BERGEN COUNTY MUNICIPAL JOINT INSURANCE FUND MINUTES

MEETING – MAY 21, 2020 VIA TELECONFERENCE

Meeting of Fund Commissioners called to order by Chairman Paul Hoelscher. Open Public Meetings notice read into record.

PLEDGE OF ALLEGIANCE

ROLL CALL OF 2020 EXECUTIVE COMMITTEE:

Paul Hoelscher, Chairman	Borough of Harrington Park	Present
Paul Tomasko, Secretary	Borough of Alpine	Present
Robert Shannon	Township of Wyckoff	Present
Don Sciolaro	Borough of Waldwick	Present
Ted Preusch	Borough of Upper Saddle River	Present
Lenora Benjamin	Borough of Glen Rock	Present
Diane Didio	Borough of Oradell	Present

EXECUTIVE COMMITTEE ALTERNATES:

James ClearyBorough of CresskillPresentFred PitofskyBorough of ClosterPresentQuentin WiestTownship of MahwahPresentTomas PadillaBorough of Woodcliff LakePresent

APPOINTED OFFICIALS PRESENT:

Executive Director/Administrator PERMA Risk Management Services

David N. Grubb, Joseph Hrubash, Nancy A. Ghani, Brandon Tracy

Attorney Huntington Bailey LLP

Russ Huntington, Esq.

Liability Claims Service JIF Claims, L.L.C.

Dawn Mulligan

Workers Compensation Bergen Risk Managers

Claim Service & Managed Care Kathleen Cosimano, Rose Bozzone

Jason Cosimano

Treasurer Matthew Laracy

Safety Director J.A. Montgomery

Brian Maitland, Ken Schulz, Keith Hummel

Underwriting Manager Conner Strong & Buckelew

Ed Cooney

Auditor Lerch, Vinci, Higgins LLP

Elizabeth Shick

PRESENT:

Thomas Felling, Esq., **Fellig Schwartz, LLC** Hon. Norman Schmelz, **Borough of Bergenfield** Jennifer Conicella, **PERMA** Robyn Walcoff, PERMA
Ezio Altamura, GJEM Otterstedt Agency
Matt McArrow Sr. – GJEM Otterstedt Agency
Matt McArrow Jr – GJEM Otterstedt Agency
Jack Zisa, Scirrocco Group
Arthur Cauglan, Nelson-Patterson
Brian Eifert, Eifert French
Linda D'Alessio, Eifert French
Frank Covelli, P.I.A. Agency
Stephen Puntasecca, The Height Agency
Dominick Cinelli, Brown & Brown
Gerard Quinn, Conklin and Kraft Agency
Robert Steinbruch, Eastern Insurers

MINUTES: Open and Closed Minutes of April 16, 2020.

MOTION TO APPROVE OPEN AND CLOSED MINUTES FROM APRIL 16, 2020:

Moved: Commissioner Pitofsky Second: Commissioner Cleary

Roll: Unanimous

CORRESPONDENCE:

NONE

COMMITTEE REPORTS: None

EXECUTIVE DIRECTOR:

COVERAGE APPEAL: Executive Director said as per the JIF's Policy & Procedures a denied claim appeal is being presented for the Board's consideration.

Thomas Fellig Esq. was present to speak on behalf of former Bergenfield Mayor Norman Schmelz, of Bergenfield, who is appealing the JIF's decision to deny coverage of defense and indemnification costs as it pertains to Amatorio v. Schmelz.

Included in the agenda was a memorandum summarizing the claim appeal, the press release issued by Mr. Schmelz, the denial of coverage notices by JIF Claims LLC and Mr. Schmelz's claim appeal letter.

Mr. Fellig Esq., said the Executive Committee should find coverage for Mayor Norman Schmelz based on the fact the policy in question covers wrongful acts such as negligent acts or errors.

Executive Director stated that the Mayor's actions were not while in the scope of his duties. Executive Director said New Jersey law does not support the contention that a Mayor is always on duty referencing Golaine v. Cardinale (1976).

