

NORTHERN CALIFORNIA CITIES SELF INSURANCE FUND
MINUTES OF NCCSIF CLAIMS COMMITTEE MEETING
THURSDAY, MARCH 19, 2015

MEMBERS PRESENT: Russell Hildebrand, City of Rocklin
Bruce Cline, City of Folsom
Michelle Pellegrino, City of Dixon
Dave Andres, City of Ione
David Warren, City of Placerville

MEMBERS ABSENT: Paula Islas, City of Galt
Brad Koehn, City of Elk Grove
Michael Daly, City of Jackson
Tim Chapa, City of Rio Vista

CONSULTANTS: Marcus Beverly, Alliant Insurance Services
Michelle Minnick, Alliant Insurance Services
Ben Burg, York Risk Services
Jennifer Nogosek, York Risk Services
Dorienne Zumwalt, York Risk Services

A. Call to Order

The Claims Committee was called to order at 1:45 p.m.

B. Public Comments

No public comments were made.

C. Approval of Agenda as Posted

A motion was made to approve the agenda as posted.

**MOTION: Dave Warren SECOND: Russell Hildebrand MOTION CARRIED
UNANIMOUSLY**

D. NCCSIF Claims Committee Minutes for Approval

A motion was made to approve the minutes as presented.

**MOTION: Dave Warren SECOND: Russell Hildebrand MOTION CARRIED
UNANIMOUSLY**

E. CSAC-EIA Workers' Compensation Claims Audit & Response

Marcus Beverly presented the claims audit that is conducted every other year by NCCSIF's Excess Workers' Compensation Coverage provider, CSAC-EIA, focused primarily on current or potential excess claims. The most recent audit was conducted in October 2014, by Robert Hoyle of North Bay Associates. The audit report combines results from both NCCSIF and Napa County, a practice CSAC-EIA employs to save time and expense. NCCSIF commissions its own audit every other year that encompasses primary and excess claims. The Executive Summary and recommendations were provided to the Claims Committee for review and discussion as well as York's response to the audit.

Marcus Beverly noted that in most categories York met or exceeded expectations, but several categories, including prompt contact with employee, file balancing, and excess reporting, were not up to standards and drag the overall rating to 87%. The recommendations for improvement by the auditor were: maintain ongoing contact with the employee, regular balancing of file payments, timely issuing benefit notices, timely excess reporting, and also the timely completion of diaries on the file.

York has addressed the recommendations in their response letter and Dori Zumwalt and Ben Burg attended the meeting to answer any member questions. Ben Burg from York noted that there are some great things in this report but unfortunately the diary score is what brought the total score down on the audit. Ben Burg noted that claims handling has changed since we have gone paperless and that the low score on diaries did not affect the outcome of the file's overall health.

A motion was made to accept and file the audit and audit response.

MOTION: Russell Hildebrand

SECOND: Dave Warren

**MOTION CARRIED
UNANIMOUSLY**

F. Defense Council Selection & Fees – City of Folsom – Bluffs Litigation

The City of Folsom tendered a lawsuit filed by the Folsom Bluff Owners Association to NCCSIF that is being defended under a reservation of rights. Due to the land use issues involved the City of Folsom has requested approval of an attorney not on the approved list, Glen Hansen of Abbot and Kindermann. Mr. Hansen's expertise in land use issues enables him to charge more than the rate generally paid for defense of NCCSIF claims (under \$200 per hour), and it's the land use coverage issues that triggered the reservation of rights. The Committee was asked to provide direction regarding whether or not to apply the full amount of the legal fees to Folsom's Banking Layer or the Shared Layer should the claim reach that level.

A motion was made to approve the rate of \$275/hour for Glen Hansen of Abbot and Kindermann.

MOTION: Russell Hildebrand

SECOND: Dave Warren

**MOTION CARRIED
UNANIMOUSLY**

G. Updates to List of Approved Counsel

The list of approved counsel is reviewed periodically and amended as needed based on requests and feedback from members, claims administrator, and program administrator. Revisions to the Liability defense counsel list have been made and were presented to the Committee for review.

