

**MINUTES OF THE
ACCEL BOARD OF DIRECTORS MEETING
MONTEREY, CA
TUESDAY, FEBRUARY 10, 2004**

MEMBERS PRESENT

Ann Garcia, City of Ontario
Tom Phillips, City of Santa Monica
Tom Vance, City of Anaheim
Beverly Jensen, City of Mountain View
Charlotte Dunn, City of Visalia
Erwin Young, City of Santa Cruz
Sandra Blanch, City of Palo Alto

MEMBERS ABSENT

Brad Landreth, City of Santa Barbara
Patrick Flaherty, City of Bakersfield
Sherrell Freeman, City of Monterey
Ben Bankard, City of Modesto

GUESTS & CONSULTANTS

Carolyn Richard, City of Santa Ana
Craig Schweikhard, Carl Warren & Company
Mike Simmons, Driver Alliant Insurance Services
Janelle Cabanding, Driver Alliant Insurance Services
Gene Light, City of Riverside
Jim Patricola, City of Burbank
Barbara Coats, City of Sunnyvale
Jim Thyden, City of Costa Mesa

A. CALL TO ORDER

The meeting was called to order by President Tom Phillips at 1:15 p.m.

Tom Phillips introduced guest, Carolyn Richards from the City of Santa Ana. Carolyn manages the City of Santa Ana's Workers' Compensation and was asked by Jeff Stevens to attend the ACCEL Meeting in his absence.

Tom Phillips requested the following items to be added to the Agenda for today's meeting:

- Ad Hoc Committee's Report
C6a) Joint and Several Liability Issue (A)
- Underwriting Committee's Report
C5c) Report on Marketing Activities Specific to BICEP (I)

A motion was made to add these items to the Agenda.

MOTION: Tom Vance **SECOND:** Ann Garcia **MOTION CARRIED**

Tom Phillips handed out information pertaining to item C5c.

B. CONSENT CALENDAR

B1. Approval of Minutes – December 4th and 5th, 2003 Board Meeting

A motion was made to approve the minutes, subject to the following changes discussed during the meeting:

- Page 6 – Second paragraph from the bottom replace “Fullerton” with “Torrance”.
- Page 4 – Remove “Abstain: Erwin Young”

MOTION: Tom Vance **SECOND:** Charlotte Dunn **MOTION CARRIED**

C. REPORTS

C1. PRESIDENT'S

C1a. CPEIA Board of Directors Meeting - Report

Tom Phillips, currently a member of the CPEIA Board of Directors, shared his experience with the ACCEL Board on his recent meeting with CPEIA. Tom indicated that as a board member, he has the capacity to approve the minutes and eligible members into the CPEIA. His voting rights do not include approval of those members into a specific Coverage Program, which is the responsibility of the Executive and Underwriting Committee Members.

The CPEIA Board sits with the CSAC EIA Board, which includes seven to eight members representing counties. As a Board member to the CPEIA, Tom was allowed to sit in the meeting and add input, but not have a voting role. One other modification in terms of CPEIA Members' participation rights is that they modify the Committee representation, where last year they allowed CPEIA advisory non-voting. CPEIA now has one voting representative on each Committee.

The EIA has a Strategic Planning session scheduled sometime in March or April. Since Tom Phillips is not attending the session, he suggested that they have a discussion on providing the

CPEIA Members a better opportunity to participate and provide input, due to the significant increase of membership in the CPEIA Programs.

Tom mentioned that the premiums for all Programs are about \$192,000,000. The EIA has grown because of the increased participation in the CPEIA Excess Workers' Compensation Program. From a planning and budgetary standpoint, the projections for the Excess Workers' Compensation Program renewal is based on pooled rate projections and an excess component. The EIA has developed conservative rate projections, with their actuarial study still pending completion. The conservative pool rate increase is 15 – 25%, and reinsurance is about 25-40%.

Sandra Blanch joined the meeting at 1:28 p.m.

Tom Vance asked if there was an increase in rates because of the actuarial underfunding. Tom Phillips does not have a complete understanding of the rating components. Tom Phillips mentioned that the CPEIA Primary Workers' Compensation Program has a high loss experience, and this has some influence on the excess rating. Erwin Young asked if Tom Phillips believes that there would be any dividends issued in the future. Tom replied that he believes the Excess Workers' Compensation Program is not designed specifically to produce dividends, and there is no unusual Excess experience but he is concerned that the trends are moving upward.