Mr. Fellig noted in today's world the course of one's duties are more inclusive especially with the advent of the internet and social media. Mr. Fellig said public officials are expected to respond quickly or face public backlash, which can lead to erroneous statements. Additionally, Mr. Fellig argued Mayor Schmelz's press release was broader than a campaign flyer nor directed to candidates running for office.

Executive Director disagreed and said the release was clearly campaign related. He pointed out that it was dated just before the election, was not on official letterhead, directly named the Mayor's opponent, and

gave the Mayor's personal attorney as the contact person. Commissioner Sciolaro agreed with the Executive Director, and added to receive protection under official duties the elected official should seek the counsel of the Municipal Fund's appointed attorney.

Executive Director offered to provide a copy of the POL/EPL policy the town has with QBE purchased via its JIF membership, and suggested the town may want to consider submitting notice under that policy. Mr. Fellig thanked the Commissioners and the Executive Director for taking the time to hear himself and Mayor Schmelz. Mr. Huntington, the Fund attorney, stated on behalf of the JIF this is not a determination on the merits or complaints of the allegations just the discussion of the narrow matter of coverage with respect to defense and indemnification costs as it pertains to Amatorio v. Schmelz.

Commissioner Didio said she has known Honorable Norman Schmelz for a long time, and asked if she should abstain as well. Mr. Huntington said if you have to ask or you feel as though you have personal interest in this matter then do not vote.

MOTION TO REJECT THE COVERAGE APPEAL AS PRESENTED IN THE MATTER OF AMATORIO V SCHMELZ

Moved: Commissioner Sciolaro Second: Commissioner Cleary

Roll: 9 Ayes– 0 Nays – 2 Abstentions Commissioner Tomasko and

Commissioner Didio

AUDIT REPORT AND ACTUARY VALUATION REPORT AS OF DECEMBER 31, 2019: Copies of the financial audit for the period ending December 31, 2019, as well as, the Actuarial report of Loss and Loss Adjustment Expenses were enclosed separately from the agenda for review. Fund Auditor noted the Fund received an unqualified opinion, which is the highest opinion that can be given.

Fund Auditor reviewed the Balance Sheet (Page 42) and said as of 12/31/19 the fund had a total of \$11,3 million dollars in cash and investments, \$5 million assessments receivable and \$209,937 of other receivables, which comprised of the police accreditation receivables. Account payable of \$1.3 million, which includes administrative payables and amounts paid to the residual claims fund.

Fund Auditor continued down the Balance Sheet, and said the Fund has \$7.3 million in Case Reserves, and \$2.6 million in Incurred But Not Reported reserves. There was a total of \$1.3 million in unpaid expenses, and the Fund had Unearned revenue of \$510,510, which includes the dividends that are being applied towards this years' assessment. Fund Auditor stated the Fund ended the 2019 Fiscal Year with a net surplus of \$4.7 million. This is an increase from the previous year. Executive Director asked for the recommendations, and the Fund Auditor stated there were none.

MOTION TO APPROVE YEAR-END FINANCIALS, ADOPT RESOLUTION 26-20 AND EXECUTE GROUP AFFIDAVIT INDICATING THAT THE FUND COMMISSIONERS HAVE READ THE GENERAL COMMENTS SECTION OF THE AUDIT REPORT:

MOTION: Commissioner Pitofsky SECOND: Commissioner Padilla

ROLL CALL: Unanimous

DUE DILIGENCE REPORTS: Monthly reports submitted to the Executive Committee including monthly Financial Fast Track, Loss Ratio, Lost Time Accident Frequency, Investment Summary and Rate Comparison, Expected Loss Ratio by Town Report and the Claim Activity Report.

Executive Director reviewed the Financial Fast Track that was distributed separately, and stated the surplus has increased. Executive Director referred to the other tracking reports as of March 31st and said the Lost Time Accident Frequency for the JIF, and the MEL program statewide as a whole were down due to reduced activities, and a mild winter. Executive Director noted the severity of the 1,000 plus Covid-19 claims is still unknown.

