

CENTRAL SAN JOAQUIN VALLEY RISK MANAGEMENT AUTHORITY

MINUTES OF THE EXECUTIVE COMMITTEE  
MEETING OF MAY 28, 2009

A meeting of the Executive Committee of the Central San Joaquin Valley Risk Management Authority (CSJVRMA) was held on May 28, 2009, at the McDermont Field House, Lindsay, California.

COMMITTEE MEMBERS PRESENT: Leon Compton, Vice President, Ripon  
Bill Lewis, First Vice President, Woodlake  
Jeff Cardell, Second Vice President, Clovis  
Linda Abid-Cummings, Riverbank  
Lois Hull, Selma  
Tim Przybyla, Kerman  
Wendy Silva, Madera  
Felix Ortiz, Exeter  
Jo Barrick, Shafter  
Bob Wilburn, Maricopa

COMMITTEE MEMBERS ABSENT: Dave Elias, Past President, Fowler  
Joe Donabed, Hughson  
Greg Applegate, Sonora

ALTERNATE MEMBERS PRESENT: Mike Barrows, Sonora  
Cruz Ramos, San Joaquin  
Margee Fallert, Tulare

ALTERNATE MEMBERS ABSENT: None

OTHERS PRESENT: Jeanette Workman, Administrator  
Mary Ann Reilly, Board Secretary  
Ken Walker, Treasurer, Lindsay  
Linzie Kramer, Litigation Manager  
Tom Kline, Risk Control Manager  
Robert Ford, Clovis  
Margaret Silveira, Gustine  
Kye Stevens, Ripon  
Tony Mistlin, Ripon  
Judy Sullivan, AIMS  
Ken Wilkerson, AIMS  
Dave Whiteside, AIMS

1. CALL TO ORDER

President Leon Compton called the meeting to order at 10:13 a.m.

2. INTRODUCTIONS

Introductions of those present took place.

3. APPROVAL OF AGENDA AS POSTED (OR AMENDED)

President Compton asked that item 6B be moved up to after the Consent Calendar and that Item 9E be postponed to the June 2009 Executive Committee meeting.

**Jeff Cardell moved to approve the agenda as posted with the changes noted above. Seconded by Jo Barrick. Motion passed unanimously.**

4. PUBLIC COMMENTS

None.

5. CONSENT CALENDAR

President Compton, requested that Consent Calendar items H and I, Farley Consulting Services 2008 CSJVRMA Liability Claims Audit Report and AIMS Response to Farley Consulting Services 2008 CSJVRMA Liability Claims Audit Report be brought back to the June 2009 Executive Committee meeting, at which time a final audit report can be presented rather than a draft report.

**Jo Barrick moved to approve/accept the following items: A) Minutes of the Executive Committee Meeting of March 26, 2009; B) Warrants for February 26, 2009 ~ March 25, 2009; and March 26, 2009 ~ April 21, 2009; C) Treasurer's Report as of March 31, 2009; D) Financial Statements as of March 31, 2009; E) Workers' Compensation Program Reports for February 2009; F) Helling & Associates February 2009 Claims Audit Report; G) AIMS Response to Helling & Associates February 2009 Claims Audit Report; J) Chandler Bond Market Review – March and April 2009; and K) CAJPA Journal – Spring 2009. Seconded by Felix Ortiz. Motion passed unanimously.**

6. LIABILITY PROGRAM

B. Risk Control Manager's Report on Liability Coverage for McDermont Field House, Lindsay, CA

In compliance with the goal of the CSJVRMA to "Provide quality risk management services to member cities and encourage active participation in sound risk management and claims management activities thereby reducing exposure to loss" and at the request of the Executive

Committee, Mr. Tom Kline, Risk Control Manager, reported that he conducted a thorough inspection of the McDermont Field House facility approximately a month prior to the Executive Committee meeting. The McDermont Field House Facility, which has 172,000 square feet of recreation space, includes a skateboard park with foam pit in addition to many other attractions. The reason for Mr. Kline's inspection was to determine liability exposures that the CSJVRMA will incur due to the new City of Lindsay's facility. Mr. Kline noted that his report of the inspection was included in the agenda packet and pointed out the methodology of his report by noting that each activity is outlined along with its exposures, controls, and suggestions. Lastly, Mr. Kline pointed out the appendixes which contain approximately 20 pages of forms used for the operation of the facility.

Mr. Kline reported that several attractions have not yet been completed so he was unable to access those attractions and their controls. As new ideas arise and new attractions open, Mr. Kline suggested a more formal process should be set into place to review the exposures and controls of the new attractions.

