



**CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY**

**BOARD OF DIRECTORS MEETING**

**February 13, 2003 – 9:35 A.M.**

**Hiddenbrooke Golf Club  
1095 Hiddenbrooke Parkway  
Vallejo, CA 94591**

**(707) 558-0330**

**Minutes**

**I. CALL TO ORDER:**

President Henderson called the meeting to order at 9:35 a.m.

**II. ROLL CALL**

***PRESENT***

- |                                     |   |
|-------------------------------------|---|
| 1) Darrell Handy, <i>Alameda</i>    | 11) Carolyn Lyons, <i>Roseville</i>     |
| 2) Bob Koch, <i>Chico</i>           | 12) Mary Richardson, <i>San Leandro</i> |
| 3) Robyn Kain, <i>Fairfield</i>     | 13) Sharon Andrus, <i>San Rafael</i>    |
| 4) Patricia Born, <i>Fremont</i>    | 14) Roger Carroll, <i>SCORE</i>         |
| 5) Bill Henderson, <i>Livermore</i> | 15) John Hinson, <i>Stockton</i>        |
| 6) Steve Schwabauer, <i>Lodi</i>    | 16) Barbara Coats, <i>Sunnyvale</i>     |
| 7) Randy Graham, <i>NCCSIF</i>      | 17) Paul Wildermuth, <i>Vacaville</i>   |
| 8) Scott Ellerbrock, <i>PERMA</i>   | 18) John Pomidor, <i>Vallejo</i>        |
| 9) Jeff Davis, <i>REMIF</i>         | 19) Jeff Tonks, <i>YCPARMIA</i>         |
| 10) Taj Knudsen, <i>Redding</i>     |   |

***ABSENT***

*Petaluma, Santa Rosa*

***OTHERS PRESENT***

- |  |  |
|--|--|
| 1) Lola Deem, <i>CJPRMA</i>              | 7) Byrne Conley, <i>Gibbons &amp; Conley</i> |
| 2) Robert German, <i>CJPRMA</i>          | 8) Craig Bowlus, <i>Marsh</i>                |
| 3) Caren White, <i>CJPRMA</i>            | 9) Pat Clark, <i>Marsh</i>                   |
| 4) Craig Labadie, <i>Concord</i>         | 10) Julie Thierl, <i>Pomona</i>              |
| 5) Robin Johnson, <i>Driver-Alliant</i>  | 11) Dave Lindquist, <i>Vallejo</i>           |
| 6) Mark McGonigle, <i>Driver-Alliant</i> |  |

### **III. APPROVAL OF MINUTES**

A motion by Director Davis, seconded by Director Andrus, to approve the minutes of the Board of Director's meeting on November 21, 2002, passed unanimously.

### **IV. PRESENTATIONS**

None

### **V. CONSENT CALENDAR**

- 1. Financial Reports of CJPRMA for the periods ending October 31, November 30 and December 31, 2002**
- 2. Additional Covered Party Certificates Approved by the General Manager**
- 3. Notification of New Claims Received**
- 4. Notification of Claims Closed**

President Henderson announced the appointment of Taj Knudsen as the Alternate for Redding.

The General Manager said that they had added Agenda Bill 12, Proposed Committee on Membership Standards, to the agenda, and that it had been properly noticed.

A motion by Director Wildermuth, seconded by Director Born, to approve the consent calendar, passed unanimously.

### **VI. THIS TIME IS RESERVED FOR MEMBERS OF THE PUBLIC TO ADDRESS THE BOARD OF DIRECTORS ON MATTERS OF BOARD BUSINESS**

### **VII. ACTION CALENDAR**

#### **5. 2002 Claims Audit**

Mr. Craig Bowlus, of Marsh, was present to discuss the results of the 2002 claims audit as well as his recommendations.

Mr. Bowlus had five recommendations:

- 1) CJPRMA should increase its focus on monitoring reporting from members when there is a personnel change in the City Attorney's office, Risk Management or when there is a change in TPAs. Any reporting lapses should be aggressively pursued. This recommendation was also made in 2002.
- 2) Members should consider risk transfer strategies associated with playground exposures.
- 3) CJPRMA should consider asking self-administered members who handle their own litigation to create a "peer group" to discuss watch list cases bi-annually.
- 4) Documentation of primary incurred values in the excess files needs improvement. CJPRMA should consider either creating a comprehensive Excel document or should acquire software to help achieve this goal.
- 5) Annual claims audit sheets should be added to the CJPRMA files.

Mr. Bowlus said that he felt that the members were generally doing a good job of establishing reserves, but that that information was not always forwarded to CJPRMA. He said that he thought that CJPRMA needed to be more aggressive about requesting reserve information. The General Manager said that they had requested that the TPAs caption their reports with the financial information. He said that the results have been sporadic. He said that every quarterly report should begin with the captioned financial information. Director Kain asked if a format for the information could be provided. The General Manager said that he could.