Tom Phillips believes the CSAC EIA wants control over their County-run program. Tom Phillips feels after time, there will be increased amounts of opportunity for others to expand. Their Board of Directors consists of a member from every Member County and they elect an Executive Committee for day to day authority and decision making.

CPEIA Membership as of December 15, 2003 is:

- Stand alone agencies: 177
- Pools 38
- Total: 215

Tom Phillips will keep members updated on his involvement on the CPEIA Board.

C2. CLAIMS COMMITTEE

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

Guests were asked to be excused from this session of the meeting and may rejoin the meeting thereafter. A motion was made to enter into closed session at 12:38 p.m. pursuant to Government Code Section 54956.95.

MOTION: Tom Vance **SECOND:** Ann Garcia **MOTION CARRIED**

A motion was made to come out of Closed Session at 1:17 p.m.

MOTION: Charlotte Dunn **SECOND:** Ann Garcia **MOTION CARRIED**

Tom Phillips reported that direction was given to the Claims Administrator regarding the Minshew case.

C3. TREASURER'S REPORT

President Tom Phillips presented the following Financial Reports in Patrick Flaherty's absence.

C3a. Ratification of Disbursements

There was no discussion on this item.

C3b. Report of Investments – Pursuant to Government Section Code 53646(b)(1).

There was no discussion on this item.

C3c. Financial Statement Ending December 31, 2003.

There was no discussion on this item.

C3d. Estimated Earnings Reports for Months Ending September 30 and December 31, 2003.

Mike Simmons indicated that they were finalizing the September 30th report and experienced errors in some formulas of the database. Mike indicated that they were working on finalizing a draft to email to members shortly after the meeting and the December 31st report should be included in the next Agenda.

C3e. Budget through December 31, 2003

Tom Phillips indicated that there was a line item under Financial Other that may need to be amended. The \$4,000 may need to be moved to Financial Audit for the additional schedules included in the audit.

There were Expenditures under Financial Other in the amount of \$151.57, which represents reimbursement to Brown Armstrong for ACCEL travel when presenting the Financial Audit in Monterey to members last year.

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

MOTION: Ben Bankard **SECOND:** Charlotte Dunn **MOTION CARRIED**

Jim Patricola, Risk Manager for the City of Burbank, joined the meeting at 2:10 p.m.

C4. PROGRAM ADMINISTRATOR'S

C4a. ACCEL PowerPoint Presentation

Tom Phillips gave a presentation to members and guests in attendance providing an orientation on ACCEL. There were questions asked and answered throughout the presentation. Members and guests were asked to contact the ACCEL Program Administrators if they would like a copy of this PowerPoint presentation emailed to them.

C4b. CAJPA Re-Accreditation Update

Janelle Cabanding provided an update on the re-accreditation process. Janelle has been working with James Marta, the consultant conducting the accreditation review for the Authority. It was discovered during the in-person review that the Conflict of Interest Code was not reviewed and filed appropriately with the Fair Political Practices Commission.

Janelle indicated that this was to be discussed further in item C4e. Janelle mentioned that the CAJPA Board meets on March 9th to consider ACCEL's renewal and anticipates that based on the findings from the recent in-person review by James Marta, she was confident that there should be no issues on CAJPA approving ACCEL to be re-accredited.

C4d. Capitalization Contribution Concept

Mike Simmons mentioned that during the in-person Accreditation review of ACCEL, there was a recommendation included in the CAJPA Accreditation Report regarding capitalization. Mike reminded members that the CAJPA Consultant, Jim Marta, is one of the most heavily involved lead CAJPA Accreditor. As a separate practice, Jim Marta also manages his own Accounting firm and provides financial services to many municipal and pooled clients.

Jim Marta asked the question if equity is returned beginning five years after the end of the program year, how does ACCEL capitalize the pool? This policy should be reviewed in the context of setting a target equity for the pool. Jim also mentioned that he has seen other pools experience problems when they have been hit with large claims, forcing them to assess members due to unexpected losses.

