

**MINUTES OF THE
ACCEL BOARD OF DIRECTORS MEETING
PALM SPRINGS, CALIFORNIA
TUESDAY, FEBRUARY 18, 2003, 10:00 A.M.**

MEMBERS PRESENT:

Patrick Flaherty, City of Bakersfield
Ben Bankard, City of Modesto, (Telephonically)
Mary Sue Baker, City of Monterey
Ann Garcia, City of Ontario
Sandra Blanch, City of Palo Alto
Brad Landreth, City of Santa Barbara
Erwin Young, City of Santa Cruz (Telephonically)
Tom Phillips, City of Santa Monica
Charlotte Dunn, City of Visalia

MEMBERS ABSENT

Tom Vance, City of Anaheim

GUESTS AND CONSULTANTS

Brandy Sisting, City of Thousand Oaks
Ellis Green, City of Ventura
Cristina Montijo, City of Ventura
Craig Schweikhard, Carl Warren & Company
Jim Patricola, City of Burbank
Beverly Jensen, City of Mountain View (Telephonically)
Dan Howell, Driver Alliant Insurance Services, Inc.
Mike Simmons, Driver Alliant Insurance Services, Inc.
Janelle Cabanding, Driver Alliant Insurance Services, Inc.

A. CALL TO ORDER

Vice President Tom Phillips called the meeting to order at 10:05 a.m. Tom asked the Board for introductions since there were three guests representing two cities in attendance.

B. CONSENT CALENDAR

B1. Approval of Minutes – December 12 and 13, 2002 Board Meeting

A motion was made to approve the minutes as submitted.

MOTION: Mary Sue Baker **SECOND:** Ann Garcia **MOTION CARRIED**

C1. PRESIDENT'S REPORTS

There were none to report.

C2. CLAIMS COMMITTEE REPORT

Please note that the Claims Committee Reports were postponed for discussion and/or action until the end of this meeting.

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

A motion was made to go into Closed Session at 1:55 p.m. The guests at the meeting and those who joined by phone were excused.

MOTION: Mary Sue Baker **SECOND:** Pat Flaherty **MOTION CARRIED**

A motion was made to come out of Closed Session at 2:41 p.m.

MOTION: Ann Garcia **SECOND:** Mary Sue Baker **MOTION CARRIED**

Claims Committee Chair, Brad Landreth reported that in Closed Session the Board directed the Claims Chair to send a Reservation of Rights letter to the City of Palo Alto in the matter of San Franciscito Flood Claims. The letter will be directed as requested by the City of Palo Alto. The Claims Committee Chair reported that the letter will spell what is covered and what is not covered and will make a suggestion as respects to how claims could be described. The Reservation of Rights letter will not include the coverage opinion, but will be clear as to what is covered. The City could request additional information as respects the coverage opinion. (Sandra Blanch?) requested that the letter be directed to herself and their City Attorney. Brad indicated the letter would be out to the city within two weeks.

C2b. *Liability Claims Auditor Contract*

Claims Committee Chair, Brad Landreth reported that the Claims Committee held a meeting earlier to prepare this item for the Board. The current contract with Heyenrath & Associates expires on June 30, 2003. Brad mentioned that it is the Claims Committee's recommendation to the Board to renew the Heyenrath Contract.

Although this item is listed on the Agenda as an informational item, the Claims Committee would like to discuss with the Board for direction whether an RFP is necessary; whether to continue to have the audit performed annually, or change to a process of every other year; and whether the contract should be renewed for a single year or three-year term.

Brad Landreth clarified that it is the intent of the Claims Committee recommendation to obtain a proposal from Leo Heyenrath for a new three-year agreement at a reasonable compensation level, instead of going out to bid. The Committee felt that the value provided by the audits as respects reporting of claims and internal operating issues is substantial compared to the cost when spread among the numbers.

Program Administrators were directed to obtain a proposal from Leo Heyenrath for three-year contract term including a current Scope of Services, and lastly, to include a not-to-exceed dollar amount on a per year basis for each year. The Committee would like Program Administrators to assist with getting a proposal from Leo Heyenrath by April 1st. The Claims Committee will schedule a meeting shortly to discuss further and prepare for Action at the April Meeting. The Claims Committee requested Program Administrators to assist with the scheduling of their Committee Meeting.

