



EAST BAY REGIONAL PARK DISTRICT  
**BOARD FINANCE COMMITTEE**  
AGENDA STATEMENT  
MEETING DATE – May 26, 2010

- SUBJECT:** Risk Management Annual Report  
Report Prepared by: Larry Moss, Risk Manager
- ATTACHMENTS:** Risk Management Annual Report
- RECOMMENDATION:** Receive Risk Management Annual Report and recommendations to 1) renew insurance policies for 2010-2011 and 2) renew workers' compensation third party administrator contract for 2010-2011

**DESCRIPTION:**

2009 was a year of increased cost in several areas, but the cost of risk remains approximately the same.

Workers' compensation claims costs continue to increase due to claims that require costly medical care. However, the number of claims filed has decreased 24% during the last year and a remarkable 55% over eleven years. While claims costs continue to rise because of increase in severity of recent claims, medical expenses, and benefits, the overall potential cost of all claims still open has decreased by about \$1,200,000.

Staff has negotiated a \$183,000 renewal with the workers' compensation claims administrator which has managed the District's workers' compensation claims for fifteen years. There has been no increase in the compensation during the last two years, and staff believes an increase in the contract price (for 2010-2011) is warranted.

The frequency of liability claims continues to remain low due to diligent practices that prevent injuries to the public and property damage. However, cost of claims increased due to the settlement of a number of outstanding older claims. The number of claims filed in 2009 is consistent with prior years. As with workers' compensation claims, liability claims funding stability will be reassessed in conjunction with an actuarial report to be obtained in July.

The District obtained quotes for renewal of its insurance program. The cost of liability insurance rose approximately 10% but overall the cost of insurance is approximately the same as 2009 and 8% less than in 2008.

Accordingly, it is recommended that:

- The Committee approves purchases of liability, aviation, excess workers' compensation and crime insurance. (property insurance for 2010/2011 was already approved in March 2010 consent item)
- Approve renewal of the proposed \$183,000 York Insurance Services of California contract for workers' compensation claims services from 7/1/2010 to 6/30/2011.

# 2010 Risk Management Annual Report

## **OVERVIEW**

This report serves to summarize the functions, successes, and challenges in Risk Management.

Risk Management is a support service to control, mitigate, and avoid loss of District assets and resources.

Direct supervision covers:

- workers' compensation claims
- liability claims
- unemployment claims
- purchase of insurance

Risk Management supports and works with other departments jointly on:

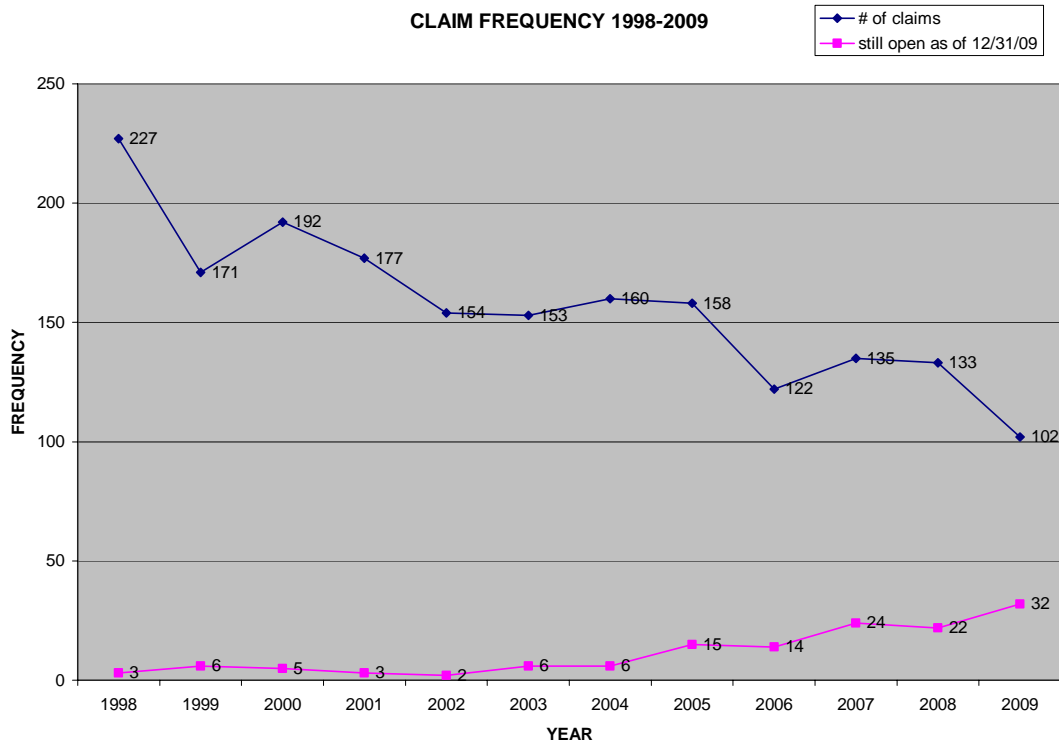
- recommending funding of losses
- restoration projects due to loss (fire, vandalism, etc.)
- concessionaire contract compliance
- contract design and review
- loss control
- regulatory safety (OSHA, etc.)
- recovery of expenses for damages caused by third parties

Coordination of services is routinely in conjunction with the Operations, Human Resources, Maintenance, and Finance departments.

## **WORKERS' COMPENSATION**

### **2009 Claims**

The District had a record low of 102 work-related injuries reported in 2009. This is a 24% decrease from the previous year and, more remarkably, a 55% decrease from 11 years ago when the employee base was considerably less. Below you will see the number of injuries reported in the last 11 years and the number of claims still open from those claim years as of 12/31/09.



As in previous years, muscle strains continue to be the leading cause of injuries, accounting for 31% of all injuries, followed by contusions (13%), lacerations (8%), and slip/trip/falls (6%). Body parts most frequently injured are backs, knees, and shoulders.

