

## **Third Directors Provide Information on What Led to Their Filing a Lawsuit Against PCM**

**by Mary Robertson**

Third Mutual directors supporting the lawsuit against PCM have held several public meetings with residents to explain what caused Third to sue PCM over the employee incentive plan. Directors took turns providing background on the lawsuit.

According to Third Director John Paulus, the issue of PCM giving out bonuses to employees under an incentive plan first arose in a Third Mutual Business Plan meeting in the spring of 2006. PCM advised the directors they had an incentive plan; Jim Matson and Bob Hatch asked what it was about. PCM staff responded that it was a bonus plan that had been in effect since 1995-96. The Third directors wanted more information about it.

Around the same time, Third directors Bob Hatch and Richard Moos, along with two directors each from United and GRF, were working on the Management Agreement (contract with PCM) which was due for renewal in 2007. They had concerns over a lack of Board authorization for the incentive plan. Therefore, they decided to put a clause about the incentive plan in the Management Agreement. In the end, only Third included the clause in their contract with PCM.

Paulus stated he was appointed to the Third Board in 2007. In April 2007, he asked Janet Price, PCM Financial Officer, for the amount of yearly funds issued under the incentive plan. She provided information for the years 2000-2006. That amount was \$424,233 (the amount Third is suing PCM for). She advised Paulus that records no longer existed for prior years.

Paulus then asked for the amount Third paid to GRF for its share of the incentive plan paid for those years, and Price stated that was (approximately) \$1,486,797. He also asked for the criteria used to determine the amount of incentive paid to employees and, after some difficulty, PCM provided it. Paulus stated, "I wouldn't pay a nickel for any of [the rewarded ideas]."

For 2007, Price advised Third paid (approximately) \$113,070 for its share of the incentive plan and paid to GRF \$114, 895 for its share of GRF's payment for the incentive plan. (Third is not suing for the 2007 payment). In 2008 PCM decided to stop the plan altogether.

Paulus stated that United Board Director Mike Curtis requested the same information for United and was informed that for the period 2000-2007 United had paid \$481,000 and paid \$1,601,692 to GRF for its share of GRF's incentive plan payment.

Carol Moore, Third Board President, then explained that in April 2009, the Board decided an investigation was needed into the incentive plan and therefore hired special attorney Jeffrey Cohon. After his initial review of documents, Cohon stated he needed to interview former Third Board directors and interviews were set up.

Director Carol Skydell then picked up on the chronology of events by explaining that In July 2009 Cohon presented the results of his investigation to the Third Board.

It was at this time that the Third Board approved sending PCM a letter advising that they believed PCM had misused their funds for the incentive plan and requesting PCM to sign a tolling agreement to stop the clock on the statute of (time) limitations and agree to mediation on the matter.

Moore continued on, saying they had one mediation session (in the fall 2009), which was unsuccessful, and Third agreed to a second session. Setting up the second session was delayed for months and Third believed, according to Moore, that this was a tactic by PCM to drag things out.

Moore stated, "a lawsuit was the last thing we wanted to do," but Third had to file a suit in June 2010 or it would have run out of time under the statute of limitations. The lawsuit named three defendants: PCM, Milt Johns and Janet Price. PCM and Price were served promptly but Johns was not because they could not find him, according to Moore. However, she stated Johns was finally located and served in October 2010.