C2c. 2003/2004 Service Fee for Carl Warren & Company

Brad Landreth spoke on behalf of the Claims Committee as Chair. The Claims Committee met earlier to discuss this item and to make a recommendation to the Board at the Meeting. Carl Warren & Company is proposing a \$63,000 contract fee for the 2003-2004 term. This is a \$10,000 increase from the prior year's fee of \$53,000. July 1, 2003-2004 is also the last of a three-year service agreement.

Brad requested Carl Warren to provide a recap of Service Fee Costs at the next meeting. Service Fee Costs to date are estimated at \$33,000, with a cap of \$43,000 on the current Service Agreement. Claims Committee Members felt they would recommend the Board to accept the renewal of the proposed agreement, subject to additional review of the proposed \$10,000 increase. Craig Schweikhard of Carl Warren indicated that AIG is currently taking interest in the substantial number of claims, and requiring Carl Warren to perform certain reporting that was not necessary during other insured years. Also, since Carl Warren may be providing administrative service on a renewed self-insurance program, it would require additional work.

Tom Phillips asked what AIG's claims handling procedures were because he noted that some claims go to Peter Bloom in Arizona, and others to New York. Craig indicated that ACCEL previously requested that they only deal with a single lead adjuster to manage a claim, but AIG has not accommodated the request at this time. Brad Landreth recommended that when the Program Administrators work with the insurance carriers on the renewals, they request each of the carriers to obtain a dedicated adjuster or adjusting firm, if possible.

A motion was made to renew Carl Warren's contract as submitted, pending additional review of the need for Carl Warren to increase their service fee cap by \$10,000 from the prior year.

Further, Craig Schweikhard must provide a Service Fee update at the April and June Board Meetings.

MOTION: Brad Landreth

SECOND: Tom Phillips

MOTION CARRIED

C2d. Assembly Bill No. 3000 - Amendment of California Government Code

Craig Schweikhard reviewed this item with the Board, which is the memorandum from Jerrod Fisher on how public entities can comply with the law by providing specific claims forms to claimants for proper filing. Craig recaps that this Bill requires claimants to complete a specific government claims form, but does not clarify how public entities are to assist in complying with the law. Craig also suggests that public entities may need to consider adopting an official claims form.

C2e. Minutes from the July 22, 2002 Claims Committee Meeting

Brad Landreth reported that the Claims Committee did approve the minutes as presented at their Meeting held earlier this morning.

C3. FINANCIAL & TREASURER'S REPORT

Treasurer Patrick Flaherty reported on all financial reports. Brad Landreth inquired about our Investment Policy to determine whether we could put more money from LAIF into long-term investments at a higher yield. Mike Simmons replied that there is a percentage rate that applies to our total amount of investments. Pat Flaherty indicated that the Investment Committee would review the Policy and our ratio of investments and report back at the next meeting.

Brad Landreth asked whether staff could give a brief discussion about the approximate retrospective returns that will be payable in July 2003 so that member cities could budget. Mike Simmons explained the process of what is involved with calculating the Retrospective Returns. Because the next retrospective year is an insured year, there is likely going to be a return from that year so members could look at last year's Retrospective Returns Summary Page, subtract out how much they withdrew, and that will give an indication of what is available. There were additional questions, and although the Program Administrators provided a detailed reply, they were directed to send out via e-mail an explanation and also re-send last year's Retro Summary Page.

Brad Landreth asked about whether the years that show negative balances for certain members could be offset with money borrowed from other years. Mike Simmons indicated that (yes) they could, but noted that the Treasurer does move money as needed to cover negatives. Money is moved on a five-fold basis, i.e. your oldest years are used to satisfy any negative balances. Board members have two choices in covering a negative year. They could instruct us to move more than the amount to hit "0" as a contingency. The negatives reappear due to adjustments and withdrawals. The percentage of loss continues to float because the amount of loss paid changes.

