**MINUTES OF THE**

**MBASIA BOARD OF DIRECTORS MEETING**

**Tuesday, March 1, 2011 at 9:30 A.M.**

**City of Sand City, CA**

**MEMBERS PRESENT**

Lisa Murphy, City of Capitola

Jaime Goldstein, City of Capitola

Daniel Dawson, City of Del Rey Oaks

Rene Mendez, City of Gonzales

Michael Compton, City of Greenfield

Robert Galvan, City of Hollister

James Larson, City of King City

Kathy McFall, City of Marina (left at 11:00 a.m.)

Linda Scholink, City of Sand City

Steve Ando, City of Scotts Valley

Adela Gonzalez, City of Soledad

Francine Uy, City of Soledad

**MEMBERS ABSENT**

Michael Compton, City of Greenfield

Steve Matarazzo, City of Sand City

**GUESTS AND CONSULTANTS**

Ken Maiolini, Risk Management Services

Kent Rice, Kent Rice and Associates

Conor Boughey, Alliant Insurance Services

Monica Sandbergen-Izo, Alliant Insurance Services

Michael Simmons, Alliant Insurance Services

**A. CALL TO ORDER**

MBASIA Chair Rene Mendez called the meeting to order at 9:35 A.M.

**B. CONSENT CALENDAR**

B1. Approval of Minutes – October 29, 2010 Board of Directors

B2. Transition Milestone Report

Conor Boughey gave an update on the Transition Milestone Report and advised the members that the following items have been completed: Alliant visited with JT2 twice to go over claims and succession planning, Executive & Finance Committee was held, Safety Committee Meeting was held, and CARMA. Daniel Dawson pointed out a few typos on page 6 of the agenda.

Adela reported that JT2 visited the City of Soledad and gave a status report about a month ago on WC and she advised that it was very helpful.

B3. Vince Hurley Legal Services Letter of Engagement

Daniel Dawson stated that it’s listed in the agenda as a Letter of Engagement and wanted to know if it’s a proposal or letter of engagement. Michael Simmons advised that we are waiting for a revised document from Vince Hurley that states “Letter of Engagement”.

A motion was made to approve remainder of consent calendar.

**MOTION:** Kathy McFall **SECOND:** Adela Gonzales **MOTION CARRIED**

**C. ORAL COMMUNICATIONS & PUBLIC COMMENTS**

There were no public comments.

**D. BOARD OF DIRECTORS**

**D1. Bills and Correspondence**

Daniel Dawson inquired about the Department of Industrial Relations fee and what exactly it is.

**D1a. Ratification of Disbursements**

A motion was made to ratify the disbursements for the months ending October 31, 2010, November 30, 2010 and December 31, 2010.

**MOTION:** Daniel Dawson **SECOND:** Adela Gonzales **MOTION CARRIED**

**D2. UNFINISHED BUSINESS**

**D2a. Memorandum of Coverage – Contractual Liability Review**

Conor Boughey. advised that this was included as an information item as a result of helping several members with contracts. Members thought that indemnity contracts were not covered by the Authority but rather its errors & omissions and breach of contract that are not covered.

Michael Simmons advised that if a city enters into a contract with a developer to allow the developer to build 100 homes and then the city council changes their mind, that’s a business risk or breach of contract and there is no coverage for that type of situation. A tort liability policy does not respond to this type of claim because there is no property damage, bodily injury or personal injury.

Kathy McFall had a question in regards to an incident in which a drunk driver hit an unmarked police car. She wanted to know who to report the claim to. Conor B. advised that she would report the claim to Alliant since the City of Marina has property coverage placed through us. Conor Boughey advised that we would then forward it on to the claims department.

**D2b. MBASIA’s Workers’ Compensation TPA – Succession Plan**

Conor Boughey reported that Alliant met with JT2 regarding succession planning should Janet leave or become ill. We reviewed their claim files and found that Janet is at her maximum for indemnity claims at 152. Recommended case load is 150. To add another adjuster would increase the fee. Through our discussions, it was recommended that Hannah Fernandez be Janet’s backup. She has worked with Janet for 6 years, has worked with public entities and is experienced with 4850. Michael Simmons advised that in the Pleasanton office, there are not a lot of adjusters and not a lot of options for people to go to. But this recommendation is a good first step. Michael S. stated that by bringing Hannah on and as she grows in her career, she will get more experience which will lead to a dual backup system. 2-3 adjusters from JT2 will attend the strategic planning meeting so that MBASIA becomes familiar with the depth of staff. Michael S. advised that MBASIA has 143 open indemnity claims and 11 open medical claims. Because MBASIA has only 11 medical claims, they are able to get away with having only one dedicated adjuster.

