

BOARD OF DIRECTORS MEETING
June 25, 2020 at 10:00am
Teleconference and Videoconference via Zoom

MINUTES

Attendees:

Reina Schwartz, *City of San Pablo, President, Executive Committee*
Sukari Beshears, *City of Brentwood, Vice President, Executive Committee*
Tracy Robinson, *City of Lafayette, Past-President, Executive Committee*
Tim Przybyla, *City of Oakley, Member-at-Large, Executive Committee, Board Treasurer*
Brad Farmer, *City of Pittsburg, Member-at-Large, Executive Committee*
Mike Chandler, *City of Martinez, Member-at-Large, Executive Committee*
Thomas Lloyd Smith, *City of Antioch*
Laura Hoffmeister, *City of Clayton*
Rob Ewing, *Town of Danville*
Alexandra Orologas, *City of El Cerrito*
LeeAnn McPhillips, *City of Gilroy*
Lori Martin, *City of Hercules*
Norm Veloso, *Town of Moraga*
Paul Rankin, *City of Orinda*
Lia Maksoud, *City of Pacifica*
Hector De La Rosa, *City of Pinole*
Ericka Mitchell, *City of Pleasant Hill*
Carla Hansen, *City of Walnut Creek*
Linda Cox, *MPA Chief Administrative Officer**
Frank Williamson, *MPA Finance Manager**
Erwin Chang, *MPA General Liability Claims Manager**
Barbara Esquivel, *MPA Workers' Compensation Claims Manager**
Victoria Thomas, *MPA Administrative Services Supervisor/Clerk of the Board**
Jasmin Intravaia, *MPA Administrative Assistant**
Dennis Mulqueeney, *Alliant**
Mike Harrington, *Bickmore Actuary**

(*Non-voting attendee)

All members present will be recorded in the minutes.

I. President, Reina Schwartz called the meeting to order at 10:03am.

II. **INTRODUCTIONS**

Roll call was taken by Board Clerk Thomas.

III. APPROVAL OF THE AGENDA AS POSTED

Motion made by Alexandra Orogas to approve the Agenda as posted. Seconded by Tim Przybyla. Board Clerk Thomas took roll call. Approved by majority count of roll call votes. (15-0 City of Clayton, City of Walnut Creek, and Town of Danville were not present during the roll call vote).

IV. TIME RESERVED FOR MEMBERS OF THE PUBLIC

No comments were received from the public and no members of the public participated in the meeting.

V. APPROVAL OF THE CONSENT CALENDAR

Cox requested that Item G, Managed Care Contract, be pulled for possible discussion, as she had emailed Board Members a supplemental document the night before the Board meeting, and asked if there were any questions.

Rankin acknowledge the receipt of the supplemental document and thanked Staff for providing additional information on the contract that was requested by the Board.

Motion made by Paul Rankin to approve the Consent Calendar as posted. Seconded by LeeAnn McPhillips. Board Clerk Thomas took roll call. Approved by majority count of roll call votes. (15-0 City of Clayton, City of Lafayette, and City of El Cerrito were not present during the roll call vote).

VI. ACTION ITEMS

1. Draft Workers' Compensation Actuarial and Experience Modification Reports

Cox reported that the Workers' Compensation Program is currently funded above the 90% Confidence Level. Claims increase is minimal at \$88,000. The claims per \$100 of payroll has decreased from 2.748 to 2.601. The excess carrier PRISM (formerly known as CSAC-EIA) premium decreased by \$265,000 due to MPA's favorable claims experience in comparison to the excess Pool. PRISM, along with other Pools, have offered to its members the option to reduce payroll by 10% for the coming premium year in anticipation of payroll decreasing among the members. Staff accepted the offer based on the knowledge of the various mandatory payroll reductions. However, if the actual payroll decrease is not realized, MPA may incur an assessment in the next fiscal year. Outstanding claims increased approximately \$900,000. Estimated program assets increased \$4,400,000 bringing the total assets to \$45,480,000.