Injuries in Park Operations account for 56% of all injuries, followed by Public Safety (18%), Maintenance (12%), and Interpretative & Recreation (10%). If you breakdown the injuries occurring in Park Operations, most injuries are occurring in the Lakes Unit which accounts for 16% of all injuries reported in 2009. The Lakes Unit consistently has a higher rate of injury due to the large visitor attendance and corresponding heavier workload.

**Cost**

Total paid in 2009 for all claims, not including administration costs and recovery, was significantly higher at \$2,036,872 compared to \$1,641,163 in 2008. However, one significant settlement is mainly attributed for this increase. Not withstanding that one settlement, costs for 2009 and 2008 were roughly even.

COST TYPE	2005	2006	2007	2008	2009
Medical	\$ 710,642	\$ 566,411	\$ 578,570	\$ 910,760	\$ 1,080,543
Temporary Disability	\$ 289,520	\$ 224,701	\$ 332,720	\$ 295,295	\$ 329,425
Permanent Disability	\$ 288,151	\$ 296,205	\$ 493,258	\$ 245,214	\$ 502,935
Voc Rehab	\$ 41,682	\$ 28,670	\$ 19,647	\$ 21,740	\$ 13,212
Expenses	\$ 88,384	\$ 109,313	\$ 133,893	\$ 146,151	\$ 76,771
Police/Fire (4850)	\$ 77,027	\$ 163,788	\$ 91,805	\$ 72,003	\$ 33,986
<b>GRAND TOTAL</b>	<b>\$ 1,495,406</b>	<b>\$ 1,389,088</b>	<b>\$ 1,649,893</b>	<b>\$ 1,691,163</b>	<b>\$ 2,036,872</b>

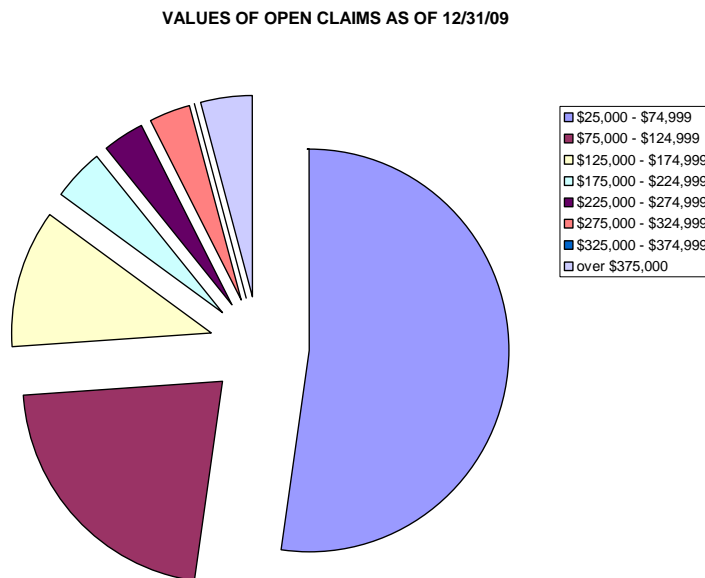
There was a significant increase in medical costs in 2009. More inpatient and outpatient hospitalizations account for the increase in medical costs in 2009.

Annually, the State of California/Department of Industrial Relations (DIR) collects an assessment fee to help support the Workers' Compensation courts. In 2009, a total of \$46,815 from the District was assessed, almost double the past year. This fee has been skyrocketing every year for the last four years as the State uses the fee as a cost shifting tool to employers to pay for State services such as Cal/OSHA and the Fraud Bureau.

Total cost for workers' compensation in 2009 was \$2,195,757. This includes actual claim costs, administration costs, assessments, excess carrier, and a credit adjustment due to excess coverage recovery.

**Claims with Reserves Over \$25,000**

At year-end, there were a total of 169 open claims for all claim years. 70%, or 119 claims, had incurred reserves over \$25,000. This percentage is up from previous years (at 67%) indicating that the cost/severity of claims has increased.



### **Claim Reserves All Claim Years**

Below is the Claim Reserve Summary as of 12/31/09 for claims incurred in the past ten years:

<b>CLAIM YEAR</b>	<b>TOTAL CLAIMS</b>	<b>CLAIM STILL OPEN AS OF 12/31/09</b>	<b>AMOUNT PAID ON CLAIM ONE YEAR POST INJURY</b>	<b>AMOUNT PAID AS OF 12/31/09</b>	<b>TOTAL AMOUNT RESERVED AS OF 12/31/09</b>
2000	192	5	\$366,383	\$1,263,403	\$1,367,401
2001	177	3	\$169,931	\$2,245,837	\$2,459,485
2002	154	2	\$247,534	\$967,244	\$1,043,272
2003	153	6	\$419,144	\$2,141,076	\$2,315,885
2004	160	6	\$243,253	\$576,475	\$719,554
2005	158	15	\$273,929	\$1,412,848	\$2,106,390
2006	122	14	\$202,158	\$666,146	\$876,947
2007	135	24	\$248,991	\$1,141,616	\$1,680,563
2008	132	22	\$218,707	\$570,883	\$991,688
2009	102	32	\$330,056	\$330,056	\$577,725

2009 reserves for potential total costs (from inception to closing) are about average for the last several years, but will change over time. Therefore, while the frequency of claims are considerably decreased, it is too early to determine if the net cost per claim will be higher or lower than in prior years. .

As of 12/31/09, an outstanding reserve amount yet to be paid for all open claims was \$4,254,250. Comparably, that amount was \$5,430,072 on 12/31/08, a year ago. The decrease is indicative of good monitoring and setting of reserves by York Insurance. York consistently evaluates outstanding reserves and adjusts to ensure that there are sufficient reserves to pay on a claim, being careful not to over or under reserve the amount needed. Monthly reports to the District showing reserve increases/decreases are a way the District monitors York's reserving practice.