Mr. Bowlus said that streets and public works continued to be the largest exposure.

Mr. Bowlus said that, perhaps, it was time for CJPRMA to consider acquiring a new RMIS system. The General Manager said that they had originally planned to include funds for a new RMIS program in the budget but had decided to wait until a decision was made regarding the proposed risk management position in order to have that person involved in the selection of such a program.

A motion by Director Davis, seconded by Director Andrus, to approve the 2002 claims audit, passed unanimously.

## **6. Proposed Feasibility Study for an Excess Workers Compensation Pool**

The General Manager said that this item had been agendaized at the request of several Board members. He said that many of them were experiencing increased workers compensation rates. He said that he had always been

hesitant about entering the workers compensation arena, but that, at the request of several members, he was recommending doing a feasibility study to examine the possibility of creating an excess workers comp pool.

The General Manager said that the feasibility study would consist of an actuarial study to discuss rates and retained limits, the possibility of a single rate for all participants with no ex-mod factor, and running the program in a manner that was similar to the liability pool. He said that the balance of the feasibility study would be to take that information and get commercial insurance quotes with the assistance of Marsh. He said that in order to go forward with the study, there was a lot of information that would need to be gathered from the members relating to their existing comp programs.

President Henderson asked how claims would be handled. The General Manager said that they would continue to handle claims as they are currently handled until the claim reached the excess level, at which point they would work with the members' TPAs.

The General Manager said that there were a number of issues that they would need to address. He said that some of the big concerns were (1) whether there would be a sufficient level of participation, (2) whether there would be a sufficient level of funding, (3) ensuring a long term commitment from members, (4) setting criteria for expelling a member, and (5) establishing an inception date. He said that it would be an excellent marketing tool for new members. He said that his biggest concern was the effect that the creation of an excess work comp pool would have on LAWCX.

Director Kain asked if they should look at the feasibility of creating a pool and of having members joining LAWCX. The General Manager said that any member could look at LAWCX at any time.

Director Born said that what concerned her about CJPRMA going back into workers comp was that the Board might not have the necessary expertise. She said that she was also concerned about the impact on LAWCX.

Director Davis said that the members should have some alternatives and that spending \$25,000 on a feasibility study would be money well spent. He said that he was looking at a 300-400% rate increase and that it was very important to look at other options.

Director Handy said that he was opposed to the study because he didn't think they would be able to get rates to consider until they had definite commitments. The General Manager said that the feasibility study would

end up with rates for the pooled layer and quotes for the commercially insured layer.

Director Lyons said that workers comp was very different from liability. She said that CJPRMA handled liability very well, but that she didn't think that CJPRMA should get involved in workers comp.

Ms. Clark of Marsh said that with a program of substantial size, the broker could usually negotiate a threshold of payroll with a variance in it so that a firm rate could be provided. She said that there was a negotiating point with payroll but it depended on the underwriters. She said that it was a difficult market.

Board Counsel said that a lot of this discussion had come up at the Transit Committee meeting. He said that 8 to 10 CJPRMA members used Marsh to purchase excess workers comp coverage individually and that they could possibly save some money if they approached the market as a group.

Director Koch said that Chico was neither a LAWCX member nor a Marsh client and that he was paying a 400% increase. He said that he was looking for other options and that he would like to see the results of the feasibility study.

Director Born said that she was opposed to paying for a study that she had no interest in. Director Koch said that over the years, the Board had spent money on programs that not every member was in favor of.

Director Coats said that the feasibility study should take into account the effect of a new workers comp pool would have on LAWCX. The General Manager said that they would try to utilize as much information and give them as many options as possible.

Vice President Wildermuth said that he had no problem with conducting the study but that he thought that it would show that LAWCX was the best alternative.

A motion by Director Davis, seconded by Director Koch, to conduct a feasibility study for an excess workers compensation pool and to provide up to \$25,000 for that study, passed by a vote of 14 to 5. Alameda, Fremont, Lodi, Roseville and Vallejo opposed the motion.

## **7. Application for Membership from the City of Pomona**

The General Manager said that CJPRMA had received an application for membership from the City of Pomona. He said that Julie Theirl was present to discuss their application. He said that they had filed the

application in December. He said that the City of Pomona had a seven-member council, a population of 159,000, 750 full time employees and encompassed about 23 square miles. He said that, in 2002, they had a total payroll of \$39 million. He said that they would be CJPRMA's third largest city, and seventh largest member. He said that they had a very comprehensive risk management program and that a copy of their risk management manual had been attached. He said that, over the past five years, they had averaged about 168 claims per year with an incurred value of about \$841,000 per year. He said that they were currently a member of BICEP, and that they had come to CJPRMA because of dissatisfaction with their existing program. He said that if they became a member, with a \$500,000 retained limit, they would generate \$350,945 in premium. If they joined at the \$1 million retained limit, they would generate \$256,808 in premium. He said that he was recommending approval of the City of Pomona's application for membership.