Mr. Mike Barrows, City of Sonora, noted that one thing he found absent in the report that may be of benefit to the City of Lindsay, is the creation of an Accident Review Team. Mr. Barrows explained that the Accident Review Team would be the first responders in the event of the accident and would initially respond to the person incurring the accident. Mr. Barrows noted that immediately following an accident people typically respond very truthfully and with an Accident Review Team of two people, one could sign as a witness to the other when documenting the conversation. Mr. Barrows further noted that when a person who has incurred an accident feels like they have received care and concern following the accident, they are less likely to sue. Mr. Barrows explained that after the person is transported or care is completed, the next step is to immediately shut down the attraction. This should occur each and every time there is an incident as part of the facility policy until the attraction is fully checked out. Using the initial start-up paperwork checklist (or a modification) all checks should be completed. The use of a camera that records time and date can be of value when taking pictures of a pressure gauge or items in the area at the time of the incident. The use of a camera may assist in ruling in or out the possibility of a mechanical failure. The Accident Review Team should have enough people who have gone through the training so they can respond very quickly.

Mr. Kramer inquired if the facility tracks or can track the number of visitors using an attraction. Mr. Kenny Walker, City of Lindsay, replied that some attractions can do that but not all. Mr. Kramer wondered if it may be helpful to track that information for a few months.

Staff recommended the Executive Committee exclude coverage for claims arising out of skateboard park foam pits and require the City of Lindsay to notify the CSJVRMA of the completion of the archery range, zip line, Giant Sequoia Tree, and other added attractions/exposures.

President Compton requested that item 9A, Report from the Memorandum of Coverage Subcommittee be discussed prior to a vote on the recommendation for item 6B.

9. ADMINISTRATIVE MATTERS

A. Report from the Memorandum of Coverage Subcommittee

Subcommittee Chairperson Jo Barrick reported that the Memorandum of Coverage (MOC) Subcommittee met prior to the Executive Committee meeting to review the MOCs for the 2009/10 fiscal year and would provide recommendations for all the MOCs at the June Executive Committee meeting. Regarding the Pooled Liability Program MOC, Ms. Barrick reported that the Subcommittee will recommend the following exclusion as provided by Mr. Kline:

- Amend Section VI – Exclusions, add number 18 to read: “Claims arising out of the ownership, operation, maintenance or use of any skateboard park foam pit” and renumber all exclusions after number 18.

Ms. Workman noted this exclusion only pertains to the skateboard park foam pit as other attractions are not yet completed and the MOC Subcommittee requested notification from the City of Lindsay prior to the opening of a new attraction to allow Mr. Kline the opportunity to assess the attraction. Mr. Kramer also noted that the Subcommittee discussed the possibility of endorsing coverage for certain attractions back on to the MOC with a sub-limit of coverage. President Compton then returned the discussion to item 6B.

**Jo Barrick moved to recommend the Executive Committee exclude coverage for claims arising out of skateboard park foam pits. Coverage for the archery range, zip line, giant sequoia tree and other added attractions/exposures will require a sign off by the Executive Committee once the attractions are complete and Mr. Kline has the opportunity to assess the attractions and make a recommendation to the Executive Committee. Seconded by Bill Lewis. Motion passed unanimously.**

Discussion ensued and a question was raised regarding waivers. Mr. Walker explained the waivers obtained in the membership process. Mr. Barrows suggested that some type of waiver language be included on the back of the ticket or card given to visitors.

6. LIABILITY PROGRAM

A. Reports by Staff and Service Providers

1. Oral Report by Litigation Manager

Mr. Linzie Kramer, Litigation Manager, stated there were 56 new claims/incidents reported during the month of May 2009; nine were negligent driving cases with member city employees at fault. There was one alleged police excess force case, eight trip and falls and one serious claim. Mr. Kramer briefly discussed some of the claims with the Executive Committee.

2. Report on Coverage Denials

Mr. Kramer directed the Committee to the Report on Coverage Matters for April and May 2009 included with the agenda packet.

3. Report by Claims Administrator (AIMS)

Included in the agenda packet were written reports from Mr. Ken Wilkerson, AIMS for the months of March and April 2009. Mr. Wilkerson reviewed the reports with the Committee.

4. Report on California Affiliated Risk Management Authorities (CARMA)

CARMA is the excess pool through which the CSJVRMA obtains excess liability coverage.