### **Medical Bill Review**

Medical bill review is put in place to ensure that elevated medical bills are adjusted down to the rate according to the fee schedule set by the Division of Workers' Compensation or the preferred provider network contract (PPO). Peregrin continues to be the District's choice for medical bill review.

Peregrin was given a small increase for their services in 2008 which resulted in a substantial increase in their fee for medical bill review in 2008 (from \$10,003 in 2007 to \$57,594 in 2008). Instead of a flat rate charge, the company changed its fee structure to charging a review fee based upon a percentage of savings (standard way of charging in the industry) which can be substantial if there is an expensive hospital bill. Their fee was renegotiated again in 2009 to adjust for this fee increase. A lower

percentage (5% to 2.5%) is now being charged as a percentage of savings to arrive at the fee charged. A total of \$57,564 was paid out in 2009 for medical bill review services, relatively unchanged from what was paid out in 2008. This amount could have been substantially higher if the percentage based on savings was not renegotiated in 2009. From a study conducted in 2008, it can be stated that the District is still paying much lower than fair market value. Other companies are charging 7% of savings whereas Peregrin is only charging 2.5% for hospital bills. The amount paid in 2007 (\$10,003) was far below market value and Peregrin was clearly being paid below its competitors. The District will consider another small fee increase in 2010 as Peregrin is a small business and continues to provide excellent service at a far below market cost. Medical bill review saved the District a total of \$2,110,803 in 2009, a tremendous savings as a result of this service.

### **Utilization Review**

It is required by California Labor Code to have a utilization review process in place. This is a procedure whereby the medical necessity of a treatment is evaluated by medical peers. Unnecessary or excessive treatment plans are identified. RWI continues to be the District's choice for utilization review. RWI notifies the District of all of their decisions, and non-certifications are discussed immediately with York Insurance. Doctors can appeal the decision with clarification to RWI or a peer to peer (RWI doctor speaking with treating doctor) is arranged to directly clarify issues and discuss alternatives. District staff constantly monitors these issues to insure that necessary treatment is provided expeditiously.

The District paid \$42,888 for this service in 2009 compared to \$33,193 in the previous year. This translates to more complicated treatment plans in addition to more procedures being requested and reviewed in 2009 than in 2008. Their fee structure remained unchanged from 2008, a flat rate of \$196 per review.

### **Litigation**

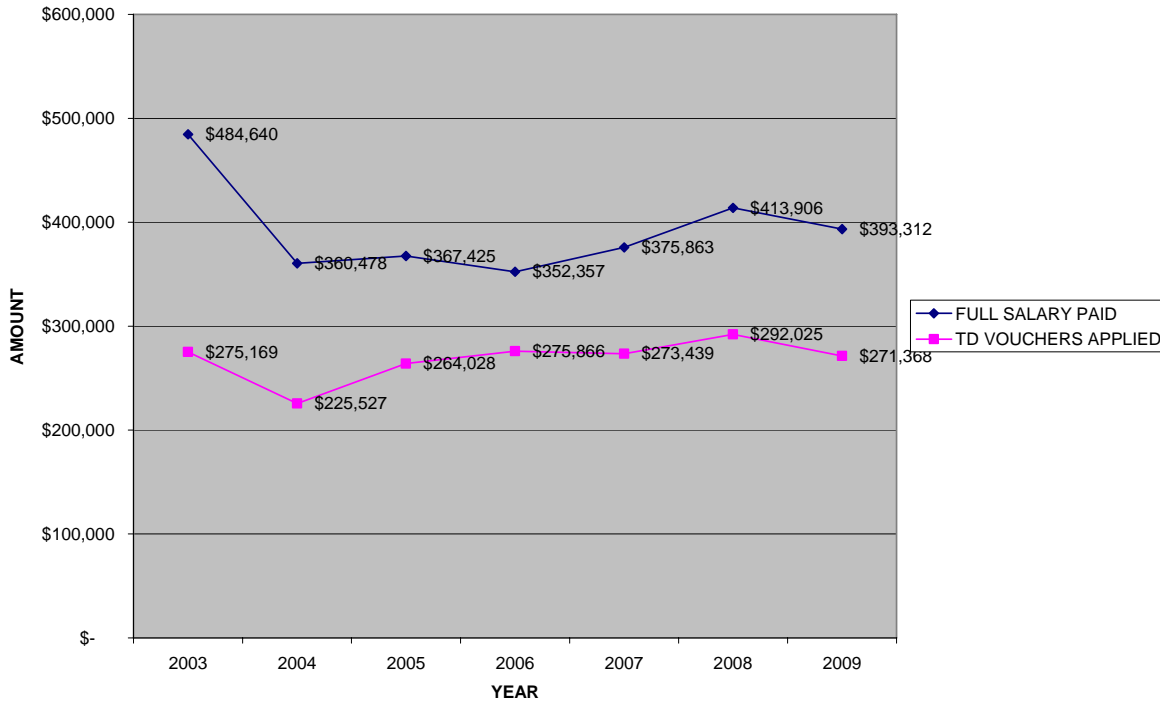
Most claims resolve without the injured employee obtaining legal representation. Applicant and defense representation usually come into play when the claimant is unlikely to return to usual and customary duties. Very few injured workers obtain legal representation when they have been released to full duty. The District and York Insurance work hard with injured workers to make sure they understand the workers' compensation process to avoid the need for legal representation. However, in some cases it's better to have representation to expedite matters before the Workers' Compensation Appeals Board. The District has a relatively low number of represented cases which translates to overall low claim severity. A total of 14 claimants had legal representation at yearend 2009.