Beshears asked for clarification whether the Program was funded at 80% or 90% Confidence Level. Harrington explained that the current fund at above 90% the Confidence Level represents how much money there is to pay for the liabilities that already exist and the request to fund at an 80% Confidence Level represents the premiums that will be charged in the next year.

Motion made by Brad Farmer to approve funding the Workers' Compensation Program at an 80% Confidence Level. Seconded by Alexandra Orogas. Board Clerk Thomas took roll call. Approved by majority count of roll call votes. (15-2 City of Gilroy and City of Walnut Creek abstained, City of Clayton and City of Pinole were not present during the roll call vote).

2. MPA Workers' Compensation Retrospective Dividend Release

As directed by Staff, Bickmore Actuary reviewed all program years in the Workers' Compensation Program. It was determined that there is a surplus of funds above the 90% Confidence Level that may be available for a dividend on closed claim years. Cox said there is a possible dividend of \$900,000, \$1M, or \$1.1M.

The primary goal of the retrospective premium allocation is to determine the financial position for all fiscal years through 2017-18 and allocate the overall approved surplus return/assessment adjustments to the Members. The financial position is based on all amounts paid into MPA, offset by costs already paid out and those expected to be paid out in the future, and adjusted for the historical surplus return/assessment adjustments.

Schwartz asked if it is an industry practice of other Pools to review retrospective premiums and return funds to members. Harrington replied that it is a common practice and that most of the Pools he works with have a dividend process in place for both their General Liability and Workers' Compensation Programs.

Cox informed the Board that MPA currently has a Dividend Release Policy in place. MPA's past practice was to review the General Liability Program only. Going forward, MPA will make it a practice to have Bickmore Actuary review both Programs.

Schwartz proposed to give Members a dividend but remain conservative by not giving 100% of the dividend given the uncertain financial times we are living in.

Rankin asked if there is a risk of a higher premium next year if reserves are spent via a dividend. Harrington replied that he estimates premiums will not be higher next year given that COVID-19 and the Shelter-in-Place for three months caused the frequency of claims to decrease. He estimates that claims will continue to decrease in 2021 given the historical trends and the way people are working remotely now. Adding that the practice of funding at an 80% Confidence Level overtime should build up a surplus and allow for future dividends.

Motion made by Paul Rankin to approve a \$900,000 dividend and directed Staff to review the Program's dividend annually and present to the Board. Seconded by Tim Przybyla. Board Clerk Thomas took roll call. Approved by majority count of roll call votes. (15-2 City of Gilroy and City of Walnut Creek abstained, City of Clayton was not present for the roll call vote).

3. MPA Compensation Policy Annual Cost of Living Consideration Adjustment and Approval of the Fiscal Year 2020-21 MPA Salary Schedule as required by CalPERS

There was no discussion.

Motion made by Brad Farmer to approve the Salary Schedule and no Cost of Living Adjustment. Seconded by Tim Przybyla. Board Clerk Thomas took roll call. Approved by majority count of roll call votes. (16-0 City of Clayton and Town of Danville were not present for the roll call vote).

4. Matters Involving a Member and their Claim Submitted to ERMA

Cox reminded the Board that the City of El Cerrito had submitted a claim to ERMA, the General Liability excess carrier. Due to timing logistics, ERMA denied the claim, thus

provoking Staff to bring the topic back to the Board. The ERMA Board recognized that this put the City of El Cerrito in a comprising position. ERMA proposed that the City of El Cerrito pay half of the Pool's SIR of \$1M and ERMA would match the other half.

Cox reported that the claim is still in the discovery stages; therefore not a lot of money has currently been paid out. Staff met with the Executive Committee and presented the City's initial proposal to borrow money from the ERMA equity that is specifically earmarked for MPA and its Members. While at the same time ERMA gave a dividend distribution to MPA.

El Cerrito's current equity in the General Liability Program is approximately \$700,000. Staff proposed that ERMA be taken out of the equation and allow the City of El Cerrito to borrow up to \$500,000 from their equity in the General Liability Program.

Rankin questioned if this is a practice that the Pool should be considering and asked for other opinions. Cox informed the Board that MPA has financially assisted two other member cities in the past.