Brad Landreth asked whether we were going to recover the money from Gardena, who currently shows a negative \$338,114 balance. It was requested that either the Program Administrators have to get aggressive with Gardena to pay off the negative balance, or have ACCEL write it off. There were opinions by the board that the option of writing it off is not a good decision.

A motion was made to accept and file the Financial Reports C3a through C3e.

MOTION: Brad Landreth **SECOND:** Charlotte Dunn **MOTION CARRIED**

C4. PROGRAM ADMINISTRATORS REPORTS

C4a. Workers' Compensation Claims Audit Request

It was stated that it was a requirement of all new members of the CPEIA Workers' Compensation Program (through ACCEL) were required to have a workers' compensation claims audit performed within the last two years, or members would have to partially fund a claims audit. Mike Simmons asked whether there would be support to have ACCEL perform a group audit of each of the participating members. Tom Phillips indicated that he felt that CPEIA should be controlling the audits with CPEIA's auditor, not ACCEL's. There was a consensus that CPEIA indicated that North Bay Associates would do the audit at CPEIA's expense. Program Administrators Staff were directed to clarify this issue with CPEIA. Mike Simmons will notify all of the participating members in writing of the result of his inquiries.

C4b. Account Time Tracking

Mike Simmons reviewed this report, which is provided annually. Mike indicated that he expects hours to increase over the next few months because of the liability and workers' compensation renewal marketing process. It was requested that staff send out the ACCEL Performance Measures worksheet to each of the ACCEL members for them to return to the ACCEL President, with each member's evaluation.

C4c. Program Administrators Contract

This item was briefly discussed. Program Administrators were directed to submit their proposed Contract at the next Board Meeting.

C5. UNDERWRITING COMMITTEE REPORT

C5a. Revitalization of the Liability Memorandum of Coverage Effective July 1, 2003

Underwriting Committee Chair, Tom Phillips reported that the Committee met recently to review the Memorandum of Coverage and had substantial discussion on potential changes to the Memorandum of Coverage. The Committee will meet again prior to the April Board meeting to finalize the draft document, which will be presented at the April meeting. Dan Howell reported that Tom Vance suggested that there be a discussion item about the ability to purchase underlying coverage.

D. UNFINISHED BUSINESS

D1. \$500,000 xs \$500,000 Program Layer

Mike Simmons reviewed this item in the agenda. If this Program was to be re-instituted, the rate would be approximately \$0.26 per \$100 of payroll. Mike recommended that this Program not be re-instituted without participation by at least six cities at a minimum of three years commitment. The three-year commitment should also require members ongoing participation in the ACCEL Liability Program (\$9,000,000 excess \$1,000,000 Layer) while in the \$500,000 Excess \$500,000 Program Layer. Cities which expressed an interest in this Program are Bakersfield, Modesto, Mountain View, Ontario, Santa Barbara, Santa Cruz and Visalia.

Representatives from the Cities of Thousand Oaks and Ventura were in attendance at the meeting. These Cities currently retain a \$1,000,000 with their current Program and expressed an interest in the this Program Layer (as described above) if they joined ACCEL. Mike Simmons suggested that the members interested in participating should budget an estimated cost of \$2,000 for an actuarial study. Brad Landreth requested that the actuarial study should also indicate a minimal participation level and the rate, which shows including and excluding specific Cities in this Program Layer.

A motion was made to authorize the Program Administrators to engage an Actuary, possibly Bickmore Risk Services, at a cost not to exceed \$2,000. This cost will be charged to each of the members who will participate in the study (mentioned above).

MOTION: Brad Landreth

SECOND: Ann Garcia

MOTION CARRIED

D2. ACCEL Teleconference Policy & Procedure

Mike Simmons presented this item. The key issue discussed was the difference between an operator-assisted call (dial-out) versus a member joining the meeting by directly calling a specified telephone number provided. Mike reminded members that they are not required by the Government Code to use a dial-out process. It was stated that this issue needed to be addressed because ACCEL is simply not following its own written Teleconference Policy and Procedure.