The General Manager said that one of the questions he had been asked related to their jail. He said that they had a facility that held close to 70 people. He said that the questions were why they had a facility of that size and whether or not they contracted out services to other agencies. Ms. Theirl said that the jail was built in 1964, that that was the size of jail that was needed at that time, and that it had never been filled to capacity. She said that they did not contract out that facility to other agencies. President Henderson asked if the inmates stayed at that facility for any length of time. Ms. Theirl said that it was basically a holding facility.

Director Kain said that it seemed like there had been a high number of "Other Property Damage" claims. Ms. Theirl said that she wasn't sure what those claims were. She said that it was possible that those were for sewer lateral line claims. She said that they used to pay all of those claims but that they no longer did.

Director Kain asked what sort of festivals they had. Ms. Theirl said that they had various cultural festivals and parades.

Director Schwabauer asked what venue their civil rights claims were in. Ms. Theirl said that they were usually handled in Los Angeles, but, occasionally, were moved to Riverside County.

Director Kain asked, based on the loss history, if there was a projection on how many claims might hit the excess layer. The General Manager said that, in their history with BICEP, they had only had one claim in excess of \$1 million.

Director Davis asked who handled their litigation. Ms. Theirl said that they had a contract city attorney but that all of their complex litigation was handled by outside counsel.

A motion by Director Born, seconded by Vice President Wildermuth, to approve the City of Pomona's application for membership, effective July 1, 2003, passed unanimously.

#### **8. Proposed Policy on Reimbursement for Travel to CJPRMA Board Meetings**

The General Manager said that this item had been brought up by a number of members. He said that, considering all the budget constraints they were beginning to face, it had been suggested that CJPRMA begin reimbursing the members for travel to CJPRMA meetings. He said that he was currently doing so for PERMA. He said that he didn't want cost to be a deterrent to attending meetings.

A motion by Vice President Wildermuth, seconded by Director Born, to approve the proposed policy on reimbursement for travel expenses for CJPRMA meetings, effective February 13, 2002, passed unanimously.

The General Manager said that they would reimburse at the IRS rate for mileage, and for airfare and hotel accommodations for members who traveled long distances.

#### **9. Report from Board Counsel on the Amendment to the Tort Claims Act**

Board Counsel said that he had gone through the discussion of what happened with the code as well as looked at the tort claim forms that were used by most of their members. He said that he had taken the best features from those forms and put together a standardized form to be utilized by all CJPRMA members. He said that, if the Board had any suggestions, he would incorporate them, and that the form could then be posted on the web site for everyone's use.

#### **10. Report from Broker on Terrorism Coverage**

Pat Clark, of Marsh, was present to discuss the impact and ramifications of the recently passed legislation on terrorism coverage.

Ms. Clark said that Marsh had prepared a market overview of the salient points of the recently passed Terrorism Risk Insurance Act and its application. She said that that should answer most of the questions that the Board might have. She said that there were a few key features of the legislation. She said that the Department of the Treasury was defining an

act of terrorism as an act by a foreign operation or people working on behalf of foreign interests that want to harm human life or property in the United States or on a US ship or aircraft or at a US mission site. She said that, with regard to insurance, effective November 26, 2002, all terrorism exclusions, as defined within the act, were null and void. She said that, at that point, it was up to the insurance companies to (1) send disclosure notices to policyholders who did not have terrorism exclusions on their policies to verify that fact and to let them know what portion of their premium was allocated for terrorism coverage, and (2) send disclosure notices to policyholders who did have terrorism exclusions, advising them about the act and specifying what their additional prorated premium amount would be to add the coverage. She said that they were fast approaching the 90-day window that insurance companies had been given to send notices to all property and casualty policyholders. She said that, following receipt of the disclosure notice, each policyholder had 30 days to accept the coverage and pay the premium.

The General Manager said that the CJPRMA property program had multiple carriers. He said that each carrier was sending a quote for terrorism coverage, but not all carriers were sending the quotes at the same time. He said that they had no way of knowing what the overall cost would be for the whole program. He said that, with the 30-day time limit, there was no way they would be able to purchase the terrorism coverage. He said that he had spoken with the broker and that Mr. Pinckney did not think that they needed to have terrorism coverage on the property program because he did not think that the concentration of risk was such that it would warrant payment of the additional premium.