### **Job Injury Leave**

Job Injury Leave (JIL) allows for full salary continuation for six months if an employee is taken off work, and is coordinated with the state mandated temporary disability benefit. Sworn police are covered under Labor Code 4850 which allows for one year of full salary continuance. Since the change from one year to six months entitlement in 2004 for Local 2428 members, JIL usage continues to remain steady in recent years. The graph bellows indicates that while JIL costs dropped by 25% (\$120,000)

after the benefit was trimmed to one half year from a full year, the amount paid for normal disability (Temporary Disability vouchers) was not impacted. This indicates that there is an incentive for employees to return to work sooner, and that they are able to do so.

**JOB INJURY LEAVE**



**Return to Work Program**

The Return to Work Program continues to be an integral part of an injured employee’s recovery. Most supervisors were able to provide modified work in the home department without the need to place the employee elsewhere. The program placed only three individuals in 2009. This is a very successful program in that it has induced supervisors to bring back injured employees in modified work within their own department, wherein previously injured employees were placed outside of their own departments. This is a cultural shift that was the objective of the Return to Work Program all along.

**Contract for Renewal of Claims Administration Services**

York Insurances Services Group, Inc. of California, formerly Bragg & Associates, has contracted with the District for the past 14 years. The District issued an RFP in 2006 for which the nearest competitive bid was 25% (\$50,000) above Bragg & Associates. For the last several years, the District was able to renew the contract at no increase. However, for renewing the contract for 2010-2011 York maintained that a renewal of the contract was not feasible for less than \$195,000. While the response to any proposed increase in this economic time would normally be to simply issue an RFP and look at other service providers, the cost of services is still well below that of proposed 2006 bids from other providers. The excellent service provided by York over the last year provided staff reason to considering negotiating. It is also staff’s assessment that York’s contention that the District was not

paying enough to keep us as a client was not an unreasonable assessment. Accordingly, and with consultation of District Counsel, staff negotiated a renewal of services for one more year at a cost of \$183,000, *dependent on Board approval*. The District will obtain a dedicated claims examiner in consideration for the renewal.

It is difficult to justify an increased pricing for a contractor in a difficult economic environment. However, in consideration of the higher 2006 bids, plus staff's assessment of claims management costs, the negotiated fee appears reasonable. However, staff will issue an RFP in 2011.

**Excess Workers' Compensation**

Recovery from excess insurance totaled \$282,833 in 2009. This recovery amount was deposited back into the general fund and does offset workers' compensation costs incurred.

**Funding for Claims**

The District appears well-funded to pay for workers' compensation losses. An actuarial report was obtained in April 2009 and has been reviewed by the District's auditors. The District's funding is well positioned to pay for any claims or unexpected costly losses. Another actuarial report will be obtained after the close of the fiscal reporting calendar on June 30, 2010.

**Workers' Compensation Statistics:**

<b>SUBJECT</b>	<b>2008</b>	<b>2009</b>
Total number of new claims	133	102
Number of open claims at yearend	182	169
Average number of claims open in the year	196	183
Average closing ratio	136%	124%
Total spent for claims for all claim years	\$1,641,163	\$2,036,872
Total spent on current year claims at year-end	\$218,707	\$330,056
Avg cost per claim for current year claim	\$1,644	\$3,236
Average cost per employee	\$2,242	\$2,739
Total spent on Third Party Administrator	\$171,000	\$171,000
Total spent on excess coverage	\$253,913	\$232,902
Recovery from excess coverage	\$199,074	\$282,833
Payroll cost for workers' compensation	\$5.74 per \$100	\$5.74 per \$100
Cost savings as a result of bill review	\$1,404,188	\$2,110,803
Number of claimants litigated	12	14
Number of placements for modified work	20	3
Leading cause of injuries	Muscle strain	Muscle strain
Leading department injured	Operations	Operations



## **Summary**

The Risk Department continues to monitor the District's workers' compensation program to ensure that it is providing the necessary benefits and excellent medical care to injured employees while concurrently controlling the costs to run the program. To that end, the District has an excellent team in an in-house analyst and third party administrator to ensure prompt delivery of benefits owed, but not in excess of what is owed. Quarterly and monthly meetings continue to be scheduled to discuss claim resolution with key personnel and department heads. The Risk Department and York Insurance are always available to injured employees to help them through the workers' compensation process

Ultimately, the cost number is the amount set aside to pay for all claims. From 2008 to 2009 that number decreased by \$1,175,822, or a decrease of 21%. This decrease will be submitted to actuaries after July 1, for a report on 2011 funding. It is hoped that this decrease will result in a possible decrease in 2011 payroll charges.

There are three cost drivers in workers' compensation: legal, legislative, and medical. In recent years, workers' compensation reforms have dramatically reduced permanent disability awards, but new case law threatens to increase the cost of claims. There is always an upward push on medical costs, considering the basis for workers' compensation is medical care, which continues annual double-digit cost increases. In addition, proposed State legislation often contains provisions that will ultimately increase claims costs. So it is remarkable that, in light of these cost drives, the claims reserves have decreased 21%. Still, active management is needed to control the upward pressure on costs.

## **LIABILITY**

Liability claims are handled by staff and are allocated by levels of complexity to District Counsel, Risk Manager, or the Risk Analyst. Claims range in severity from drowning to minor auto body damage. Litigated claims are sent to one of three law firms that are familiar with District exposures. Reimbursement for damages caused by the negligence of other parties is vigorously pursued.

The costliest liability exposure to the District has been, and remains, drowning cases. The lifeguard program is stellar and has resulted in hundreds of lives saved. Unfortunately, suits have been received on two drownings in 2008 and are being defended by outside counsel, District Counsel, Assistant District Counsel, and the Risk Manager.

As noted in the summary below, automobile accidents are the most frequent claims. These range from rear-enders to situations involving police pursuits. Fortunately, none of the claims has resulted in substantial bodily harm or damage, which is impressive when considering that staff drives approximately one million miles per year.