Mike Simmons also reminded members that this was the same recommendation made by CAJPA since they were last accredited in 2001. Currently there are no guidelines for Accreditation that pools have a capitalization formula built into their program, but they may consider this in the future for Accredited members.

Mike Simmons asked members just to explore this idea to create a capital fund and a Policy that says ACCEL's goal is to have a capitalization of \$5,000,000 to be collected over 5 years. This capital fund is best described as funds set aside for a "rainy day". Mike reminded members what happened to Mountain View the first year that they were eligible for Retrospective Returns. Due to large claims incurred five years back, this impacted members' returns and Mountain View would have been possibly assessed if ACCEL agreed they could not have this written off.

If ACCEL was to explore this idea, Jim Marta proposed a capitalization formula for \$2,500. This formula would produce recommended options on how to fund a capital fund. Mike also suggested that Jim, as part of this study, would produce a narrative recommendation on the

importance of building this type of security for pools today. Mike suggested that members consider this for the April or June Meeting. He also mentioned that another pool SANDPIPA has a capitalization fund of about \$10,000,000.

Tom Vance doesn't feel that ACCEL has the need for a capitalization layer as he feels that ACCEL members should have the responsibility to inform their finance people that their City participates in an insurance program that may create assessments if necessary when the time comes. Tom also mentioned that as an ACCEL member, he enjoys the flexibility that currently exists and doesn't believe other members would want to give up that flexibility to build into a capitalization layer, and would also reduce ACCEL's decision making opportunities.

There was no action taken at the meeting on this item. Mike Simmons relayed that this is a recommendation that Jim Marta as a CAJPA Accreditor is making to other pooled clients who are looking for Accreditation. Members asked if this is an item that can be handled by the Finance Committee. Program Administrators were directed to develop a Draft Policy and bring back to a future meeting for further discussion.

C4e. Conflict of Interest Code

This item was handed out at the meeting for discussion and review. A motion was made to approve the Code without changes.

MOTION: Erwin Young **SECOND:** Ann Garcia **MOTION CARRIED**

Barbara Coats, Risk Manager from the City of Sunnyvale, joined the meeting at 3:46 p.m.

C5. UNDERWRITING COMMITTEE'S

C5a. Resolution 03/04-07: Amendment to Underwriting Standards Policy & Procedure

A motion was made to approve Resolution 03/04-07 subject to changes as follows:

- Page 38 is amended to read as:

E 1. It is desired that the City have a full-time Risk Manager, though not necessarily with that exact title, whose duties and responsibilities include administration of the City's Liability Program.

MOTION: Tom Vance **SECOND:** Charlotte Dunn **MOTION CARRIED**

C5b. Resolution 03/04-08: Amendment to Applicant Fee Structure

A motion was made to approve Resolution 03/04-08 as included in the agenda.

MOTION: Ann Garcia **SECOND:** Beverly Jensen **MOTION CARRIED**

C5c. Report on Marketing Activities Specific to BICEP

As part of the Underwriting Committee Reports, Tom Phillips reported on interim marketing efforts and brought members to date. Tom mentioned that following ACCEL's December Board Meeting, he had a half day meeting with Jeff Stevens and Karen Foster. Tom informed Jeff and Karen that ACCEL had no interest in merging with BICEP to form a new pool. Tom also mentioned that merging with BICEP would have no benefits as they would also have to give up their CAJPA Accreditation with Excellence status. Also ACCEL's costs over the last 18 years shows the administrative and operative benefits to its members.

Tom also mentioned to Jeff that ACCEL is a California-based pool and does not anticipate expanding membership to Nevada Cities. Any new members interested in ACCEL membership would have to submit their application fairly quickly and if interested they will have to give proper notice to BICEP.

Jeff Stevens notified Tom Phillips that at the telephonic BICEP Board Meeting, a Motion for BICEP to submit an underwriting application to ACCEL failed due to lack of a Second Motion.

Tom Phillips will keep ACCEL updated on any new information.

C6. ADHOC COMMITTEE'S

C6a. Joint and Several Liability Issue

Tom Phillips mentioned that because of the Santa Monica Farmers Market case, it again brought forth the major issue of joint and several liability facing public agencies in California.

