

**TEXAS MUNICIPAL LEAGUE
INTERGOVERNMENTAL RISK POOL**

Board of Trustees Meeting
El Paso, Texas
April 16, 2005

Trustees Present

Pat Norriss, Chair
Leo Montalvo, Vice Chair
Alex Bickley
Byron Black
Rickey Childers
Don Dodson
Makia Epie
Andres Garza
Mary Gauer
Don Henderson
Robert Herrera
Greg Ingham

Staff Present

Marvin Townsend
Carol Loughlin
David Reagan
Hank Domeracki
Mike Bratcher
Scott Epperson
Les Horne
David Longoria
Mike Rains
Allan Romer
Floyd Schock
Bill Snyder
Tito Villegas
Debbye Mangum

Also Present

Kevin Bingham, Deloitte Consulting, LLP
Debra Fox, Guy Carpenter & Co.
Jan Lommele, Deloitte Consulting, LLP
Rick Pokorny, Northern Trust
Robert Reader, Guy Carpenter & Co.
Penny Wyatt, Schinnerer & Company

Chair Pat Norriss called the meeting of the Board of Trustees of the TML Intergovernmental Risk Pool to order at 8:00 a.m., Saturday, April 16, 2005.

Roll Call and Excused Absences

Marvin Townsend noted the absence of Richard Browning, Wayne Collins, Larry Dovalina, Frank Sturzl, and Tim Vaughn and reported the reasons they were asking that their absences be excused.

MOTION by Alex Bickley, seconded by Don Dodson, to excuse the absences of Richard Browning, Wayne Collins, Larry Dovalina, Frank Sturzl, and Tim Vaughn. Motion carried with unanimous approval.

Recognition of Mike McGregor's Service

Pat Norriss expressed appreciation to Mike McGregor for his years of service to the Board of Trustees and wished him well.

Consideration of Minutes of January 22, 2005 meeting in McAllen

MOTION by Leo Montalvo, seconded by Rickey Childers, to approve the minutes shown under Tab 2. Motion carried; Makia Epie abstained since he did not attend the meeting.

Report of the Nominating Committee regarding the vacancy in Place 12

Pat Norriss reported that Greg Ingham has been appointed to chair the Nominations Committee. Mr. Ingham stated that he wanted to visit with the Nominations Committee and submit its recommendations for Place 12 at the next Board meeting.

FINANCE COMMITTEE

Review of February 28, 2005 (5-month) Financial Statements

Tito Villegas presented an overview of the financial statements under Tab 5⁽¹⁾.

Response to Auditor's Report on Internal Controls

Hank Domeracki presented the auditor's report from Ernst & Young LLP. He noted that the auditors had no recommendations for internal controls but made the suggestions that the Pool (1) make changes in the presentation of their financial statements to distinguish between "current" and "non-current" assets and liabilities, (2) subdivide members' equity into components for capital assets and unrestricted amounts, (3) classify investment income as non-operating rather than operating, and (4) use the term "fair value" rather than "market value" when referring to investments. The Pool agrees with the first two suggestions but will continue to classify investment income as operating income and use the term "market value" when referring to investments.

The auditors also recommended that the Pool monitor their loss trends and possibly set reserves higher if the trends continue to move upward. The Pool concurs and will closely monitor loss trends and take necessary action.

¹-All references to "Tabs" in these minutes are references to the Tabs in the Board of Trustees Agenda packet.

Ernst & Young L.L.P also stated that additional procedures might be necessary for the 2005 audit and asked that an additional \$10,000 to \$15,000 be added to the contract if additional auditing is necessary. This item will be further discussed with Ernst & Young and, if needed, will be brought before the Board at the July meeting as an amendment to the contract with Ernst & Young.

Review of February 28, 2005 (5-month) Investment Report and report by Northern Trust under Tab 6.

Tito Villegas reported on investment income for the five months ending February 28, 2005. Rick Pokorny with Northern Trust reported on the performance of the investment managers, comparing the total rate of return and the return on investments to the benchmarks.

Recommended Change in Investment Policy

Hank Domeracki reported on the recommendation under Tab 7 to change the Pool's Investment Policy to increase the maximum amount each investment management firm can be authorized to invest from 25% to 33% of the Pool's total portfolio. It was also recommended that the 2006 request for proposals for investment management services allow proposers to provide quotes for managing either 25% or 33% of the Pool's total portfolio with the maximum compensation remaining at 10 basis points.