Kathy McFall thought she recalled from the strategic planning meeting that MBASIA paid an extra fee for Janet, however Kent Rice advised that the fee was a salary raise so that Janet would remain as MBASIA’s adjuster. Michael Simmons advised that MBASIA’s claims handling costs are average compared to other JPA’s that Alliant works with.

Adela Gonzales. asked if there would be an extra fee for brining Hannah on and Michael S. advised that there will be no extra cost.

Michael Simmons advised that Alliant will be having monthly meetings with JT2 at their office in Pleasanton.

**D2c. Liebert Cassidy Agreement**

Conor Boughey reported that MBASIA has a contract with Liebert Cassidy to provide symposiums where each member agency can send as many employees as they would like to these symposiums to receive training. Additional free legal advice is given; however, if research is needed, an additional fee will be charged $2,800 per entity. MBASIA is a member as one unit. After reviewing the attendance records, MBASIA has moderately used Liebert Cassidy’s services. Seeking MBASIA’s input on value.

Michael Simmons advised that Linda Tripoli used to work at Liebert Cassidy but has recently left the firm and has become independent. A few MBASIA members were using Linda’s services, but those services are provided for free by Liebert Cassidy. Linda is now referring members to Vince Hurley.

Rene Mendez advised that Liebert Cassidy provides good services and good quality training but he has only sent a handful of employees to the trainings in the past due to lack of staff available. Mr. Mendez further stated he thinks that it is important to have this available and suggested that we monitor the trainings over the year and monitor who is attending the seminars and have this be our focal point. Advised that MBASIA should maybe look at Liebert Cassidy services as a way to prevent claims.

Kathy McFall reported thinks Liebert Cassidy is a great resource, but she can’t seem to get employees to go to the seminars. She would like us to stay with Liebert Cassidy but would like to explore ways of getting the same services in a different package and that this would be a good discussion to have at the strategic planning session.

Michael S. - Alliant will remind MBASIA to attend sessions and will research different options for 2012 prior to this year’s strategic planning meeting in the fall.

Robert G. – advised that we should stick with Liebert Cassidy

Adela Gonzalez advised that the City of Soledad is a high user of the services provided by Liebert Cassidy and that in addition of the trainings, they appreciate the phone.

Daniel Dawson advised that he does not have any employees to send to the symposiums and suggested reassigning the cost to members who are using the services, but after listening to Mike Simmons and Rene Mendez advised that he thinks it’s a good investment for MBASIA and a good tool to use.

Michael Simmons reminded the members that although maybe only some of the members benefit from the services provided by Liebert Cassidy, the goal is to reduce losses which will then benefit all members of MBASIA as a whole.

Rene Mendez encouraged members to view the services provided by Liebert Cassidy as another tool to deal with Workers’ Compensation losses, just like the grant program is another tool to use.

Alliant will do research to see if members are able to opt out LC contract and $2,820 fee, or if the $2,820 fee is based on all members of

Conor Boughey advised that a pending fee of $28,320 which includes a late fee of $100 is due for 2011.

After further discussion, a motion was made to renew the contract with Liebert Cassidy for 2011 and to research different options in 2012.

**MOTION:** Adela Gonzales **SECOND:** Lisa Murphy

**D3. COMMITTEE REPORTS**

**D3a. Executive and Finance Committee**

**D3a1. Report from the October 14, 2010 Executive and Finance Committee Meeting**

Conor Boughey reported that the Executive and Finance Committee met to discuss several items that came out of the strategic planning meeting, one of which was to renew the contract with RMS.

**D3a2. Liability TPA Contract Update**

Conor Boughey reported that Executive and Finance Committee were given direction to renew contract with RMS. Ken Maiolini from Risk Management Services agreed to renew the contract with the existing fees and contract language updating term for a 3 year term from January 1, 2011 to December 31, 2013 for 3 year term with a 1 year optional extension. The extension has to be to be mutually agreed upon. Additionally, a section was added in the contract for annual performance measures.

A motion was made to ratify the Liability contract with Risk Management Services.

**MOTION:** Kathy McFall  **SECOND:** Robert Galvan **MOTION CARRIED**

**D3a3. Financial Auditor RFP**

Conor Boughey reported that the Executive & Finance Committee reviewed the proposed RFP but it was decided to postpone the RFP process due to the fact that the financial audit has not been completed yet. The RFP has been updated with financial auditor reviewed a proposed RFP but that it was postponed due to the annual audit not being completed yet.

Steve Ando advised that financial audit should be completed by end of March.