LEGISLATIVE UPDATE: Executive Director stated the MEL Legislative Committee reviewed Assemblymen Benson and Coughlin Bill A-3971 and Senator Singleton Bill S-2475 and strongly supported its adoption. The companion bills authorize local units to issue "coronavirus relief bonds" to allow them to borrow money, with a ten-year payback period, covering shortfalls and unanticipated costs that are a direct result of the COVID-19 pandemic.

The MEL Legislative Committee asked local affiliated JIFs and their member entities to consider adopting a resolution supporting these bills as well. Attached is Resolution 25-20 supporting the legislation.

MOTION TO ADOPT RESOLUTION 25-20 SUPPORTING ASSEMBLY BILL 3971 AND SENATE BILL 2475.

MOTION: Commissioner Pitofsky SECOND: Commissioner Didio

ROLL CALL: Unanimous

MEL MEETING: Executive Director stated The MEL Board of Fund Commissioners conducted a special meeting on May 1st to introduce the 2021 budget. The public hearing has been scheduled for June 3, 2020. The purpose of this meeting is to introduce the 2021 Rate Table on first reading and to schedule the public hearing. Taking action in June will facilitate the local JIFs in planning for their budgets this Fall. Enclosed in the agenda was Commissioner Paul Tomasko's report on the meeting.

ONLINE ELECTED OFFICIALS TRAINING: Executive Director stated the MEL holds training seminars for elected officials and credits a member's assessment by \$250 for each municipal elected officials and chief operating officer that completes the course. This year's elected officials training program focuses on Preventing Child Abuse and Protecting Public Entities from the liabilities imposed by new legislation concerning sexual molestation. Executive Director noted the number of elected officials that have taken the course are down from last year. Enclosed in the Agenda were the directions to take the course through the MEL's Learning Management System. The deadline has now been officially extended from May 1st to June 1st.

EPL COMPLIANCE PROGRAM: Enclosed in the agenda was a memorandum outlining this year's Employment Practices Liability Program, including manual/handbook updates and training requirements. The MEL contracted with a law firm to conduct a comprehensive review of the model personnel manual/handbook. As a result, the compliance deadline for all elements of the compliance program have been pushed back to June of 2021. The MEL's Model Personnel Committee met to review the new forms; MEL Board of Fund Commissioner approval is on target for its June 3rd meeting.

MEL CYBER TASK FORCE: Executive Director stated the MEL's Cyber Task Force met on May 15th. The Task Force has begun the process of revising the MEL's Cyber Risk Management Program.

INFORMATIONAL

NJUA SAFETY EXPO 2020: The New Jersey Utility Authorities JIF (NJUA) and the Municipal Excess Liability Joint Insurance Fund (MEL) have had to cancel the NJUA Safety Expo scheduled for

June 19th at the Middlesex Fire Academy. Each year, the Expo is held in two locations; one in June and the second in September. A decision has not yet been made for the September training.

LEAGUE MAGAZINE AD: Enclosed in the agenda was the latest in the series of "Power of Collaboration" ad that will appear in the League of Municipalities magazine. The ad highlights the resources, financial strength and collaborative power of the MEL to assist its members during a public health crisis.

EJIF INSPECTION PROGRAM: In an effort to continue inspection services to EJIF members during the current health crisis, the EJIF authorized its Environmental Engineer to provide remote support services.

2020 FINANCIAL DISCLOSURES: In light of the circumstances surrounding COVID-19, the Local Finance Board voted to extend the date at which the Board would take enforcement action against non-filers of the 2020 FDS <u>until July 31, 2020</u> from the statutory deadline of April 30, 2020. The Board appreciates and recognizes the dedication of local government officers and employees during this difficult time

Executive Director added as of the May meeting there have only been four responses regarding the Bylaw amendment. This is short of the quorum needed for adoption. The deadline to submit the response is due October 1, 2020. A reminder will be sent shortly after the meeting.

