are main account increases.
- We just shifted website provider. Members page is not back up yet. Mostly you are missing forms, so if you need reimbursement forms Paul printed some out for you or email Christine and she can send you one.

### Training Opportunities

- *350 toboggan clinic* was completed and went well. If you want to run one, talk to someone checked off from the clinic.
- *Avalanche 1* class was a success.
- *IDE class* – March 8 at BAB's. There are 8 students, starting with dinner and going into presentations.

### OET Update

Don't forget everyone needs to be OET refreshed. If you have not been marked off as refreshed please make sure you get that done in the coming weeks. The list lives on the mountain in the back of the general sign in book. If you run a sled and have not filled that in, when you are on the hill with an instructor (Bill B, Paul J, Karl, Bruce A., Josh, Penny) grab them, run a sled, and get marked off. Bruce commented that OET refreshers, like Winter Tip Off should count.

Amberleigh asked a question - speaking of things we are all supposed to do. Asked about FEMA classes thinking everyone had to do them. Karl confirmed, candidates are supposed to do incident command system (ICE 100) as part of candidate training. All other patrollers have until end of calendar year 2019. It's thru FEMA. Information will be forthcoming to all patrollers thru Christine about these training requirements.

### Old Business

- CASA – was a good benefit. We raised \$600 for CASA giving away a day of shadowing a patroller for 2 people.
- Ty Whalen wasn't at the meeting. Life flight is having issues with the state of MT that they are trying to resolve. He's going to share the emails with correspondence with life flight with Joe and they are going to continue working on it. It could take the year to resolve.

### New Business

- **Fire Fighter Stair climb/Jordan Rice:** Jordan will do the whole climb. It raises money for the Leukemia and Lymphoma Society.
- **Recruitment – 360 day/ group activity.** Jordan is looking for help and ideas. Bring people up to the hill, show them around.

Adjourned Paul moved, Marea seconded. 8:15 PM

## General Meeting Agenda

2/12/19 7:00 PM St Pat's Hospital (Duran Learning Center)

- 1) Mountain Update – ART
- 2) Chart – Patrol Member experience. Over half the patrol has <5 years experience.
  - a. Thorough opening sweeps. Manmade requires daily inspection.
  - b. Record opening sweeps in binder at morning sign-in = 3X [1) sign-in, 2) Bottom Bump, 3) Opening Sweep]
  - c. Take heat packs when responding to calls in extremely cold weather.
  - d. Lap-loading Toboggans – Lifts will SLOW
- 3) Hand-out VOUCHERS for second half. Collect unused vouchers from first half.
- 4) Secretary Report – CHRISTINE
- 5) Treasurer Report – PAUL
  - a. SOS Fair income - CHERI
- 6) OET Refresher Status – STAN – mandatory for the entire patrol. Register for the class.
- 7) INSURANCE Update –
  - a. GL for off-mountain events
    - i. 4/27/19: YMCA Riverbank Run
    - ii. 6/6/19 – 6/9/19: MTB Missoula Pro-XC at Marshall Mtn
    - iii. 8/3/19: YFC Seeley Lake Triathlon/Duathlon
    - iv. ANY OTHER EVENTS ???
  - b. Worker's Comp for on-mountain = SnowBowl passes**
- 8) OLD Business
  - a. CASA auction – Tom Kerr
  - b. OET evaluation 2/16 for Dennis & Tom
  - c. Life Flight membership update – Ty Whalen
  - d. 350 Clinic – 1/26; Success – look for more use of the 350 moving forward.
  - e. IDC Status – Instructor Development Course led by Steve Thompson: CHERI
- 9) NEW Business
  - a. Support Jordan Rice – Firefighter Stair Climb
  - b. Support all the new people on the mountain. Most of the patrol is now <3 years patrolling.
- 10) Adjourn