

*Approved April 21, 2005*

**B1**

**MINUTES OF THE  
ACCEL BOARD OF DIRECTORS MEETING  
ANAHEIM, CALIFORNIA  
WEDNESDAY, FEBRUARY 9, 2005**

**MEMBERS PRESENT**

Mary Akin, City of Modesto  
Sandra Blanch, City of Palo Alto  
Charlotte Dunn, City of Visalia  
Patrick Flaherty, City of Bakersfield  
Sherrell Freeman, City of Monterey  
Ann Garcia, City of Ontario  
Beverly Jensen, City of Mountain View  
Brad Landreth, City of Santa Barbara  
Jim Patricola, City of Burbank  
Tom Phillips, City of Santa Monica  
Tom Vance, City of Anaheim  
Erwin Young, City of Santa Cruz

**GUESTS AND CONSULTANTS**

Keyan Aghili, Carl Warren & Company  
Ray Aromatorio, Carl Warren & Company  
Janelle Cabanding, Driver Alliant Insurance Services  
Dan Howell, Driver Alliant Insurance Services  
Larry Hunt, Carl Warren & Company  
Mike Simmons, Driver Alliant Insurance Company

**A. CALL TO ORDER**

President, Tom Phillips called the meeting to order at 10:03 a.m.

Tom Phillips informed the Board that there is an item that is requested to be added to today's agenda which requires immediate resolution and action by the Board. The item is concerning the City of Burbank Olive and Magnolia Plants.

A motion was made to add the following emergency action item to today's agenda under E.  
NEW BUSINESS:

- 6. City of Burbank Coverage and Underwriting Issues (A)

**MOTION:** Mary Akin

**SECOND:** Ann Garcia

**MOTION CARRIED**

**B. CONSENT CALENDAR**

**B1. Approval of Minutes – December 2 & 3, 2004 Board of Directors Meeting**

A motion was made to accept the minutes as submitted with the following change on Handwritten Page 5 to read as:

“A copy of the letter from the City of Mountain View's City Attorney was distributed at the meeting. The original proposed scope of services from NASA was not approved and revisions are currently being proposed by the City of Mountain View”;

**MOTION:** Jim Patricola

**SECOND:** Sherrell Freeman

**MOTION CARRIED**

**C. REPORTS**

**C1. PRESIDENT'S REPORT**

**CPEIA / CSAC-EIA Update**

Tom Phillips is a member of the CPEIA Board of Directors. Tom provided an update at today's meeting from his attendance at a recent CPEIA Board meeting. Tom mentioned that one key issue discussed was the expansion of the CPEIA members' voting opportunities.

Members recall that when CPEIA was formed, it formed its own JPA Agreement and Bylaws, but all were still risk sharing with the CSAC-EIA Program, its county members. Due to the rapid and continuing growth of the CPEIA membership (especially in the CPEIA Workers' Compensation Program), CPEIA members have expressed an interest to be more involved with its governance. There is an issue for members to participate in the financial risk but not with its governance issues concerning the JPA.

These issues will be addressed at a series of upcoming meetings. Tom Phillips will keep members updated and share information as received.

**C2. CLAIMS COMMITTEE'S REPORT**

**C2a. The ACCEL Board of Directors entered into Closed Session pursuant to Government Section Code 54956.95.**

A motion was made to enter into closed session at 10:45 a.m. pursuant to Government Section Code 54956.95.

**MOTION:** Ann Garcia                      **SECOND:** Mary Akin                      **MOTION CARRIED**

A motion was made to come out of closed session at 11:27 a.m.

**MOTION:** Beverly Jensen                      **SECOND:** Mary Akin                      **MOTION CARRIED**

Claims Committee Chair, Brad Landreth had no items to report from Closed Session.

### **C2b. Carl Warren & Company Performance Evaluation**

At 11:50 a.m., representatives from Carl Warren & Company volunteered to leave the room while members discussed the results of their performance evaluation.