Executive Director's Report Made Part of Minutes.

TREASURER:

REPORT: In in the agenda was the May Bills List as Resolution, 27-20, the Treasurer's Report for month ending April 30th reflecting the April Bills List, Claims Payments and Cash Position, as well as, Assessment Status by member. Also included were the April Summary of Cash Transactions reports and the Investment Report.

Approving Payments of May 2020 Vouchers Resolution 27-20:

TOTAL 2019	\$13,250.00
TOTAL 2020	\$175,311.27
TOTAL	\$188,561.27

MOTION TO APPROVE RESOLUTION 27-20 VOUCHER LIST FOR MAY 2020 AND TREASURER'S REPORTS AS PRESENTED:

Motion: Commissioner Pitofsky Second: Commissioner Hoelscher

Vote: 11 Ayes - 0 Nays

Treasurer noted second quarter assessments payments were due April 30th, but there has been a delay in processing due to the ongoing pandemic, and institution of a lock box. Treasurer made a motion waiving the interest on those payments that are received before June 1st.

MOTION TO WAVE INTEREST PAYMENTS ON SECOND QUARTER ASSESSMENT PAYMENTS IF RECEIVED BEFORE JUNE $1^{\rm ST}$

MOTION: Commissioner Don Sciolaro SECOND: Commissioner Jim Cleary

Vote: Unanimous

Treasurer's Reports Made Part of Minutes.

FUND ATTORNEY:

REPORT: Fund Attorney said there was nothing to report for the month.

UNDERWRITING MANAGER:

LIST OF CERTIFICATES ISSUED: Included as part of the report was a List of Certificates issued for the period of 3/22/2020 to 4/22/2020.

CYBER COMPLIANCE REPORT: Included in the agenda was a Cyber Compliance report as of 6/1/2020. The report listed member's cyber compliance status as acceptable or denied. Denied status indicates member did not submit a questionnaire in Origami and/or submitted but requires additional documentation

Underwriting Manager noted the MEL Cyber Task Force is close to finishing the updated Risk Management Plan. Full details will be release shortly. Underwriting Manager also stated that there will be a grandfather system for any members who completed the tiers.

Underwriting Manager reviewed the upcoming rate freeze for the upcoming renewal. The MEL is working diligently on unique options to strengthen the insurance program and save money for the funds.

Executive Director spoke further on the upcoming rate freeze stating Governor Murphy came back with an Executive Order that required an insurance program to refund a portion of the premium, but this does not pertain to Joint Insurance Funds. Additionally, with the unknown severity of the Workers' Compensation claims it is ideal to freeze the MEL rate for the upcoming renewal.

SAFETY DIRECTOR:

REPORT: Safety Director's report was included in the agenda for review; report included April activities, and copies of distributed Safety Director Bulletins. Safety Director noted J.A. Montgomery was able to perform loss control surveys during lockdown either virtually or through job safety observations. No Law Enforcement surveys were conducted due to the lockdown. Safety Director noted Scott Thompson, the Law Enforcement contact, is no longer with J.A. Montgomery, and Keith Hummel will serve as the interim Law Enforcement consultant for the Fund. Safety Director announced all MEL Safety Institute in-person classes have been suspended indefinitely; however, J.A. Montgomery will be hosting interactive webinars that are instructor led. CE, and GHs are still available. Additionally, the MEL Safety Institutes rolled out online training videos last month.

Executive Director took a moment to recognize the fundamental shift from J.A. Montgomery's previous training model, which took place in a classroom setting to a virtual base webinar. Executive Director noted that hands on training will still take place for more serious trainings such as operating in a confined space.

Monthly Activity Report Made Part of Minutes.

MANAGED CARE:

REPORT: Managed Care Provider reviewed the April 2020 report, which was included in the agenda; report indicated a saving of 68% for the month and 62% since inception.