Director Davis said that he was running into similar problems with his earthquake and flood coverage. He asked if they would want to pick up the terrorism coverage for the first \$5 million of property coverage. Ms. Clark said that, currently, there was no exclusion in that layer.

Director Davis asked how this would affect their liability coverage. The General Manager said that they had terrorism coverage from \$5 million to \$10 million as a part of their reinsurance program. Ms. Clark said that this legislation did not apply to reinsurance.

Director Handy asked how their ability to file FEMA claims fell under this new Act. Ms. Clark said that this legislation did not cover the FEMA program.

Vice President Wildermuth asked if they could get any sort of ballpark figure on renewal rates for property and liability. The General Manager said that the liability rates were already set. Ms. Clark said that the property team was working on getting updated values and quotes, but that

it was very difficult, due to market conditions, to get any early answers. She said that, for January 2003, renewals on all Marsh accounts, countrywide, averaged increases of up to 10%.

#### **11. Election to Fill Vacancy on Executive Committee**

The General Manager said that there was a vacancy on the Executive Committee as the result of Dave Lindquist's retirement. He said that, of the 13 members eligible for nomination, 7 withdrew their names, and of the remaining six, the only nomination made was for Director Lyons. There were no nominations from the floor.

Director Lyons was elected, by unanimous vote, to fill the vacancy on the Executive Committee.

#### **12. Appointment of Committee on Membership Standards**

The General Manager said that this item had come up as the result of discussions with President Henderson. He said that the general idea was to appoint a Committee on Membership Standards in order to study a number of different issues, including member funding for losses in their retained limit, attendance at Board meetings, and the adequacy of member risk management programs. He said that he was most concerned about member risk management programs because that was where their liability exposure was the greatest.

A motion by Director Born, seconded by Director Lyons, to create a Committee on Membership Standards, passed unanimously.

### **VIII. COMMITTEE REPORTS**

#### **A) Claims: Patricia Born, Chair**

The Claims Committee had nothing to report.

#### **B) Coverage: Jeff Tonks, Chair**

Board Counsel said that if there were any suggestions regarding changes to the Memorandum of Coverage, they should be emailed to him.

#### **C) Personnel: Carolyn Lyons, Chair**

Director Lyons said that the Personnel Committee was going to meet following the Board meeting to discuss the risk management position and a few recommendations from the General Manager.

**D) Communications:** Bob Koch, Chair

The Communications Committee had nothing to report.

**E) Finance:** Paul Wildermuth, Chair

The Finance Committee had nothing to report.

**F) ad hoc Transit:** Paul Wildermuth, Chair

The General Manager said that they had had a very thorough discussion and had decided that the only possible recommendation was the elimination of the transit exclusions. He said that, for the most part, the coverage that members were getting through CalTIP was exceptional and the pricing was very reasonable. He said that they would ask the reinsurer what impact the elimination of the transit exclusions would have on that coverage.

**IX. CLOSED SESSION**

**1. Government Code Section 54954.5**

Case Review/Planning

**2. Government Code Section 54956.9 (a)**

Conference with Legal Counsel - Pending Litigation

**Name of Case:** Headwaters Forest Defense v. City of Eureka

**Court:** Supreme Court of the United States

**Case No.:** 01-1744

**3. Government Code Section 54956.9 (a)**

Conference with Legal Counsel - Pending Litigation

**Name of Case:** County of Solano v. City of Vallejo

**Court:** Court of Appeals, First Appellate District

**Case No.:** A082666

**4. Government Code Section 54956.9 (a)**

Conference with Legal Counsel - Pending Litigation

**Name of Case:** Vallejo Unified School District v. City of Vallejo

**Court:** Solano County Superior Court

**Case No.:** 15644

5. **Government Code Section 54956.9 (a)**  
Conference with Legal Counsel - Pending Litigation  
**Name of Case:** Beeby v. City of Manteca  
**Court:** United States District Court, Eastern District of California  
**Case No.:** CIV 5-98-0425 FCD PAN
  
6. **Government Code Section 54956.9 (a)**  
Conference with Legal Counsel - Pending Litigation  
**Name of Case:** Vaziri v. City of St. Helena  
**Court:** Napa County Superior Court  
**Case No.:** 26-16511
  
7. **Government Code Section 54956.9 (a)**  
Conference with Legal Counsel - Pending Litigation  
**Name of Case:** Norman v. City of Stockton  
**Court:** San Joaquin County Superior Court  
**Case No.:** CV013110

**X. ACTION ON CLOSED SESSION ITEMS**

None.

**XI. ADJOURNMENT**

A motion by Director Born, seconded by Vice President Wildermuth, to adjourn the meeting at 12:08 p.m., passed unanimously.