Conor Boughey advised that the list of auditors included in the agenda packet is those that we have worked with on other Public Entity programs.

Conor B. advised that the list of auditors included in the agenda packet are those that we are familiar with as a result of working with other Public Entities and are the ones that we were planning on sending the RFP to, but others can be added Conor Boughey advised that RFP’s can be posted to different websites, such as CSAC’s website, which is checked by financial auditors. But it has to be posted until the proposal date is due.

Lisa Murphy from the City of Capitola suggested maybe adding a some local firms.

Rene M. suggested just posting the audit.

Michael S. suggested adding any members’ financial auditors to the list who are interested and send it out.

Robert Galvan suggested posting the audit to the website to solicit bids and that also the Finance Committee establish the criteria and evaluate the criteria and then come back to the next Board meeting with the recommendations.

Michael Simmons suggested having the members send a list of auditors that they would be interested and add then to the list and send the RFP to those auditors would like added to the list and not post it on the website so that MBASIA will only have 6-7 bids to look at.

Finance committee to meet on criteria.

After further discussion, a motion was made to approve the drafted Request For Proposal document included in the agenda packet, to have it posted on CSAC’s website, and to send it out after the final audit has been completed to the proposed listed auditors and any others added to the list by the members. The finance committee will meet to select the criteria and will review the responses to the RFP and will bring it back to the next board meeting for final approval.

**MOTION:** Daniel Dawson **SECOND:** Rene Mendez **MOTION CARRIED**

**D3a4. Training Policy and Procedure**

Conor Boughey advised that the Executive and Finance Committee drafted and subsequently approved the Travel and Training Policy and Procedure document in the agenda packet. Conor reminded the members that each city has $2,000 available to them for travel and training expenses, such as attending PARMA any other Risk Management training opportunities.

James Larson from King City recommended instead of stating a specific amount for meals, that members should follow the variable IRS rules.

A motion was made to approve the Travel and Training Policy and Procedure with the amendment made to replace the per diem sections B, C and 3 with the applicable variable IRS rules.

**MOTION:** Robert Galvan **SECOND:** Daniel Dawson **MOTION CARRIED**

**D3b. Safety Committee**

**D3b1. Safety Committee Survey and Report**

Conor Boughey advised that the Safety Committee met and reviewed the Policy and Procedures received from the members and that there were a number of agencies that did not have a code of safe practices, return to duty program, IIPP training and routine inspections of…. Conor Boughey pointed out there is a difference of opinion among the members regarding the return to duty program and whether or not each member should have one. Conor advised that Kent Rice chose the City of Hollister as a Best Practices Model.

Conor B. advised that some members may or may not want to have a return to duty program.

Adela suggested member agencies meeting individually with Safety Committee and review the areas that need improvement.

James Larson advised that the City of King City needs help with IIPP training and how to evaluate if the training is adequate. Robert Galvan offered to help King City to get setup with CSAC for help with their IIPP training.

Rene Mendez advised that the Safety Committee will look at the pros and cons of cities having a Return to Duty Program.

In response to a few of the members stating that they appreciated Bob Garon and Ron Fritz from Alliant going to their cities and performing an inspection, Michael Simmons advised that Alliant will discuss at the next Safety Committee meeting the scope of the, Alliant to discuss individuals available to go to each city and perform outside inspection with a component built in to where the safety specialist follows up with each city 6 months to 9 months after the inspection to follow-up on recommendations of outside inspection.

Adela asked for an email to be sent on when Safety Committees are being held.

**D3b2. Safety Committee Budget Action – Grant Program Policy and Procedure**

Rene Mendez advised that the intent of the grant program is to have members utilize the funds that they contribute in areas that fit each city.

Conor Boughey further explained the process to access the grant program funds. that the advised that it’s a reimbursement policy. First, the member agency submits their idea in writing to the Safety Committee for approval and if the Safety Committee approves the idea, the member agency can then submit a reimbursement request from MBASIA after the money has been spent. As long as 3/4th’s of the committee agrees that the idea fits the parameters of program, the idea will be approved for reimbursement.

Conor advised the members that they can use him or Monica as a point person to send their ideas to and that we will then forward those on to the Safety Committee for approval.

Kathy advised that their Safety Committee was thinking about hiring someone to come in and do analysis of fatigue in the work environment and the impact of this on their Workers’ Compensation claims.

Robert Galvan reminded members that CSAC-EIA provides a lot of free information on Target Safety and to contact Janet at JT2 for any ergonomic training and inspections of work stations.

A motion was made to approve the Grant Program Policy and Procedure.