The Claims Committee noted that clarification is needed from the policy and procedures regarding approved defense counsel to determine who is allowed to work on a file- is it just the lawyer named or is the entire firm on the list. It was noted that Cameron Dewey has been doing research and has made some recommendations for the approved defense counsel list. It was noted by several members that NCCSIF hires the individual attorney on the approved defense counsel list- not the firm.

A motion was made to approve the addition of Dennis Coda and Derek Cole to the approved defense counsel list.

MOTION: Russell Hildebrand

SECOND: Dave Warren

**MOTION CARRIED
UNANIMOUSLY**

Marcus Beverly also recommended three attorney's from the Allen, Glaessner, Hazelwood & Werth, LLP be added to the approved defense counsel list: Dale Allen (who is a former Police officer), Mark Hazelwood for ADA (trial expert) and also Steve Worth who specializes in Employment and Sexual Abuse cases.

A motion was made to approve the addition of Dale Allen, Mark Hazelwood and Steve Worth to the approved defense counsel list.

MOTION: Russell Hildebrand

SECOND: Dave Warren

**MOTION CARRIED
UNANIMOUSLY**

Doug Thorne was not listed and Marcus Beverly noted that this was a mistake as he is to remain on the list as an approved defense counsel. It was also noted that Red Bluff no longer wants to use James Wyatt. Alliant was requested to present the updated list with correct names and addresses as well as a review of the policy regarding assignment of the individual attorney or the firm at the next Claims Committee meeting.

A motion was made to approve the NCCSIF Defense Attorney List with the additions of Dennis Coda, Derek Cole, Dale Allen, Mark Hazelwood and Steve Worth and the removal of Frank Gumpert and Gary Brickwood.

MOTION: Dave Warren

SECOND: Dave Andres

**MOTION CARRIED
UNANIMOUSLY**

H. Reimbursement of Defense Fees Paid for Denied Claim

A recent claim regarding a Public Safety person who is disputing their re-assignment to a different position has brought up the need for discussion about whether or not NCCSIF would seek reimbursement for the fees paid prior to the denial of a claim. The opinion of coverage counsel was not to seek reimbursement since the funds would be charged back to the member in the banking layer, but deferred to the Program Administrator for a decision. It should be noted that the money has already been paid out of the banking layer. The Committee was presented with the request and was asked to review and make a recommendation regarding reimbursement of the fees.

Mike Simmons indicated that NCCSIF has a policy that allows people to use their banking layer money for certain non-covered claims but we also have a policy that says you can't use your own city attorney for defense of a covered claim. In the current case there are no damages being alleged as the employee simply wanted their prior position back. Bruce Cline indicated that we should send a letter to the City indicating that we are not seeking reimbursement for the money but mentioned that Alliant should review the Policy and Procedure (A9) and come back to the Claims Committee with a recommendation.

The committee was also asked to provide direction regarding the more general issue of using the Banking Layer for payment of uncovered claims. Bruce Kline noted that after reviewing the Policy and Procedure Alliant should bring this issue back to the Claims Committee with a recommendation.

A motion was made to not seek reimbursement of defense on the subject claim.

MOTION: Russell Hildebrand

SECOND: Dave Warren

**MOTION CARRIED
UNANIMOUSLY**

I. Closed Session – The Claims Committee went into closed session in accordance with Government Code Section 54956.95 at 2:33 p.m. and discussed the following claims:

Workers' Compensation

1. Johnson v. Red Bluff

Liability

1. Walters & Young v. City of Jackson
2. 11 Property Owners b. City of Folsom

J. Report from Closed Session

At 2:45 p.m. the Committee came out of Closed Session and announcement made that direction was provided to staff for the three claims referenced above.

K. Round Table Discussion – no further discussion

L. Adjournment – The meeting was adjourned at 2:45 p.m.