MOTION by Byron Black, seconded by Don Dodson, to approve the recommendations. Motion carried with unanimous approval.

Report on the restructuring of Columbia Management Group

Hank Domeracki represented a report on the restructuring of Columbia Management Group under Tab 8. Columbia's parent company, FleetBoston Financial Corp., was acquired by Bank of America. Since this will change the portfolio manager and the corporate structure, the Pool staff will meet with Columbia Management Group in Boston to review the Pool's account requirements and expectations.

Recommendation re Actuarial Services contract beginning June 1, 2005

Hank Domeracki presented the proposals for actuarial services beginning June 1, 2005 through May 31, 2008 under Tab 9. After reviewing the six proposals received for actuarial services, the Pool staff recommended PriceWaterhouseCoopers L.L.P be awarded a three-year contract for actuarial services for \$190,000.

MOTION by Byron Black, seconded by Mary Gauer, to award the actuarial services three-year contract to PriceWaterhouseCoopers L.L.P. for \$190,000. Motion carried with Makia Epie and Don Henderson voting against the motion.

Recommendation re Depository Bank Services contract beginning June 1, 2005

Tito Villegas presented the depository bank services proposals from six banks. The term for the new agreement is from June 1, 2005 to May 31, 2008 with the option to renew for two successive one-year periods. Frost Bank provided the lowest proposal. The Pool staff recommends awarding the contract to Frost Bank.

MOTION by Byron Black, seconded by Makia Epie, to award the depository bank service contract to Frost Bank beginning June 1, 2005 through May 31, 2008 with the option to renew for two successive one-year periods. Motion carried with unanimous approval.

Management Information Report

David Longoria presented the "Management Information Systems Report" under Tab 10. Mr. Black inquired as to the possibility of purchasing laptops for the Board of Trustees to accomplish a paperless board report. This request will be analyzed as to costs and feasibility.

UNDERWRITING AND CLAIMS COMMITTEE

Workers' compensation rate recommendations for 2005-06

Carol Loughlin presented the workers' compensation rate recommendations for 2005-06 under Tab 12. Deloitte Consulting, L.L.P., the Pool's actuary, indicated that rates could be reduced by 1 percent for 2005-06. However, discounts and modifiers will reduce contributions approximately 7.6 per cent more than the 1 percent rate indicated by Deloitte Consulting for a total reduction in contributions of approximately \$5.2 million. Further, there are three major bills pending in the Senate and House that could significantly impact the cost of workers' compensation. SB 5 and HB 7 involve the restructuring of workers' compensation. SB 310 provides that heart attacks, strokes, and lung diseases suffered by firefighters or emergency medical technicians are presumed to be work-related. The impact of SB 5 and HB 7 is uncertain, so the staff recommended that rates not be changed in response to pending legislation. It was recommended that rates for 14 payroll classifications with loss ratios above 110% be increased by 5% as of 10/01/05.

MOTION by Mary Gauer, seconded by Byron Black, to increase workers' compensation rates by 5% in the 14 classifications with loss ratios above 110% beginning October 1, 2005. Motion carried with unanimous approval.

If SB 310 passes in its current form, the staff recommended that the rates for firefighters and EMT's be increased by 5% each year on October 1, 2005, with an annual review of the financial impact of SB 310.

MOTION by Mary Gauer, seconded by Greg Ingham, to increase workers' compensation rates for firefighters and EMT's by 5% in addition to the 5% increase already approved as of October 1, 2005, with an annual review of the financial impact of Senate Bill 310. Motion carried with unanimous approval.

Liability Reinsurance Recommendations for 2005-06

Penny Wyatt, Victor O. Schinnerer & Co., presented the liability reinsurance recommendations for 2005-06 under Tab 13. The staff recommended the Pool accept General Re and NLC-MIC's renewal terms for the layers above \$2 million and reduce NLC-MIC's quota share participation in the \$3 million layer excess of \$2 million from 26.67 to 22.5 percent and increase the Pool's retention from 18.33 percent to 22.5 percent.

In light of the recent headlines concerning Berkshire Hathaway, owner of General Reinsurance, and the allegations of wrongdoing at AIG in accounting for certain finite risk reinsurance products purchased from GenRe, Penny Wyatt will ask General Re to prepare a letter explaining the situation and how the allegations may or may not impact the Pool. Bruce Norvell, the GenRe underwriter who has handled the Pool's account for 15 years, will be available at the July Board meeting to answer any questions.