De La Rosa asked if each Member has assets in the Programs. Cox replied that each Member does have assets in both the General Liability and Workers' Compensation Programs if they are a Member of the Program, which is why dividends are distributed to Members.

Farmer asked if interest would be added to the loan. Cox said that interest would be added to the loan and proposed an interest be at a minimum of what LAIF or CAMP is. Schwartz suggested that the loan have an interest rate of LAIF plus 1%, which is consistent with past practice, and the loan term will be for one year.

Staff will work with Bickmore Actuary and attorneys to create a contract and will present it to the Executive Committee for approval.

De La Rosa asked where the interest payment would be applied. Cox said the interest payment in its entirety would go back into the Pool.

Motion made by Reina Schwartz to approve the loan to the member city with an interest of LAIF plus 1% that goes back to the Pool in its entirety, with the contract being approved by the Executive Committee, and a one year timeline to pay back the loan. Seconded by Tim Przybyla. Board Clerk Thomas took roll call. Approved by majority count of roll call votes. (16-0 City of Clayton and Town of Danville were not present for the roll call vote).

5. Cyber Liability Coverage Optional Excess Program

Dennis Mulqueeny participated in the meeting to present the cyber liability coverage. Members in the Pool currently share cyber liability coverage with all members in the Alliant Property Insurance Program with a \$2M per occurrence per Member with an aggregate limit of \$25M.

Mulqueeny presented four excess coverage options that Members can acquire individually or as Pool. The benefit to acquiring excess coverage is that the coverage would be exclusively for the individual Member or the Pool and not shared with all the members in the Alliant Property Insurance Program.

11:16am Laura Hoffmeister joined the meeting

McPhillips expressed her dissatisfaction when working with Beazley in the past on her City's deadly weapon policy and asked for clarification of Beazley's responsibilities with the

cyber liability coverage. Mulqueeney said that Beazley provides the core coverage and Axis provides the excess coverage.

Motion made by Tim Przybyla to approve Option 4 \$3M per occurrence per Member with an aggregate limit of \$10M. Seconded by Mike Chandler. A friendly amendment to the motion was for Staff to work with Mulqueeney on the allocation methodology and bring back to the Executive Committee for approval at a Special Meeting. Board Clerk Thomas took roll call. Approved by majority count of roll call votes. (17-0 Town of Danville was not present for the roll call vote).

11:28am Paul Rankin left the meeting

6. Proposed Changes to the Vehicle Physical Damage Memorandum of Coverage for Fiscal Year 2020-21

At the direction of the Board, Staff reviewed the MOC to craft clarifying language on leased vehicles in the MOC.

Section C Coverage for undercover vehicles: Chang reported that after further research it was determined that undercover vehicles are not leased but are short term rentals. Rented vehicles currently have specific language in the MOC.

Motion made by Tim Przybyla to approve the Vehicle Physical Damage Memorandum of Coverage. Seconded by Brad Farmer. Board Clerk Thomas took roll call. Approved by majority count of roll call votes. (16-1 Town of Danville abstained as he just rejoined the meeting).

7. Proposed Changes to the General Liability Memorandum of Coverage for Fiscal Year 2020-21

At the direction of the Board, Staff made two revisions to the MOC in Section VII - Exclusions 19 and 18. Specifically, the intent is to exclude claims arising out of electrical or natural gas utilities/entities, including those involved in power supply, power distribution, or power generation.

Motion made by Tim Przybyla to approve the General Liability Memorandum of Coverage for Fiscal Year 2020-21. Seconded by Mike Chandler. Board Clerk Thomas took roll call. Approved by unanimous count of roll call votes. (17-0).

8. Wellness Program Rate Renewal

Staff recommends that there be no rate increase.

Members thanked Staff for providing the virtual fitness and cooking classes each week. Board Clerk Thomas informed the Board that all virtual classes are recorded and posted on MPA's website under the Wellness tab so member cities' employees can watch them at a time that is convenient for them if the live class does not work with their schedules.