The CSJVRMA representative serving on the CARMA Board of Directors is Mr. Joe Donabed, City of Hughson. The alternate representative is Ms. Linda Abid-Cummings, City of Riverbank.

Included in the agenda packet was a CARMA Summary of Action Items from the April 17, 2009, Board of Directors' meeting. Ms. Workman reviewed the report with the Committee and specifically noted the following items:

- Staff is continuing to evaluate a CARMA \$2M SIR and will make a recommendation at the June Executive Committee meeting;
- PARSAC is leaving CARMA effective July 1, 2009;
- The CARMA Board reviewed and approved the draft preliminary operating budget omitting PARSAC and utilizing funding at the 80% confidence level for the 2009/10 program year;
- The CARMA Board approved the appointment of the Group Administrator as the Authorized Representative for purposes of registering CARMA with Centers for Medicare and Medicaid Services for the mandatory Medicare Reporting; and
- The CARMA Board approved Resolution 2-2008/2009 Establishing a Minimum Contribution Calculation Policy for new individual members of a JPA already participating in the CARMA Program.

5. Report on Employment Risk Management Authority (ERMA)

The Employment Risk Management Authority (ERMA) provides employment practices liability coverage to its members. ERMA is an optional program of the CSJVRMA.

The CSJVRMA representative on the ERMA Board of Directors is Mr. Dave Elias, City of Fowler. Ms. Workman reported that the alternate representative position is

currently vacant and will be addressed later in the meeting.

Ms. Workman noted that ERMA Loss Run Reports were included in the agenda packet in addition to a written report regarding recent ERMA activity. Ms. Workman reviewed the report with the Committee and specifically noted the following:

- The ERMA Board agreed not to levy an assessment on June 30, 2009, and to re-allocate the Capital fund next year. At that time, the 2002/03 and 2003/04 program years will be closed, with any remaining surplus being applied to the 2004/05 program year;
- The ERMA Board agreed to increase funding to a 75% confidence level for the 2009/10 budget; and
- The ERMA Training and Education Committee has sent out a survey to selected members to determine training needs of the members which the Committee will utilize in developing a recommended training curriculum to be presented at the ERMA June Board meeting. The Committee hopes to implement training in July to assist those members experiencing layoffs and furloughs.

C. Report by Claims Administrator (AIMS) Regarding Online Claims Program Conversion

Ms. Judy Sullivan, AIMS, stated the completion date for the conversion of the Workers' Compensation Program has been pushed back from July 1, 2009, to August 1, 2009, and also reported that the conversion date for the Liability Program has been pushed back from September or October 2009 to October or November 2009. Mr. Dave Whiteside, AIMS reported that the "Dashboard" may not be available until the conversion is complete.

Mr. Jeff Cardell, City of Clovis, inquired if training for NavRisk will be available in July so that members will be prepared to access their claim information on August 1<sup>st</sup>. Mr. Whiteside stated that he will ask Ms. Diane Wratten, AIMS, to provide a list of training opportunities to all CSJVRMA members. Mr. Cardell encouraged AIMS to keep communication lines open during the conversion process to make members aware of any technical difficulties and expected fix times, in order to avoid frustration during the conversion.

7. WORKERS' COMPENSATION PROGRAM

A. Reports by Staff and Service Providers

1. Report by Claims Administrator (AIMS)

Prior to the meeting, the Executive Committee received written reports pertaining to claims for February, March, and April 2009, as prepared by Ms. Judy Sullivan.

Ms. Sullivan reported that she and Ms. Tammy Vitali, Workers' Compensation Manager, will be conducting Workers' Compensation 101 Workshops in each region in July 2009. Mr. Kramer reported that Liability Claims Handling Workshops will be held in each region in June and the Committee requested that an email reminder for the Liability Claims Handling Workshops be sent out.

Ms. Sullivan also reported that she and Ms. Vitali are actively working with members to close out settled claims. Ms. Sullivan noted that a list of future medical claims was sent to each member city in April 2009, asking that members reply with those claimants that are no longer employed by the city. These claimants are the target group for buying out future medical care and closing the claims. To date, AIMS has only received replies from twelve member cities.

Mr. Whiteside reported that AIMS has signed a lease on a new location and the Fresno office will be moving in three weeks. Mr. Whiteside reported that AIMS will provide contact information when available.

2. Report on Local Agency Workers' Compensation Excess JPA (LAWCX)

The Local Agency Workers' Compensation Excess JPA (LAWCX) provides excess workers' compensation coverage to the CSJVRMA.

The CSJVRMA representative serving on the LAWCX Board is Mr. Leon Compton, City of Ripon, and the alternate Board representative is Mr. Greg Applegate, City of Sonora.