MOTION by Mary Gauer, seconded by Don Henderson, to approve the staff's recommendation under Tab 13 for liability reinsurance. Motion carried with unanimous approval.

Aviation Reinsurance for 2005-06

Penny Wyatt, Victor O. Schinnerer & Co., presented the recommendation for aviation reinsurance for 2005-06 under Tab 14. Based on the excellent loss experience of the Pool with Phoenix Aviation/Old Republic Insurance Company, Phoenix Aviation/Old Republic Insurance Company will renew coverage for 2005-06 on the same basis as expiring with the Pool's quota share increasing from 40 percent to 45 percent and Old Republic retaining 55 percent of all losses. This will reduce the Pool's contribution by \$30,050 in return for the Pool assuming more risk.

MOTION by Mary Gauer, seconded by Don Henderson, to accept the recommendation for aviation reinsurance as outlined under Tab 14. Motion carried with unanimous approval.

Liability rate recommendation and liability equity return recommendations for 2005-06

Carol Loughlin presented the liability rate recommendations for 2005-06 under Tab 15. Deloitte Consulting, L.L.P. indicated that a 6.5 percent rate increase was warranted. Based on modifiers for 2005-06, liability contributions will be approximately 3.2 percent lower than 2004-05. However, given the strong equity position of the Liability Fund, it is recommended that liability rates remain the same for 2005-06.

MOTION by Mary Gauer, seconded by Don Dodson, to accept the recommendation that the liability rates remain the same for 2005-06. Motion carried with unanimously approval.

Carol Loughlin presented the proposal to return a portion of members' equity from the Liability Fund due to the strong equity growth over the past ten years from \$24.6 million to its current level of over \$83 million. The Pool recommends that approximately \$4.9 million of equity be returned to members in the liability program in accordance with the staff's recommendations under Tab 15.

MOTION by Mary Gauer, seconded by Leo Montalvo, to accept the recommendation of a \$4.9 million equity return from the Liability Fund as outlined under Tab 15. Motion carried unanimously.

Boiler and Machinery Reinsurance 2005-06

Carol Loughlin asked that this renewal proposal for Boiler and Machinery Reinsurance from Traveler's be deferred. Traveler's Insurance Company provides coverage for losses greater than \$100,000 per occurrence, performs state required boiler inspections, and provides technical assistance in analyzing boiler and machinery claims. The Pool staff has been meeting with the Texas Department of Licensing and Regulation regarding the Department's preliminary consideration of a new rule that will present the Pool with new options for providing required inspections. The Pool recommended that the proposal from Traveler's be deferred to the July Board meeting so that options may be pursued with the Texas Department of Licensing and Regulation.

MOTION by Mary Gauer, seconded by Rickey Childers, to defer the renewal proposal for Boiler and Machinery Reinsurance for 2005-06 until the July Board meeting. Motion carried unanimously.

Consideration of Property Reinsurance 2005-06

Penny Wyatt, Victor O. Schinnerer, presented the property reinsurance proposal for 2005-06. Schinnerer and Guy Carpenter approached the Pool's reinsurers with a proposal to change the October 1 effective date of property reinsurance to May 1 because of the difficulty of negotiating reinsurance at a time that coincides with hurricane season. Schinnerer and Carpenter have negotiated favorable cancellation provisions for the Pool's current reinsurance consisting of a 54.6% return of premiums. The Pool recommends that the property reinsurance that was effective October 1, 2004, be cancelled effective May 1, 2005, as set forth in the staff's recommendation under Tab 17.

MOTION by Mary Gauer, seconded by Don Henderson, that the property reinsurance that was effective October 1, 2004, be cancelled effective May 1, 2005, as set forth in the staff's recommendation under Tab 17. Motion carried unanimously.

The next recommendation presented by Penny Wyatt was to change the effective date of the property reinsurance to May 1, 2005, and to accept the terms of coverage proposed by Lloyd's of London, AXIS Specialty, Ltd., and National League of Cities Mutual Insurance Company as recommended by the staff under Tab 17.

MOTION by Mary Gauer, seconded by Alex Bickley, to change the effective date of coverage for property reinsurance to May 1, 2005, and to accept the terms of coverage proposed by Lloyd's of London, AXIS Specialty, Ltd., and the National League of Cities Mutual Insurance Company as recommended by the staff under Tab 17. Motion carried unanimously.

Consideration of Property Rates for 2005-06

Carol Loughlin noted that at the January 2005 Board meeting the Board approved a Property Fund equity return policy if certain conditions were met.