**MOTION:** James Larson **SECOND:** Daniel Dawson **MOTION CARRIED**

**D3c. Coverage and Claims Committee**

**D3c1. MBASIA Liability Claims Audit**

Conor Boughey reported that all RMS claims files excess of $10,000 were reviewed and no issues were found by Tim Farley.

**D3d. Ad Hoc Budget Committee Meeting**

**D3d1. Proposed Legal Assistance Fund**

Rene Mendez advised that the Legal Assistance Fund was discussed at the last Budget Committee Meeting. Mike Simmons advised that he thought it would be great idea for members to have access to a lawyer for quick advice with the goal of reducing losses and potentially preventing a $1M loss from occurring in the future. Vince Hurley advised that he thinks MBASIA members are calling him on average of $8,000 to $10,000 a year. This could be another tool in the tool box so that members are not hesitant to call for advice for fear that they will be billed for attorney fees. Michael Simmons stated that the charges Vince Hurley advised that within 24 hours after performing a service, he will generate an invoice. This will enable MBASIA to track how much of the Legal Assistance Fund has been eroded.

Michael Simmons advised that the Letter of Agreement from Vince that was included in the agenda packet should only list an hourly rate, not annual rate. Alliant will request an amended letter of agreement.

Michael Simmons advised that he envisioned the proposed Legal Assistance Fund as a parallel program to Liebert Cassidy on non-employment practices issues.

Adela wanted to know if this fund would pay for a consultant to go to their city and do ADA interactive. Michael Simmons advised that the fund should be used for 4 issues: personnel issues, WC issues, disciplinary action issues and catastrophic injury issues. Mr. Simmons advised that the legal assistance fund should be used for pre-loss issues, to prevent that $1M claim, and that Ken/Vince will be brought in for post-loss issues.

In order to move forward, a policy will be drafted and will be brought back at the next Board meeting.

Michael Simmons defined ALAE - Vince’s time becomes ALAE once a claim is reported.

Daniel Dawson suggested reducing fee to $10,000. Steve Ando advised that the fee was set higher to encourage the members to use fund.

A motion was made to continue refining and to move forward with the Proposed Legal Assistance Fund.

**MOTION:** Adela Gonzalez **SECOND:** Robert Galvan **MOTION CARRIED**

**D4.** **NEW BUSINESS**

**Nothing to report.**

**D5.** **LOSS REPORT**

**D5a. Workers’ Compensation Administrator’s Report**

Michael Simmons advised that he is surprised that MBASIA has so few medical only claims. He further reported that typically the trend is a 1/3 to 1/2 of all claims are medical only claims. Alliant will discuss further with JT2 regarding why the number of MO claims is so low – we want to make sure that these MO claims are not becoming indemnity claims. Mike S. advised that the 150 indemnity claims listed on the report are what is open at any window in time.

**D5b. Liability Third Party Administrator’s Report**

Ken Maiolini advised that since the October 2010 meeting, 5 litigated claims have been resolved. One case involved a railroad track fatality in which the plaintiff dismissed the claim and this was a CARMA reported claim. Ken also stated that he now has clear view on CARMA’s reporting requirements and that he is able to produce loss runs that just show what was reported to CARMA.

Ken discussed the requirement for Medicare reporting on claims which will become law next year. A formal reporting method must be used, Three different options, GenX, which can be used through CARMA, JT2 or Golden Land.

Ken suggested looking into the GenX option as his office is familiar with how to do the reporting and that the cost should be minimal as there won’t be a lot of cases per year reported. Ken advised that he will look into the cost and the overall impact on the program.

Motion was made to use GenX as MBASIA’s Medicare reporting method.

**MOTION:** Jaime Goldstein SECOND: **Robert Galvan** **MOTION CARRIED**

 **The MBASIA Board of Directors entered into Closed Session pursuant to Government Section Code 54956.95 at 11:43 p.m.**

**The MBASIA Board of Directors entered out of Closed Session pursuant to**

**Government Section Code 54956.95 at 11:48 p.m.**

**E. PROGRAM ADMINISTRATOR’S REPORT**

**E1. PARMA Report – Handouts**

Conor Boughey passed out the handouts from the 2011 PARMA conference.

**F. CORREPONDENCE/ INFORMATION**

**F1. Board of Directors Meeting Schedule**

Rene Mendez advised that the next Board meetings are scheduled for April 11, 2011 and June 13, 2011.

**G. GENERAL RISK MANAGEMENT ISSUES**

None

A motion was made to adjourn the meeting at 11:50 p.m.

**MOTION:** Rene Mendez **SECOND:** Adela Gonzalez **MOTION CARRIED**