Claims Committee Chair, Brad Landreth provided a background on this item. Last year in May, Craig Schweikhard resigned from Carl Warren & Company after a 10 year relationship with ACCEL.

At the June 2004 Board Meeting, Larry Hunt, Ray Aromatorio and Keyan Aghili were in attendance. Larry informed the Board that Ray and Keyan was the new team to replace Craig Schweikhard. Although members discussed going out for an RFP, members agreed to extend Carl Warren's services contract from July 1, 2004 to June 30, 2005. The Claims Committee was directed to conduct an evaluation of Carl Warren's services and present a recommendation at the February 9, 2005 Board Meeting.

The Claims Committee met telephonically on February 2, 2005 to discuss the results of the evaluation and make a recommendation to the Board today. Brad Landreth distributed a copy of the performance evaluation results to members.

Brad indicated that it is the recommendation of the Claims Committee to renew the Carl Warren contract for a 3-year term and not to go out to bid at this time. After a discussion, members agreed that despite of the recent resignation of Ray Aromatorio, they believe that Keyan Aghili will continue to bring value to the organization and continue to provide excess claims administration needs.

A motion was made to accept the Claims Committee's recommendation to renew Carl Warren's contract for a three-year term, subject that they have satisfactory back up personnel to Keyan Aghili.

**MOTION:** Tom Vance                      **SECOND:** Erwin Young                      **MOTION CARRIED**

Representatives from Carl Warren rejoined the meeting at 12:04 p.m. Members informed Carl Warren of their decision to extend their contract. Members also asked Larry Hunt to confirm the new assignment with Keyan Aghili. Larry replied that Chris Hunt would be working with Keyan

effective immediately, and will be in attendance at the upcoming ACCEL April Board Meeting to introduce himself.

Brad Landreth requested Carl Warren to submit a 3 year proposal to include services:

- July 1, 2005 – 2006
- July 1, 2006 – 2007
- July 1, 2007 - 2008

Carl Warren's proposal is due by April 1, 2005 in order for their proposal to be included in the agenda mailing for the April Board meeting.

### **C3. FINANCIAL AND TREASURER'S REPORT**

Treasurer, Patrick Flaherty presented the following financial reports.

#### **C3a. Ratification of Disbursements for Months Ending November 30, 2004 and December 31, 2004**

There was no discussion on this item.

#### **C3b. Report of Investments – Pursuant to Gov't Section Code 53646(b)(1) for Months Ending November 30, 2004 and December 31, 2004**

There was no discussion on this item.

**C3c. Estimated Earnings Report as of December 31, 2004**

Janelle Cabanding mentioned that there was not much activity since September 30, 2004 and that this report would be used in the Retrospective Rating Calculations. There was no further discussion or comment on this item.

**C3d. Financial Statement Ending December 31, 2004**

Patrick Flaherty presented this item and noted that the Accounting Coordinator provided the incorrect year-to-date comparison and would get this corrected in the future. There was no further discussion or comment on this item.

**C3e. Administrative Budget 2004/2005 Budget Year-to-Date**

Members reviewed the Administrative Budget on Handwritten Page 47. Tom Phillips asked if we owed Heyenrath & Associates monies since it appeared on the budget that ACCEL only paid half of the Excess Claims Auditor Fee. Patrick Flaherty confirmed that there is no outstanding payment due to Heyenrath & Associates and that it appears this way since ACCEL's payment was made 1-day off the applicable fiscal year and it will get back on cycle in the future for the upcoming contract term. There was no further discussion or comment on this item.

A motion was made to file and accept Agenda Items C3a, C3b, C3c, C3d and C3e.

**MOTION:** Beverly Jensen      **SECOND:** Charlotte Dunn      **MOTION CARRIED**

Patrick Flaherty mentioned that the Finance Committee met telephonically on February 3, 2005 to discuss the Agenda Items C4f and C4g, and to make a recommendation to the Board at today's meeting.