Through February 28, 2005, the Property Fund is on track to satisfy the four conditions approved at the January Board meeting. Since an equity return policy has been adopted and current rates are adequate, it is recommended that property rates remain at their current levels for 2005-06.

MOTION by Mary Gauer, seconded by Byron Black, to accept the recommended proposal to keep property rates at their current level for 2005-06. Motion carried with unanimous approval.

Consideration of Workers' Compensation or Other Benefits for Volunteer Firefighters and Volunteer Emergency Medical Technicians

Carol Loughlin presented a report on workers' compensation for volunteer firefighters and emergency medical technicians. Workers' compensation coverage is optional for volunteers, and the Pool provides its members the option of selecting a higher weekly income benefit from the minimum \$81 weekly up to \$539 in \$70 increments.

During the last session of the Texas Legislature, a bill was passed that enables an employee who has other employment to receive workers' compensation income benefits based on the total of all reportable wages from all employers. The Pool was of the opinion that volunteers were excluded from the multiple employer benefit because they were not employees.

The staff recommended that the Pool accept the concept that multiple employers can be involved in volunteer coverage and terminate existing appeals in the two cases that are pending, revise the optional coverage for additional indemnity payments for volunteers as of October 1, 2005, and revisit the actions at the July Board meeting after the position of the Texas Workers' Compensation Commission has been determined regarding

Subsequent Injury Fund reimbursement, legislative actions have been finalized and court cases regarding multiple employers have further developed.

It was also the staff's recommendation that coverage be modified by providing only the \$81 per week minimum income payment for volunteers with one or more employers and any amount within the level selected by the member in excess of the multiple employer calculation. Members not purchasing limits above \$81 per week would be encouraged to purchase accidental death and dismemberment coverage for those named volunteers without other reportable wages.

MOTION by Mary Gauer, seconded by Makia Epie, to accept the staff's recommendation set forth in paragraphs b, c, and d of the recommendation section of Tab 19. Motion passed with unanimous approval.

General Counsel's Report and Legislative Update

David Reagan presented the "General Counsel's Report and Legislative Update" under Tab 27.

Status of Major Claims and Related Action

David Reagan presented the status under Tab 20 of *Drake, et al. v. Haltom City* and *Rodriguez et al. v. City of Harlingen*.

The staff recommended the Board ratify the settlement agreement in *Drake, et al, v. Haltom City* in the amount of \$515,000.

MOTION by Leo Montalvo, seconded by Don Dodson, to ratify the settlement agreement in *Drake, et al. v. Haltom City* in the amount of \$515,000. Motion carried unanimously.

Significant Cases & Legal Developments

David Reagan presented a report on "Significant Cases and Legal Developments" under Tab 21.

Liability Claims Report

Mike Rains presented the "Liability/Property Claims Report" under Tab 22.

Workers' Compensation Claims Report

Mike Bratcher presented "Workers' Compensation Claims Report" under Tab 23.

Underwriting Report

Floyd Schock presented the "Underwriting Activity Report" under Tab 24.

Loss Prevention Report

Les Horne presented the "Loss Prevention Board Report" under Tab 25.

Field Services Report

Scott Epperson presented the "Field Services Report" under Tab 26.

Comments by Ex-officio members from and to TML and Employee Benefits Boards

Andres Garza, ex officio to the TML Intergovernmental Employee Benefits Pool (TML-IEBP), reported that the TML-IEBP Board meeting will be held in two weeks and the primary concern is the problem associated with rising health costs. He believes the one-month 'holiday' from contributions will not exist next year. Mary Gauer, ex-officio member of the TML Board of Directors, reported that the main focus of the Board is the legislative session.

EXECUTIVE COMMITTEE REPORT

Lawsuits in which the Risk Pool is a Participant

David Reagan presented "Lawsuits in which the Pool is a Participant" under Tab 28.

Personnel Report

Allan Romer presented the "Quarterly Personnel Report" under Tab 29.

Meeting Schedule

Marvin Townsend reviewed the “Schedule of Meetings” and “Board Continuing Education” under Tab 30. The Board preferred the San Luis in Galveston to Moody Gardens for the January 2006 meeting. The April 2006 meeting may need to be rescheduled since it had been originally scheduled for Easter weekend. Marvin also inquired if the Board members would rather start the meetings at 7:30 a.m. rather than 8:00 a.m.

MOTION by Don Dodson, seconded by Rickey Childers, to adjourn the meeting. Motion carried with unanimous approval.

Meeting adjourned at 10:35 a.m.