Monthly Activity Report Part of Minutes.

CLAIMS:

REPORT: Included in the agenda was a report on case law pertaining to public entities.

Monthly Activity Report Part of Minutes.

OLD BUSINESS:

CLAIMS REVIEW: A meeting was held prior to the Fund's meeting on May 21, 2020 to review the Payment Authority Requests (PARs). It would be appropriate to take action to approve the PARs as presented.

MOTION TO ACCEPT THE PAYMENT AUTHORITY REQUESTS (PARS) AS PRESENTED.

Motion: Commissioner Tomas Padilla Second: Commissioner Fred Pitofsky

Vote: 10 Ayes – 0 Nays – Commissioner Didio abstained to accept

Payment Authority Requests as presented.

NEW BUSINESS:

NONE

PUBLIC COMMENT:

NONE

MOTION TO ADJOURN:

Motioned: Commissioner Tomasko Second: Commissioner Pitofsky

Vote: Unanimous

MEETING ADJOURNED: 6:16PM

Brandon Tracy, Assisting Secretary

For

Paul Tomasko, SECRETARY

Resolution 25-20

Resolution of the Bergen County Municipal Joint Insurance Fund Supporting the Enactment of Assembly Bill No. 3971 and Senate Bill No. 2474 To Authorize the Issuance of Coronavirus Relief Bonds by Municipalities and Counties

WHEREAS, municipalities and counties throughout New Jersey are facing unprecedented financial challenges, including significant loss of revenue and unanticipated spending, due to the ongoing COVID-19 State of Emergency and Public Health Emergency; and

WHEREAS, without relief, local government may have to significantly reduce services and layoff personnel; and

WHEREAS, in response to these conditions, Assemblymen Benson and Coughlin introduced A-3971 and Senator Singleton introduced S-2475, which authorizes local units to issue "coronavirus relief bonds" to allow them to borrow money, with a ten-year payback period, to cover shortfalls and unanticipated costs that are a direct result of the COVID-19 pandemic; and

WHEREAS, such bonds will provide local units with the flexibility to ensure continuation of essential services.

NOW, THEREFORE BE IT RESOLVED, by the Bergen County Joint Insurance Fund that it hereby affirms its support for the enactment of A-3971 and S-2475.

BE IT FURTHER RESOLVED that the Clerk shall be directed to transmit a copy of this Resolution to the Governor, Senate President, Assembly Speaker and the legislative delegation of the district.

Adopted this 21 day of May, 2020.

Paul Hoelscher Chairman Paul Tomasko Secretary

Resolution of Certification Annual Audit Report for Period Ending December 31, 2019

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, the Annual Report of Audit for the year 2019 has been filed by the appointed Fund Auditor with the Secretary of the Fund as per the requirements of N.J.S.A. 40A:5-6 and N.J.S.A. 40A:10-36, and a copy has been received by each member of the BOARD OF FUND COMMISSIONERS, and

WHEREAS, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34, and

WHEREAS, the Local Finance Board has promulgated a regulation requiring that the BOARD OF FUND COMMISSIONERS of the Fund shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the BOARD OF FUND COMMISSIONERS have reviewed, as a minimum, the sections of the annual audit entitled:

General Comments and Recommendations

and

WHEREAS, the members of the BOARD OF FUND COMMISSIONERS have personally reviewed, as a minimum, the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

General Comments and Recommendations

as evidenced by the group affidavit form of the BOARD OF FUND COMMISSIONERS.

WHEREAS, such resolution of certification shall be adopted by the BOARD OF FUND COMMISSIONERS no later than forty-five days after the receipt of the annual audit, as per the regulations of the Local Finance Board, and

WHEREAS, all members of the BOARD OF FUND COMMISSIONERS have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board, and

WHEREAS, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the BOARD OF FUND COMMISSIONERS to the penalty provisions of R.S. 52:27BB-52 - to wit:

R.S. 52:27BB-52 - "A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office."