**C3f. Financial Audit as of June 30, 2005 – Brown Armstrong Engagement Letter**

Members reviewed the Engagement Letter dated January 20, 2005 from Brown Armstrong Auditors, who has been ACCEL's auditor since 1988. Patrick Flaherty confirmed that Ryan Nielsen, who did the "work" in last year's audit, would continue to do the same for the upcoming audit period. As indicated on Handwritten Page 54, Brown Armstrong proposing no increase in fee from last year (\$17,000).

Patrick Flaherty informed members that it is the recommendation of the Finance Committee to accept the proposal received by Brown Armstrong and to continue services effective July 1, 2005. A motion was made to accept the recommendation of the Finance Committee.

**MOTION:** Ann Garcia      **SECOND:** Mary Akin      **MOTION CARRIED**

**C3g. Resolution 04/05-03 – Adoption of Administrative Policy & Procedure F – Accounting Guide**

This item was discussed at the last Board Meeting, and Members directed the Finance Committee to review this Policy & Procedure and provide a recommendation at today's meeting. Patrick Flaherty mentioned that at their Finance Committee meeting last week by telephone, and only a few corrections were made to the Policy. The updated draft was distributed at the meeting.

Patrick Flaherty informed members that it is the recommendation of the Finance Committee to adopt Resolution 04/05-03 and Administrative Policy & Procedure F – Accounting Guide with the changes indicated in today's handout. A motion was made to accept the recommendation of the Finance Committee.

**MOTION:** Brad Landreth      **SECOND:** Sandra Blanch      **MOTION CARRIED**

There were no other comments on the Financial Reports.

**C4. PROGRAM ADMINISTRATOR'S REPORT**

**C4a. Driver Alliant Broker Commission and Contingent Income**

This is a follow up to items discussed at last Board Meeting relating to contingent income and proposed revisions to the Program Administration Contract.

President Tom Phillips sent a letter on January 13, 2005 to the Program Administrators requesting the information pertaining to income received by Driver Alliant in connection with the placement of insurance on behalf of ACCEL since July 1, 2004 and a statement as to whether contingent commission or income has ever been received. A copy of Tom Phillips' letter was included in the agenda along with the Program Administrators' response letter.

Mike Simmons confirmed that the optional higher excess liability policies (Arch and Axis) were placed through TriCity who gave a 1% contingent commission to Driver Alliant. Mike confirmed that this 1% contingent income was received by Driver as a whole corporation, and not specifically to the San Francisco Office. Mike added that all Driver Alliant Contingent Broker Agreements with Insurance Companies, MGAs and MGUs as of January 1, 2005 have been either amended or re-written to conform to this company-wide change. Mike Simmons recommended that ACCEL amend their contract with Driver to delete the wording that addresses contingent income.

At the last Board meeting, proposed changes to the Program Administration Contract were included in the agenda. The following change was proposed:

“COMPENSATION.

During the term of this Contract, the Program Administrator will disclose any commissions received in connection with any insurance placements and may reimburse ACCEL for such commissions as permitted by law. As used in this section, the term “commissions” refers to compensation made to the Program Administrator by insurance carriers with respect to a specific placement of insurance with those carriers, and does not include payments made, if any, by such carriers to any Driver Alliant Insurance Services or Alliant Resource Group ~~Program Administrator affiliates or contingent payments or allowances by insurance carriers, markets or companies based on the overall levels of insurance premiums on policies placed by the Program Administrator and/or its affiliates.”~~

A motion was made to accept this change to the Program Administration Contract effective immediately:

**MOTION:** Sandra Blanch            **SECOND:** Jim Patricola            **MOTION CARRIED**

**C4b. Account Time Tracking Report**

Mike Simmons reviewed this report with members and indicated that the first page of the account time tracking report (Handwritten Page 74) displays hours per employee and the second report displays a total of all employees (Handwritten Page 75).

**C5. UNDERWRITING COMMITTEE’S REPORT**

Underwriting Committee, Tom Vance presented the following reports.