Summary of Frequent Liability Claim Categories: 2002-2007

<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
<b>Auto</b>	<b>Auto</b>	<b>Auto</b>	<b>Auto</b>	<b>Auto</b>
3	10	6	10	12 (6 are minor)
<b>Drowning</b>	<b>Drowning</b>	<b>Drowning</b>	<b>Drowning</b>	<b>Drowning</b>
0	0	1	2	1
<b>Property</b>	<b>Property</b>	<b>Property</b>	<b>Property</b>	<b>Property</b>
1 – Landscaping damaged	2 – Flooding	1 – Trespassing issue	2 – Alleged damage from nearby construction	1 – Theft of uninstalled lagoon pump motors.
	2 – Landslide			
<b>Trail</b>	<b>Trail</b>	<b>Trail</b>	<b>Trail</b>	<b>Trail</b>
1 – Curfew dispute	2 – Bicycle	1 – Bicycle v. Ped.	2 – Bicycle	4 – Slip/Trip/Fall
1 – Dog attack	2 – Slip/Trip/Fall		1 – Slip/Trip/Fall	
1 – Trail ride mishap				
<b>Tree</b>	<b>Tree</b>	<b>Tree</b>	<b>Tree</b>	<b>Tree</b>
1 – Limb fell on structure	0 – Tree	0 – Tree	0 – Tree	1 – Limb fell on vehicle (minor)
1 – Limb fell on vehicle				

A routine investigation of claims determines if there is District liability. Immunities, such as the trail immunity and hazardous recreation immunity, apply to many claims such as slip and fall claims. The Risk Management Department is proactive in informing claimant’s attorneys of the immunities in the Government Code, and it is felt that as a result a certain number are dissuaded from filing a claim.

When District liability is confirmed, measures are taken to expedite a fair settlement. The District works with citizens to quickly resolve vehicle damage claims and to reduce the likelihood that personal injury claims will surface from low speed collisions.

Cost of Claims: 2002-2008

<b>Year</b>	<b>Amount Paid</b>
2009	\$208,853
2008	\$563,120*
2007	\$27,401
2006	\$11,089
2005	\$6,394
2004	\$18,927
2003	\$26,163

Proactive risk management practiced by staff in the field is, in great part, the reason for the nominal number of claims. The low number of lawsuits by visitors is a compliment to the care that the

Operations staff takes to ensure trails, roads, facilities and other areas visited are free of hazards. Training in areas such as hazardous tree mitigation and defensive driving are part of the tool kit that mitigates the exposure. Once a claim is filed, Legal/Risk is aggressive in only paying claims which are reasonably owed. The absence of serious impact collisions is in part attributable to defensive driver training that District employees are cycled through every three to four years.

### **Funding for Liability Losses**

As with workers' compensation, Risk will obtain an actuarial report for liability after the close of the fiscal quarter on June 30, 2010. While the 2008 actuarial report indicated a more than adequate reserve, recent suits may impact the stability of funding. Risk will be assessing future funding.

### **Damage Recovery**

Legal/Risk vigorously pursues reimbursement from those who have damaged District property. This is a joint effort, usually involving Operations staff, to provide information with which Risk pursues those who damage District property. It is a tribute to their diligence that Risk recovered \$13,250 in 2009. A letter is sent to supervisors when their staff was instrumental in the recovery process, complimenting their contributory work leading to the recovery.

## **INSURANCE**

The District purchases insurance for risks which could have an adverse financial impact if excessive, unanticipated, or catastrophic loss occurs. While large losses are rare for the District, going without insurance in certain circumstances would require substantial immediate capital infusion to pay costly claims. Accordingly, the District purchases insurance for liability, auto, property, earthquake, watercraft, aviation, crime, and boiler/machinery coverage.

The CSAC-Excess Insurance Authority has served the District well in providing low cost coverage with ancillary benefits (such as training). In addition, the District has retained a stand-alone (non-pooled individual policy) crime and aviation insurance policy because of the competitive pricing outside pooled coverage. The cost of aviation insurance continues to be remarkably low due to Public Safety's stringent safety standards, which are considered a model for public entity aircraft programs.

The cost of property (fire) insurance is low, but earthquake coverage remains costly. High value buildings (Peralta Oaks, Temescal, Tilden Nature Area, and the Brazil Room) near the Hayward fault are insured in a joint arrangement with the City of Concord. The total insured values combined is \$57.5 million, to be distributed on a pro-rata share of damage if both entities sustain damage. The values were determined by a maximum probable loss study in conjunction with building assessments.

As always, insurance costs continue to rise. This year earthquake coverage is stable, while there has been a notable increase in liability costs due to several large claims within the pool (but not incurred by the District). Excess workers' compensation costs are decreased after changing to the CSAC-EIA program. Other program costs remain stable.

INSURANCE PROGRAM	2010	2009	2008	2007
Liability	Est. \$300,000	\$251,143	\$233,837	\$260,855
Excess Liability/Casualty	Included in liability	\$5,626	\$5,412	\$9,000
Property & Boiler, & Earthquake	\$271,266	\$274,024	\$268,086	\$307,068
Watercraft	Est. \$2,100	\$2,577	\$2,577	\$3,200
Crime	Est. \$5,000	\$4,577	\$4,577	\$3,600
Aviation	Est. \$110,000	\$106,828	\$106,828	\$110,000
TOTAL (less Excess WC)	Est. \$680,356-\$688,356	\$644,775	\$623,317	\$694,900
Excess Workers' Compensation	Est. \$231,000-235,000	\$232,902	\$253,913	\$262,909

It is recommended that the Committee accept the estimates for 2010 insurance coverage in the categories noted above. There are estimates for some policies because the final quotes for those policies are not received until early June. In absence of approval, other coverage can be sought which is likely to be more costly (as other quotes obtained in 2008 on property and liability coverage were more expensive and with a narrower scope of coverage). Alternatively, the District can self-fund all losses at the peril of impacting general fund reserves.