Brad Landreth felt ACCEL should not remain flexible in allowing teleconferencing, but that ACCEL does need to address the Closed Session issue. He asked whether ACCEL could establish its own phone bridge (similar to Anaheim's Phone Bridge) or go to a system where the members who join telephonically (for a non-telephonic scheduled meeting), incur the cost, or shared cost, of the call.

Mary Sue Baker expressed she did not like the teleconference option because the calls were disruptive to the meeting and reduced the effectiveness of the communications, (except in emergency situations where meetings have to be scheduled as a teleconference). Pat Flaherty inquired about an ACCEL Meeting Attendance Policy. There is no specific attendance policy currently in effect, but ACCEL has written letters in the past to the members if their attendance has dropped.

Tom Phillips clarified that he felt the cost of teleconferencing should be paid by the members including reimbursement back to ACCEL's cost to have phones set up at the meeting. Program Administrators clarified that when they set up meetings where members request the option to join the meeting by phone, Program Administrators reconcile the total cost of the telephone set up, equipment rental and any other associated fees and have the Treasurer request reimbursement to the member. If there are multiple members who join, the cost is split equally.

Mary Sue Baker indicated her support in eliminating Closed Session from Board conference calls and clarified that she felt that conference calls were acceptable for Committee meetings because of their small groups and shorter durations.

Program Administrators were directed to include this issue an Action Item at the next meeting. In addition, Program Administrators are to include samples (if any) of other JPA Policies for teleconference procedures or comments on their practice.

It was suggested that members with concerns or criticisms about teleconference availability at meetings should contact the Program Administrator in advance of the next meeting, including revisiting the requirement that an attorney be present at the meeting.

The Committee adjourned for lunch at 12:03 p.m. with the meeting to resume at 12:50 p.m.

The meeting was call back to order at 12:53 p.m. Roll call was taken on the teleconference attendees.

E. NEW BUSINESS

E1. ACCEL Optional Excess Workers' Compensation Renewal - CSAC EIA and Other Options

Mike Simmons reviewed the CPEIA's estimated renewal costs included in the agenda. He noted that Employers Reinsurance, a major "player" in the California Excess Market, is not going to be writing new business in California, and that other markets are decreasing interest.

Although David Clovis was not present at the meeting, Mike shared David's comments to the ACCEL Board of his experience and opinion as a representative of the CPEIA Underwriting Committee, which did not give him any voting rights.

Mike mentioned that the actuary estimated CPEIA's cost to be 10% less than if ACCEL tried to develop its own workers' compensation pool. Mike reviewed the available markets that staff would approach. It was suggested that staff contact State Fund. The Cities of Santa Barbara and Palo Alto, who are currently insured elsewhere for workers' compensation, expressed an interest in obtaining quotes from CPEIA as a joint purchase through ACCEL.

E2. ACCEL Liability Program Renewal – July 1, 2003-2004

Dan Howell presented this item to the Board and reviewed the status of the Excess Liability renewal. Dan mentioned that ACCEL's current carrier (AIG) is backpedaling from earlier indications after reviewing updated loss history and other underwriting data. Dan also indicated that it may be difficult to piece together the Public Entity Form including all the coverages at the lower SIR level. An ACCEL member asked whether the rates would be available before June, or whether we had it finalized. Dan replied that we expect an indication from AIG in April, but final quotations will not be known until June.

E3. Next Two Meetings Scheduled

Tom Phillips noted that the April 24th & 25th, 2003 meeting would be in San Francisco, followed by the June 19th & 20th, 2003 meeting in Santa Barbara. There was no discussion on this item.

H. GENERAL RISK MANAGEMENT ISSUES

Brad Landreth inquired about inoculation of small pox for first responders. Ann Garcia requested information about Workers' Compensation coverage. Ann Garcia indicated that the city is responding as respects the to County of San Bernardino. It appears that the city will not be offering inoculation. The City of Santa Barbara is indicating that it will provide the inoculation as an option and included within the course of scope of employment. Brad had a question about the incubation statement; how long it is.

A motion was made to adjourn the meeting at 2:50 p.m.

MOTION: Ann Garcia

SECOND: Sandra Blanch

MOTION CARRIED