NOW, THEREFORE, BE IT RESOLVED, that the BOARD OF FUND COMMISSIONERS of the Bergen County Municipal Joint Insurance Fund, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey, dated July 30, 1968, and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF THE

RESOLUTION PASSED AT THE MEETING HELD ON MAY 21, 2020.

Adopted this 21 day of May, 2020.

Paul Tomasko Secretary

BERGEN COUNTY MUNICIPAL JOINT INSURANCE FUND BILLS LIST

Resolution No. 27 - 20 MAY 2020

WHEREAS, the Treasurer has certified that funding is available to pay the following bills:

BE IT RESOLVED that the Bergen County Municipal Joint Insurance Fund's Executive Board, hereby authorizes the Fund treasurer to issue warrants in payment of the following claims; and

FURTHER, that this authorization shall be made a permanent part of the records of the Fund.

Check Number	Vendor Name	Comment	Invoice Amount
002326 002326	RIVER VALE TOWNSHIP	SAFETY INCENTIVE PROGRAM 2019	2,500.00 2,500.00
002327 002327	NORTHVALE BOROUGH	SAFETY INCENTIVE PROGRAM 2019	750.00 750.00
002328 002328	LERCH, VINCI & HIGGINS, LLP	AUDIT 12/19	10,000.00 10,000.00
		Total Payments FY 2019	13,250.00
FUND YEAR 2020 Check Number	Vendor Name	Comment	Invoice Amount
002329 002329 002329	BERGEN RISK MANAGERS, INC. BERGEN RISK MANAGERS, INC.	MANAGED CARE 5/20 FROI 5/20	33,857.39 1,362.49 35,219.88
002330 002330	BERGEN RISK MANAGERS, INC.	TPA 5/20	29,186.69 29,186.69
002331 002331	JIF CLAIMS, L.L.C.	LIABILITY 5/20	32,364.67 32,364.67
002332 002332	J.A. MONTGOMERY RISK CONTROL	SAFETY DIRECTOR 5/20	17,032.08 17,032.08
002333 002333 002333 002333 002333	PERMA RISK MANAGEMENT SERVICES PERMA RISK MANAGEMENT SERVICES PERMA RISK MANAGEMENT SERVICES PERMA RISK MANAGEMENT SERVICES	POSTAGE 4/20 POSTAGE 3/20 EXEC DIRECTOR 5/20 POSTAGE 2/20	23.00 43.95 33,813.07 38.00 33,918.02

FUND YEAR 2019

		TOTAL PAYMENTS ALL FUND YEARS \$	188,561.27
		Total Payments FY 2020	175,311.27
002342 002342	NORTH JERSEY MEDIA GROUP	ACCT#398574 - AD - 4.13.20	20.43 20.43
002341 002341	BURTON AGENCY, INC.	GLEN ROCK - 2ND QTR RMC 2020	8,594.00 8,594.00
002340 002340	ACRISURE LLC DBA SCIROCCO GROUP	CLOSTER BORO - 2ND RMC 2020	5,696.00 5,696.00
002339 002339	ALLSTATE INFORMATION MANAGEMNT	ACCT#408 - ARC & STOR - 3.31.20	77.08 77.08
002338 002338	NEWTECH SERVICES, INC.	WEB MAINT/HOSTING 5/20	75.00 75.00
002337 002337	CONNER STRONG & BUCKELEW	UNDERWRITING FEE 5/20	1,524.00 1,524.00
002336 002336	LARACY ASSOCIATES LLC	TREASURER FEE 5/20	1,541.67 1,541.67
002335 002335	HUNTINGTON BAILEY, L.L.P.	ATTORNEY FEE 5/20	5,480.08 5,480.08
002334 002334	THE ACTUARIAL ADVANTAGE	ACTUARY FEE 5/20	4,581.67 4,581.67

Adopted this 21 day of May, 2020.

Paul Hoelscher Chairman Paul Tomasko Secretary