Staff will reassess the District's retention of \$500,000. Several claims in the last few years may have shifted the District's previous record of almost no losses paid anywhere near this retention level.

## **UNEMPLOYMENT**

Unemployment benefits are paid directly from the District's General Fund; \$355,000.00 was paid during 2009. The District is invoiced directly by the State for benefits paid.

The District is more than willing to pay unemployment benefits to employees properly entitled to receive benefits. When employees are not entitled to benefits, the District vigorously asserts its position and keeps those monies in the General Fund. Claims are reviewed and handled with a concerted effort to enlist supervisors in defending against unreasonable application of benefits.

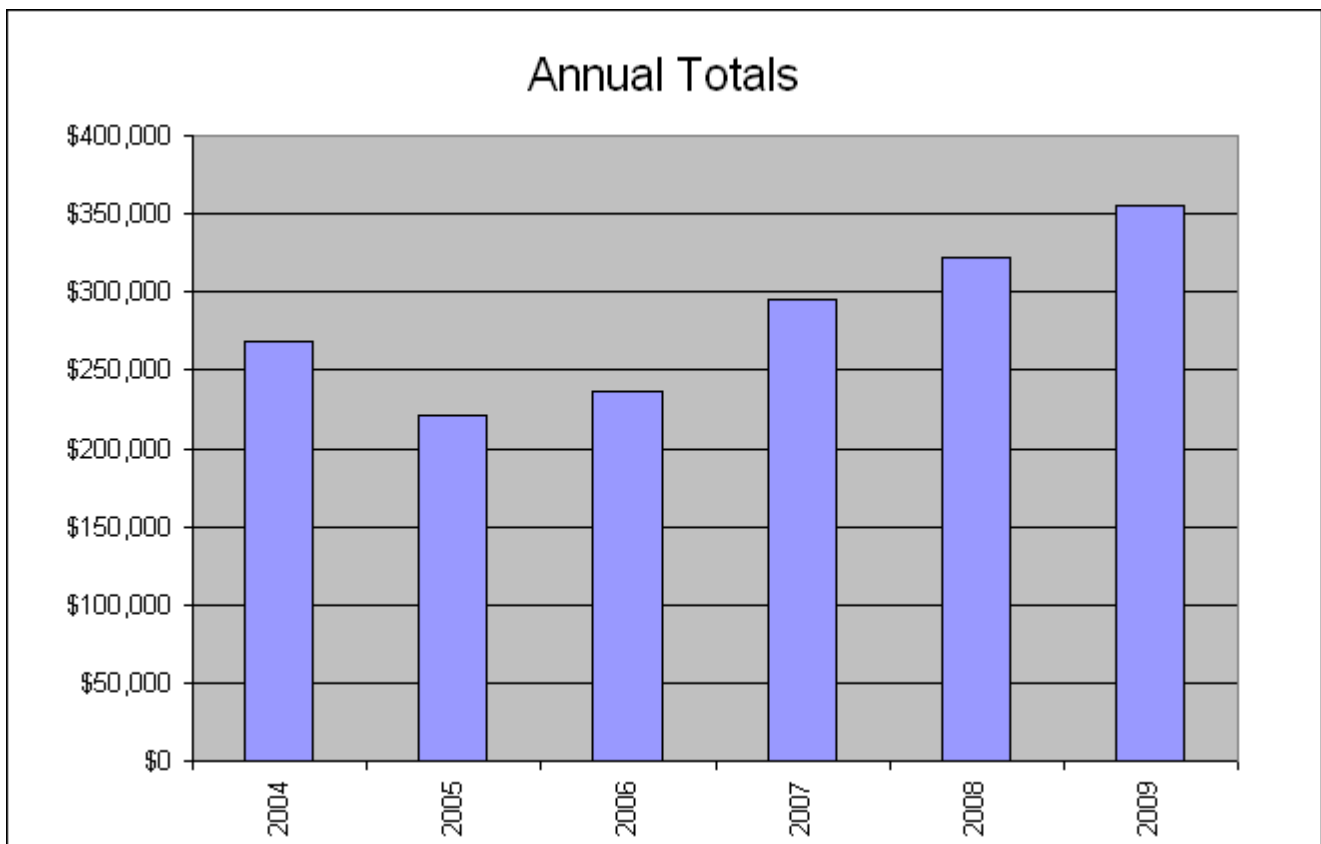
The District is facing potential increased costs. The use of temporary employees under the 900 hour limit exposes the District to more unemployment claims. Additionally there is the future exposure due to the recession and Federal/State extended benefits. The District could face a potential payout of \$35,100.00 per applicant for unemployment under new Federal and State unemployment extensions.

The District often faces an extended and costly unemployment claim with terminated employees. The Risk Management Department protests such claims at the first opportunity, and usually receives a favorable decision from the Employment Development Department.

When such claimants file an appeal with the Board of Appeals, District witnesses and the District's third party administrator, The E Group, defend the unwarranted claims. The District usually prevails at appeal hearings.

Because of the thorough documentation prepared in the Human Resources and Legal Departments, the District enjoys a very good reputation with the Employment Development Department and the Board of Appeals.

	2004	2005	2006	2007	2008	2009
1st Quarter	\$92,812	\$134,941	\$93,409	\$149,837	\$173,177	\$149,977
2nd Quarter	\$39,039	\$30,806	\$43,521	\$37,787	\$27,923	\$28,692
3rd Quarter	\$34,969	\$9,867	\$25,535	\$24,956	\$15,043	\$26,339
4th Quarter	\$101,350	\$45,545	\$73,392	\$83,257	\$106,276	\$150,069
<b>Annual Totals</b>	<b>\$268,170</b>	<b>\$221,159</b>	<b>\$235,857</b>	<b>\$295,837</b>	<b>\$322,419</b>	<b>\$355,077</b>



During 2002, Senate Bill 40 was signed into law. It drastically increased the maximum unemployment weekly benefit amount. That explains the increase in benefits paid.