Tom Phillips provided background on Jeff Stevens, who is the Chair of the Sub-Committee of Tort Reform issues of CAJPA. Tom mentioned that this is a pristine time to discuss this issue, with the Workers' Compensation crisis and budget crisis facing local governments in California. Jeff Stevens discussed these issues with the CAJPA Legislative Committee and their Lobbyist who raised obstacles that may be faced, and also recommended developing a coalition to pass legislation.

Tom Vance mentioned that he brought this issue to his City Manager and Counsel and they are big supporters. Tom Vance mentioned that this issue is an opportunity and does not see why a City would have to owe what is not their fault. A handout was given out on the draft legislature. Jeff has been communicating with other risk managers to try to get the Bill sponsored. It will be important to get City Counsel and Managers to support this effort. BICEP will endorse these efforts and wants ACCEL to do the same, to support the notion to delete joint and several liability as relates to public entities.

A motion was made to have the ACCEL Board take a position in support of tort reform that would eliminate joint and several liability as related to public entities.

MOTION: Tom Vance

SECOND: Beverly Jensen

MOTION CARRIED

C7. EXECUTIVE COMMITTEE'S

There were no items for discussion at today's meeting.

D. UNFINISHED BUSINESS

There were no items for discussion at today's meeting.

E. NEW BUSINESS

E1. City of Modesto 2003 Retrospective Return

This item was removed from the agenda with no discussion or action taken.

E2. Marketing of Excess Liability Insurance Renewal Effective July 1, 2004

Mike Simmons presented this item and informed members to anticipate renewal quotations in late June. Mike also asked if members were interested in purchasing higher excess limits above the \$22,000,000 Program Limit. Program Administrators were directed to send the pricing on the layers following the meeting. Jim Patricola from the City of Burbank requested a copy of the pricing as well.

Mike Simmons mentioned that members may need to schedule a special Board meeting over the phone if they need to approve a new member by May 1. Mike is hopeful that any new applicants who may participate in the Excess Program will not negatively impact ACCEL's pricing.

Program Administrators were directed to keep the Board updated in the renewal process and to share any additional information as necessary through the marketing process.

E3. Continuation of the ACCEL \$0.60 Pool Deposit Rate

A motion was made to tentatively approve the \$0.60 rate, which might not include Administrative Fees and the \$10,000,000 excess \$10,000,000 Layer. This rate is also subject to final approval at the June Board Meeting.

MOTION: Tom Vance

SECOND: Ann Garcia

MOTION CARRIED

E4. ACCEL Optional Excess Workers' Compensation Renewal

This item was previously discussed under President's Report.

E5. Liability Actuarial Study

The Liability Actuarial Study is usually conducted every other year. Mike Simmons informed members that the cost of the Actuarial Study is about \$12,000 plus an additional \$1,500 for IBNR calculated at June 30th for financial audit calculations. Mike also told members that ACCEL's Actuary, John Alltop agreed to perform an actuarial study for about \$7,500 if members wanted to do this now.

Mike recommended performing the study now for reasons relating to the Santa Monica Farmers Market Claim and how this would have impacted the ACCEL pool had they not purchased a fully insured program. Also reasons would be that C.V. Starr may want to increase ACCEL's self-insured retention. Mike relayed that C.V. Starr is not concerned too much about the Santa Monica claim. Mike also mentioned that members can also just use the \$0.60 rate using information from the last actuarial study conducted December of 2002.

This item was submitted as information only and no action was taken.

E6. Next Two Meetings Schedule

Janelle Cabanding mentioned to members that she is in the process of obtaining pricing from hotels for the upcoming April meeting in San Francisco and she will email members once finalized.

F. CORRESPONDENCE / INFORMATION

There was no discussion on these items.

G. PUBLIC COMMENTS

There were no public comments.

H. GENERAL RISK MANAGEMENT ISSUES

Tom Vance asked the Board how they felt about his Liability Claims Representative, David Nunley, serving on the ACCEL Claims Committee as Chair. Tom mentioned that he feels that having someone with a strong claims background may bring added value to the Committee. There was no further discussion and no action was taken.

ADJOURNMENT

A motion was made to adjourn the meeting.

MOTION: Ann Garcia **SECOND:** Sandra Blanch **MOTION CARRIED**

Meeting was adjourned at 5:02 p.m.