Prior to the meeting the Committee received a written report regarding recent LAWCX activity. Ms. Workman reviewed the report with the Committee and specifically noted the following:

- LAWCX agreed to use actual 2007/08 payroll in the 2009/10 budget as opposed to the historical practice of inflating actual payroll by 5% per annum due to current economic conditions facing LAWCX members. Each member's premium will still be adjusted based on actual 2009/10 payroll in the spring of 2011;
- The LAWCX Executive Committee moved to maintain the \$150k pool option for the 2009/10 year to be evaluated prior to the 2010/11 year. The

reasons for keeping the \$150k pool option were to stay affordable, adaptable, and available as well as, to have a marketing tool for smaller members;

- LAWCX contracts with Bickmore Risk Services (BRS) for Risk Control Services with the current contract expiring June 30, 2009. LAWCX is evaluating a new contract as well as a restructuring of the Risk Control Services; and
- With the economic downturn, public entities are seeing more multiple employment and mutual aid situations where there are no formal contractual agreements in place to clearly define the employer's responsibilities. The Executive Committee requested that legal counsel, Mr. Richard Shanahan, conduct an overview of multiple employment and mutual aid situations at the June 9, 2009, LAWCX Board meeting.

## 8. FINANCIAL MATTERS

### A. Report on Administrative Costs

Ms. Workman reported that staff provided an Administrative Costs report at the March 2009 Executive Committee meeting. At that time, two questions were raised and staff was directed to research the questions and bring back the answers to the May 2009 meeting.

Ms. Workman noted the first question was regarding the \$50k Contingency Fund and whether there was an opportunity to lower the amount of the fund. Ms Workman reported that staff has evaluated the issue and recommends not reducing the fund amount at this time for the following reasons: 1) The CSJVRMA will likely incur a considerable cost due to the Medicare/Medicaid & State Children's Health Insurance Program (SCHIP) Extension Act 2007 (MMSEA) which is not included in the budget, a portion of the Contingency Fund can be allocated to this expense for the 2009/10 fiscal year; and 2) The Contingency Fund is an excellent tool that allows the CSJVRMA to handle unanticipated costs without invoicing members and creating the need for members to obtain approval for those costs from their City Councils. In addition, any unused portion of the Contingency Fund is allocated to the pooled programs and the members benefit from these funds during the retrospective adjustment process.

The second item that staff was asked to research was the rise of meeting costs from 2006/07 to 2007/08. Ms. Workman reported that the variance in costs was a result of the CSJVRMA receiving a reimbursement from the State for meeting costs for the 2006/07 fiscal year. Specifically, SB 90 stipulated that the State would reimburse public entities a portion of funds for state mandated costs including meetings. The CSJVRMA applied for the funds and was reimbursed. These funds are no longer available.

Mr. Cardell inquired if staff knew the anticipated costs of the Medicare reporting issue. Mr. Kramer replied that he does not believe it will be as significant as first thought; however, there are too many unknowns at this point to estimate the cost. Mr. Kramer reported that the pools administered by BRS were gathering data on the number of Medicare

cases in order to provide that to the competing reporting firms. Mr. Kramer also reported that the two firms previously interviewed by BRS have both changed their methodology for costs and a third firm has requested an interview which will be held next week. In addition, Ms. Workman noted that AIMS has entered into a contract with one of the firms, Gould & Lamb, although this is not an exclusive contract requiring all their clients to do the same, it may be beneficial to go with the same firm to ensure the ease of data transfer at no additional programming costs to the CSJVRMA. Ms. Workman also noted that AIMS contract with Gould & Lamb is for no cost for the reporting aspect of the program, but rather a guarantee for the MMSEA claims. Finally, Mr. Kramer noted that both the initial registration and reporting period dates for the program had each been extended by three months due to the government's inability to start up the program at this time.

The Executive Committee concurred with the recommendation by staff to make no change to the Contingency Fund at this time.

9. ADMINISTRATIVE MATTERS (Continued)

B. Calendar of Meetings for the 2009/10 Program Year

Included in the agenda packet was a proposed calendar of meetings for the 2009/10 program year. Mr. Bill Lewis, City of Woodlake, noticed an error on the date for the Regional Meetings; the schedule should state the Regional Meetings will be held on Friday, June 25, 2010.