**C5a. Draft Minutes from the January 14, 2005 Underwriting Committee Meeting**

This was included in the agenda as an information only item and there was no discussion.

**C5b. City of Mountain View Potential Change in Risk Profile**

The Underwriting Committee met on January 14, 2005 telephonically and discussed the City of Mountain View’s potential change in risk profile: entering into a fire suppression services agreement with NASA. Tom Vance mentioned that after a discussion, it is the recommendation of the Underwriting Committee to approve the agreement subject to the following:

- Resolution of the property damage exposure;
- Conserving firefighter immunities;
- Notification and approval of ACCEL’s excess insurance underwriters to cover this exposure; and
- The contract should not obligate or guarantee response times.

**MOTION:** Tom Phillips            **SECOND:** Mary Akin            **MOTION CARRIED**

### **C5c. Discussion Regarding Changes in Members' Risk Profiles**

Tom Vance reminds members that there is no formal written policy in place which obligates a member to report significant changes in exposures. The Underwriting Committee has been continuously developing a formal procedure which would identify and define or clarify what a change in exposure might be. Members discussed the following as some ideas of what exposures would fall into this category.

- Airport Operations, although currently excluded;
- Transportation Services
- Hazardous Recreational
- Hand Gliding Ports
- Wastewater Treatment
- Major Utility Operation
- Garbage and Landfills
- Beaches and Pool
- Tree Trimming

Tom Vance will send an email to members requesting additional comments and ideas in order to develop a draft policy. This item will be readdressed at the next Board Meeting.

### **D. UNFINISHED BUSINESS**

#### **D1. Program Administrator Contract with Driver Alliant Insurance Services**

This item was already addressed in Agenda Item C4a.

#### **D2. City of Gardena – Outstanding Retro Payment**

Mike Simmons provided an update to members on this item. Mitch Landsell from the City of Gardena confirms that payment is in the mail and should be received within the next week or two.

### **E. NEW BUSINESS**

#### **E1. Retrospective Rating Calculation – Close out of Program Years 2, 3, 4 & 5**

Mike Simmons reminded members that loss runs are due February 15<sup>th</sup> and the Program Administrators will be focusing on the close out of these earlier years and through the Retro Calculation process and will be communicating with members between now and the April Board Meeting. Brad Landreth asked if the Program Administrators have received his City's loss report from Carl Warren. Janelle Cabanding will follow up with Carl Warren following the meeting.

## **E2. Marketing of Excess Liability Insurance Renewal Effective July 1, 2005**

Dan Howell presented this item and reviewed the Draft Timeline on Handwritten Page 86. Janelle Cabanding emailed members' the renewal applications on Friday February 4, 2005, requesting completion and return by March 4<sup>th</sup> in order for the specification to be in the marketplace early April.

Driver Alliant recently met with representatives from C.V. Starr and reported that they don't have any early indications of proposed rates. Dan Howell thinks they may ask for a higher attachment point, but nothing sure at this time. C.V. Starr and Carl Warren also will reconcile their claims with C.V. Starr to be sure claims are not over-reserved, as they did last year. Dan Howell added that if C.V. Starr did renew with the same limits and retention (\$10,000,000 Excess \$3,000,000), he believes they will ask for an increase in rate due to the existing loss experience and pending open large claims.

Dan Howell also asked members to give him an early indication if they will be participating or not participating in the higher optional excess layers (\$10,000,000 and \$20,000,000 excess of \$23,000,000). Dan will be talking with markets to fill limits up to \$50,000,000 and \$100,000,000. Dan added that as the layers increase, the Employment Practices and Professional Liability coverages may decrease.