Motion made by Sukari Beshears to approve the Program's same rate renewal. Seconded by Rob Ewing. Board Clerk Thomas took roll call. Approved by majority count of roll call votes. (15-2 City of Gilroy and City of Walnut Creek abstained).

9. Vehicle Physical Damage Program Rate Renewal

Cox reported the program proposes a rate decrease of \$.04/\$100.

Motion made by Tim Przybyla to approve the Vehicle Physical Damage Program's rate renewal. Seconded by Norm Veloso. Board Clerk Thomas took roll call. Approved by majority count of roll call votes. (16-0 City of Martinez was not present during the roll call vote).

10. Funding of the IRS Section 115 Pension Trust

At the direction of the Board, Staff researched the amount needed to fund the Trust at 85%. Staff determined that approximately \$758,000 would be needed to bring the funding level to 85%.

Veloso asked for clarification on maintaining the Trust at 85%. Schwartz explained that this was a one-time occurrence as a result of CalPERS incorrectly transferring assets and liabilities of \$2M from the City of Pleasant Hill to MPA for MPA's past employees' prior service when MPA entered into its own contract with CalPERS.

Staff was directed to review the funding in the Trust annually when preparing the budget and present to the Board.

Motion made by Tim Przybyla to approve funding the Section 115 Trust at 85% with a one-time contribution of \$758,000 to bring down the unfunded liability with CalPERS. Seconded by LeeAnn McPhillips. Board Clerk Thomas took roll call. Approved by unanimous count of roll call votes. (17-0).

11. Proposed Budget for Fiscal Year 2020-21

Cox reported premium expenses decreased, claims experience increased, and direct operating cost increased at the Board's request to allow for trainings in the Public Works and Safety Committee and the Police Risk Management Committee.

Williamson explained that the claims experience increased due to the budget being reviewed earlier than normal and not all the auto claims were in at the that time.

Motion made by Tim Przybyla to approve the Budget for Fiscal Year 2020-21. Seconded by Laura Hoffmeister. Board Clerk Thomas took roll call. Approved by majority count of roll call votes. (16-0 City of Pleasant Hill was not present during the roll call vote).

VII. INFORMATIONAL ITEMS

12. COVID-19 Update

Esquivel reported that more structure has been added to workers' compensation claims that involve COVID-19. The Governor's new order specifies that the claimant must test positive for the virus, determination must be from a medical doctor, order only extends to workers who are required to leave their home to work, order is effective for cases contracted between the dates of March 19 and July 5, 2020, and liability will be presumed to be accepted if a claim is delayed and not denied within 30 days.

De La Rosa asked if an employee needs to complete a workers' compensation claim form (DWC 1) if they worked one day and had a fever the next day. . Esquivel replied that an employee would need to be diagnosed prior to completing a DWC 1.

13. Cal/OSHA COVID-19 New Injury, Illness, Prevention Program Requirements

Cal/OSHA revised the guidelines on protecting workers from COVID-19 with new mandatory control measures to be written in the Injury Illness, Prevention Program (IIPP). Staff presented the guidelines. Cox informed the Board that if anyone needs assistance with implementing the new language into their IIPP to contact Henri Castro at Sedgwick.

14. General Liability and Workers' Compensation Dashboards

There was no discussion.

VIII. MANAGERS' REPORTS

Williamson introduced the Accounting Department's new Program Coordinator Austin Muto.

Chang said that MPA has been working with the City of Walnut Creek on a claim for subrogation of \$100,000. Recovered funds will be divided between MPA, the City of Walnut Creek, and the subrogation attorney.

Esquivel reported that her team completed their annual review of open future medical claims prior to the end of the fiscal year to determine if there were any potential buyouts that could be settled and closed.

IX. MEMBERS' COMMENTS

Cox replied to Hoffmeister's question stating that Board Clerk Thomas emails the agenda packet to Board Members as well as posts it on MPA's website under Agendas and Minutes.

Schwartz expressed her appreciation to the Board for their dedication and patience with the new way of having the Board meetings and to Staff for putting together the Board Meetings via Zoom so efficiently.

X. ADJOURNMENT - Meeting was adjourned at 12:12pm.