The maximum per claim cost went from \$5,980 to \$11,700 in tiered annual benefit increases since 2005.

## **LOSS CONTROL**

The low numbers of injuries and accidents in some departments, as well as the lack of accidents in others, does not portray the safety practices behind the numbers. The work includes assessments at all levels as to the potential risks, safety practices, tailgate meetings, policies, trainings, accident reviews, and the use of external and internal resources. Practically none of the injuries to employees or visitors are caused by an unsafe condition.

There are two committees that oversee safety issues, the Safety Committee and the Accident Review Board. In addition, one analyst allocates approximately 50% of his time to safety programs such as training, the Annual Safety Academy, and OSHA compliance.

In May, 2009 OSHA fined the District \$20,700 for activities at a jobsite and shut the site down for several weeks due to concerns about lead exposure to the public and employees. After convincing OSHA representatives that the work practices posed no danger to employees or visitors, Risk and Maintenance staff appealed both the shutdown and fines, getting the site reopened and the fine reduced to \$1,775.

The key factor in measuring safety is the decreased number of injuries and days lost from work. The total time employees have missed regular work has decreased by over 26% during the last three years. This decrease is perhaps the single most telling figure of how effective the District's loss control measures work in decreasing the number of lost workdays, as well as keeping employees injury-free.

<b>OF LOST OSHA SUMMARY WORK DAYS</b>		
<b><u>YEAR</u></b>	<b><u># OF DAYS AWAY</u></b>	<b><u># OF DAYS MODIFIED</u></b>
2009	1,111	1,906
2008	1,084	2,619
2007	1,865	2,254

## **SUMMARY/RECOMMENDATIONS**

The District's Risk Management Department seeks to minimize the cost of insurance and consider other configurations for funding losses, as well as minimize claims costs. While experiencing some cost increases, the efforts of staff from many departments continue to help keep the frequency of claims to a minimum. The culture at the District is one of risk minimization, cost recovery whenever possible, and safety. Combined, those efforts keep the cost of risk management at a minimum.

*Legal/Risk recommends the renewal of existing aviation, liability, excess workers' compensation, and crime insurance policies. (Property for 2010-2011 has already been renewed through a Board Order.)*

*Legal/Risk also recommends a renewal of the York Insurance Services of California (formerly Bragg & Associates) renewal of a contract for workers' compensation claims management services for 7/1/2010 to 6/30/2011 at \$183,000.*



EAST BAY REGIONAL PARK DISTRICT  
**BOARD FINANCE COMMITTEE**  
AGENDA STATEMENT  
MEETING DATE – May 26, 2010

**SUBJECT:** Update on Request for Proposal for General Banking Services  
Report Prepared by: Cinde Rubaloff, CFO/Controller

**RECOMMENDATION:** Recommend that the Board of Directors authorize staff to enter a three year contract, with the option of biennial renewals thereafter, with Wells Fargo Bank for the District's general banking services.

**DESCRIPTION:**

The District uses a wide variety of banking services related to the deposits, disbursements and safekeeping of public monies, including electronic fund transfers. The District has worked with Bank of America for many years. Our current agreement with Bank of America expires in 2010. Thus we have completed the formal Request for Proposal (RFP) process to evaluate the services and costs of qualified banking institutions.

The Government Finance Officers Association (GFOA) recommends that local governments review the following to ensure the receipt of effective banking services at a reasonable cost:

- Initiate competitive-bidding and negotiation process for services and fees;
- Evaluate the costs and benefits of services which are available;
- Enter into contracts which specify services and fees; and
- Obtain the services of a relationship manager who understands the needs of the District.

Banking proposals were received from the following banks:

- Bank of America
- Wells Fargo Bank
- US Bank
- Comerica Bank
- City National Bank
- Mechanics Bank

The proposals were evaluated by District staff, and given objective rating in the following areas:

- Strength and stability of bank
- Availability of required services
- Customer service approach
- Public sector experience
- Experience of assigned relationship team
- Cost of services
- Completeness of responses to RFP
- Community involvement
- Other factors

Of the six banks which responded to the RFP, three (Wells Fargo, Bank of America and US Bank) were invited to interview with District staff on May 7<sup>th</sup>. The banks chosen had the most experience with governmental clients.

Following the interviews, staff met and discussed key points and issues raised during the interviews and evaluated the cost proposals. The decision was made that clarification was needed on one bank's pricing matrix. A follow-up meeting was held on May 17<sup>th</sup>.

At this point staff has completed their evaluation of all banking proposals. We would like to express our thanks to all the banks which participated in the process, and acknowledge the time and effort each bank committed in their proposal and interview efforts.

Based upon all the evaluation done, District staff is recommending that we implement a new banking relationship with Wells Fargo Bank. Besides being the most highly rated in stability, Wells Fargo Bank has a dedicated Government and Institutional Banking group which services over 5,000 clients like the District.

Our client relationship team at Wells Fargo is located in San Francisco so will be available to Finance staff until 6:00 PM. Wells Fargo electronic banking hours are the most extensive, and thus most flexible for District staff to conduct banking business. They are leaders in technological innovation and paperless banking. They are able to offer products that the District is currently interested in implementing, like "desktop deposit" (internet-based image depository solution--remote deposit capture), and products that the District would like to explore implementing, like payroll card. Additionally, Wells Fargo offers all the state of the art fraud protection services

District staff met with the proposed client relationship team during the interview, and they seem ready and willing to provide the excellent customer service the District is requesting. Additionally Wells Fargo will evaluate our current banking services, products and needs and present solutions to enhance the efficiency of our banking tasks. They will proactively provide information on new banking services and tools.