**Jeff Cardell moved to approve the Calendar of Meetings for the 2009/10 program year with the change to the Regional Meetings as noted above. Seconded by Bill Lewis. Motion passed unanimously.**

C. Appointment of the Alternate Representative to ERMA's Board of Directors

President Compton reported that recently, Mr. Gerald Forde, City of McFarland, resigned his position as the CSJVRMA Alternate Representative to the ERMA Board of Directors. Staff was asked to solicit interest in the position from members and three members expressed their interest in the position. President Compton appointed Ms. Margaret Silveira, City of Gustine, to the position.

D. Non-Board Meeting Attendance Penalty Waiver Requests

Ms. Workman reported that seven CSJVRMA member cities were not represented by their Board or Alternate representative or by a non-voting delegate at the Special Board meeting held on April 29, 2009. In compliance with the CSJVRMA Bylaws staff sent out the required penalty letters notifying the seven cities of the penalty they incurred for the non-attendance. All seven cities submitted requests for a penalty waiver. Staff recommended the Executive Committee waive the non-Board meeting attendance penalties due to the

infrequent nature of special meetings in the CSVJRMMA as well as this being the first teleconference Board meeting.

Mr. Cardell requested that if the waivers are approved that it be noted they are non-precedent setting.

Discussion ensued regarding notification of the Special Board meeting and Ms. Workman questioned whether the Executive Committee might want to recommend a change in the Bylaws to differentiate between regular and Special Board meetings. Ms. Lois Hull, City of Selma, noted it was reported at the March 2009 Board meeting that a Special Board meeting would need to be held prior to May 1, 2009. In addition, President Compton noted that attendance at a Special Board meeting is as crucial, if not more crucial, than attendance at a regularly scheduled Board meeting due to the urgent nature of the business being discussed. It was also noted that each member had been notified and reported they would be represented at the Special Board meeting but were unable to do so for a variety of reasons.

**Tim Przybyla moved to approve waiving the non-Board meeting attendance penalties for the April 29, 2009, Special Board Meeting for all seven members with the caveat that this waiver be non-precedent setting. Seconded by Margee Fallert. Motion passed unanimously.**

E. Crime Shield Coverage

This item was moved to the June 2009 Executive Committee meeting.

F. Amendment to the Agreement for Risk Management, Financial and Administrative Services

Ms. Workman reported that as a result of the new legislation regarding the Medicare / Medicaid & State Children's Health Insurance Program (SCHIP) Extension Act 2007 (MMSEA) the CSJVRMA has authorized the Administrator with new duties that should be addressed in the current contract with the CSJVRMA.

Therefore, Ms Charlotte Hemker-Smith, Legal Counsel, is recommending the following paragraph be added to the Agreement between the CSVJRMMA and BRS for Risk Management, Financial, and Administrative Services, Section XVI INDEMNIFICATION:

The Authority agrees to indemnify, protect, defend, and hold harmless the Administrator and BRS from any and all liability which the Authority, the Administrator, and/or BRS may incur as a result of acts or omissions of BRS and/or the Administrator while in the course of acting as the Authority's Authorized Representative with regard to the requirements of the Medicare/Medicaid & State Children's Health Insurance Program (SCHIP) Extension Act of 2007 (MMSEA) for registration with the Centers for Medicare and Medicaid Services (CMS) in compliance with the MMSEA requirements, as set forth in Resolution No. 3-08 adopted by the Board of Directors on April 29, 2009.

Ms. Workman noted that Ms. Hemker-Smith had also prepared language for inclusion in the Pooled Liability Program MOC and that language will be presented at the June Executive Committee meeting.

**Jeff Cardell moved to approve the amendment to the Agreement for Risk Management, Financial, and Administrative Services between the CSJVRMA and BRS. Seconded by Jo Barrick. Motion passed unanimously.**

10. CLOSING COMMENTS

A. Executive Committee

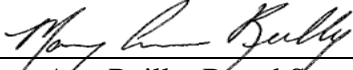
Mr. Walker provided a brief history of the McDermont Field House project noting that city personnel had participated in presentations regarding revitalization of downtowns and it was reported that a town should have six to eight different areas of interest. The City of Lindsay purchased the vacant packing house with the help of several agencies including the Redevelopment Agency, and the attractions were built. Last month, the facility turned a small profit and there are still several major attractions to be completed. Mr. Walker offered the Executive Committee a tour of the facility and an opportunity to participate in some of the attractions.

B. Staff

None

11. ADJOURNMENT

The May 28, 2009, CSJVRMA Executive Committee meeting adjourned at 11:55 a.m. by general consent.

  
\_\_\_\_\_  
Mary Ann Reilly, Board Secretary