## **E3. ACCEL Optional Excess Workers' Compensation Renewal Effective July 1, 2005**

Mike Simmons discussed this item with members. Included in the agenda were slides of a presentation Marilyn Kelley has been giving to various public entity clients on the workers' compensation market and if members would like a copy of this PowerPoint presentation emailed to contact Mike Simmons. Mike asked members to contact him if they wanted a quotation outside CPEIA. Mike also indicated that not much of the excess workers' compensation marketplace has changed and that markets are extremely selective. Mike added that premiums through CPEIA are still roughly 30-40% lower than the marketplace.

## **E4. Next Two Meetings Schedule**

The next Board Meeting is scheduled for April 21 and 22, 2005 in the City of San Francisco at the offices of the Program Administrators. There was a discussion whether members wanted to have a traditional client dinner or visit the stadium to watch the SF Giants play Thursday night. Members decided against the ball game.

## **E5. Physical Therapist Coverage – MOC and C.V. Starr Exclusion Language**

This item was directed to the Underwriting Committee.

## **E6. City of Burbank Coverage and Underwriting Issues**

This emergency item was added due to the recent discovery that there was the need for clarification and/or approval of liability coverage relating to the existing Olive Plant and the new Magnolia Plant coming on line for initial testing in May later this year. The Liability Memorandum of Coverage currently excludes the Olive Plant exposure, and also was excluded when Burbank was a prior member of ACCEL.

The two immediate issues to resolve are:

- Verifying coverage for the existing Olive Plant I and II; and
- Adding coverage for the new Magnolia Power Plant when it comes on line in May 2005.

Mike Simmons provided general information on both facilities. The current power plant basically is a 135 megawatt plant, whereas the bigger concern was the new Magnolia Plant since the exposure was much greater. The Magnolia Plant is roughly a 310-megawatt (MW) natural gas combined-cycle fired electrical generating facility located at the site of the existing City of Burbank power plant. Further, the Magnolia Plant is owned by the Southern California Public Power Authority (SCPPA) but operated and maintained by the City of Burbank.

Prior to rejoining ACCEL on July 1, 2004, Burbank was a member of a liability program which did not exclude this operation. Program Administrators confirm that the C.V. Starr layer does not exclude it and this leaves Burbank with a \$2,000,000 gap in coverage in the ACCEL Layer. It was suggested that both power plants should be insured separately (perhaps with Aegis or EPIC) due to Magnolia being owned by SCPPA. Members imagine that although the Olive Plants are owned and operated by Burbank. Although members agreed there was no an issue with including this as any other city operations, there was greater concern of the exposure of employees crossing over to the Magnolia plant, non-owned City property, as it is conveniently just next door.

Jim Patricola requested the Board for approval of coverage for both production and distribution of the Olive Plants retroactive to July 1, 2004, the date he rejoined ACCEL. Additionally, Jim is asking for coverage for the Magnolia plant when the construction is completed, estimated testing to begin May of 2005. He added that they have not any prior losses in the past 10 or more years, and currently do not have any known losses.

A motion was made to accept the Burbank Olive Plant I and II exposure for both production and distribution retroactive to July 1, 2004, with an understanding that when the Magnolia Plant comes on line, estimated May 2005, the City of Burbank will insure both plants separately from ACCEL.

**MOTION:** Mary Akin                      **SECOND:** Beverly Jensen                      **MOTION CARRIED**  
The motion was carried with 10 ayes and 1 opposed.

**F. CORRESPONDENCE / INFORMATION**

There was no discussion on the following three items.

**F1. PeriScope – December 2004 Issue**

**F2. The Risk Report – November 2004 Issue**

**F3. The Risk Report – December 2004 Issue**

**G. PUBLIC COMMENTS**

There were no public comments.

**H. GENERAL RISK MANAGEMENT ISSUES**

There was a discussion regarding pre-designated physicians. Ann Garcia also mentioned there were a 2 job openings in Benefits at the City of Ontario.

**ADJOURNMENT**

A motion was made to adjourn the meeting at 2:29 p.m.

**MOTION:** Tom Vance

**SECOND:** Ann Garcia

**MOTION CARRIED**

The meeting was adjourned at 2:29 p.m.