Finally Wells Fargo Bank has committed to very favorable pricing, which will reduce annual bank service charges, will reduce credit card processing fees, minimize float, and maximize earnings credits and sweep interest returns.

Staff requests that the Finance Committee recommend to the full Board of Directors that staff be authorized to enter into a three year contract, renewable biennially thereafter, with Wells Fargo Bank for the District's general banking services.





EAST BAY REGIONAL PARK DISTRICT  
**BOARD FINANCE COMMITTEE**  
AGENDA STATEMENT  
MEETING DATE – MAY 26, 2009

**SUBJECT:** Draft Comprehensive Annual Financial Report and  
Report to the Board of Directors and Management for the Year  
Ended December 31, 2009  
Report Prepared by: Cinde Rubaloff, CFO/Controller

**ATTACHMENTS:** **A.** 2009 Comprehensive Annual Financial Report (CAFR) (*Draft*)  
**B.** Report to Board of Directors and Management—*hand out at Finance Committee meeting*  
**C.** Agreed Upon Procedures Applied to Appropriations Limit Schedule—*hand out at Finance Committee meeting*

**RECOMMENDATION:** Review the financial reports and direct staff to submit the 2009 Comprehensive Annual Financial Report and the Report to Board of Directors and Management to the Board of Directors for consideration and acceptance.

**DESCRIPTION:**

State law and Board policy calls for the District to undergo an independent audit of its financial statements on an annual basis. Vavrinek, Trine, Day and Company (VTD), Certified Public Accountants, have completed their audit for the period ended December 31, 2009. According to VTD, the District's financial statements in all material respects, fairly present the financial position of the District and are in conformance with generally accepted accounting principles. Furthermore, VTD found no material weaknesses in the District's internal control structure. In other words, the District has a "clean" audit opinion with no exceptions or qualifications expressed. The reports are intentionally marked "Draft" as is customary until the Board of Directors has officially accepted the reports, which is anticipated to occur on July 6, 2010.

**Comprehensive Annual Financial Report (Attachment A)**

Management's Discussion and Analysis, at the beginning of the CAFR, includes financial highlights for the year, an overview of the financial statements, and an analysis of the government-wide and fund financial statements. Additionally, General Fund budget highlights are included, as are capital asset summary and debt administration. Finally, economic factors impacting the 2010 budget are briefly discussed as follows:

- Net assets in the government-wide statements, which are presented on a full accrual basis, have increased \$47 million during 2009.
- General Fund fund balance, included in the fund financial statements, which are presented on a modified accrual basis, has increased \$9 million, which has been designated for "revenue smoothing".

- Total governmental funds have increased fund balance of \$92 million, the largest increase being in capital project funds due to the \$80 Measure WWV debt proceeds.
- Fiduciary fund statements include the EBRPD Retirement Plans and the OPEB trust, which are not assets of the Districts, but over which the District has a fiduciary responsibility.
- The notes to the financial statements include general information about the District's significant accounting policies, as well as specifics about 2009 activity in debt and capital assets, as well as explanation of year end balances for cash, retirement benefit obligations and risk management. The securitization of Proposition IA receivable from the State of California is discussed in the note entitled subsequent events.
- Required supplementary information includes the mandated General Fund budget to actual and the funding progress of the District's retirement benefit obligations.
- Detail on each fund and budget to actual comparisons are included in the supplementary section of the document.
- The CAFR closes with a statistical section which includes multi-year comparisons of financial information, as well as information about our major revenue source, property tax, additional debt information, and District statistics.

In reviewing the CAFR, it is important to recognize that the financial results represent a "snapshot" at a particular point in time. This is especially important when reviewing items such as cash balances, which fluctuate throughout the year. For example, the District received \$63.4 million in property tax revenues during December, the final month of the District's fiscal year. This large sum is the main reason for the amount of cash in the General Fund at year end. It is important to keep in mind that this cash balance keeps the District's cash flow "in the black" until it receives the next property tax installment the following April. Without this cash balance, the District would be forced to issue short-term notes to finance a cash flow deficit in the General Fund. The cost of financing, including interest and issuance fees, would be an additional budget consideration.

**Recommendations to Management Report (to be distributed at the Finance Committee meeting)**

As a part of the process of performing the District's annual audit, the independent auditor prepares a report to the Board of Directors and management detailing their findings related to the internal control over financial reporting. There are three levels of deficiencies. The most extreme is a material weakness. The next level is a significant deficiency. The auditors did not encounter any material weaknesses or significant deficiencies. The lowest level of a finding related to internal controls over financial reporting is a control deficiency. The auditors have reported on the control deficiency which was encountered. The auditor's recommendation and management's response are also included in the report.

**Agreed Upon Procedures Applied to Appropriations Limit Schedule (to be distributed at the Finance Committee meeting)**

Since 1990, the California Constitution has placed a restriction on public agencies for the annual amount of appropriations from property taxes (Gann Limit). The appropriation limit is based on population and inflationary factors as applied to the prior year appropriation limit. The 2010 appropriation limit, as adjusted for these factors, is \$300.5 million. The amount of District 2010 appropriation subject to this limitation is \$89.8 million, far below the Gann Spending Limitation.

Finally, the preparation and timely completion of the annual financial reports is a significant endeavor for the Finance Department. Staff members Dave Sumner (Audit Manager), Deborah Spaulding (Assistant Financial Officer), and especially Kimberly Balingit (Supervising Accountant) have all contributed tireless effort to produce the CAFR. The General Manager and other District staff have responded cooperatively to the many questions and requests for detailed information that accompanies each audit.

*It is requested that the Finance Committee review, discuss and recommend that staff submit the CAFR and Recommendations to Management reports to the Board of Directors for favorable consideration.*