



CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

BOARD OF DIRECTORS MEETING

April 15, 2003 – 9:05 A.M.

**Seascape Resort
One Seascape Resort Dr.
Aptos, CA 95003**

(831) 685-2753

Minutes

I. CALL TO ORDER:

President Henderson called the meeting to order at 9:09a.m.

II. ROLL CALL

PRESENT

- | | |
|-------------------------------------|---|
| 1) Darrell Handy, <i>Alameda</i> | 10) Mary Richardson, <i>San Leandro</i> |
| 2) Robyn Kain, <i>Fairfield</i> | 11) Gus Guinan, <i>San Rafael</i> |
| 3) Patricia Born, <i>Fremont</i> | 12) Bill Kaslar, <i>Santa Rosa</i> |
| 4) Bill Henderson, <i>Livermore</i> | 13) Roger Carroll, <i>SCORE</i> |
| 5) Kirk Evans, <i>Lodi</i> | 14) John Hinson, <i>Stockton</i> |
| 6) Randy Graham, <i>NCCSIF</i> | 15) Barbara Coats, <i>Sunnyvale</i> |
| 7) Scott Ellerbrock, <i>PERMA</i> | 16) Paul Wildermuth, <i>Vacaville</i> |
| 8) Jeff Davis, <i>REMIF</i> | 17) John Pomidor, <i>Vallejo</i> |
| 9) Carolyn Lyons, <i>Roseville</i> | 18) Jeff Tonks, <i>YCPARMA</i> |

ABSENT

Chico, Petaluma, Redding

OTHERS PRESENT

- | | |
|--|-----------------------------------|
| 1) Marty Cassell, <i>Chandler</i> | 8) Craig Bowlus, <i>Marsh</i> |
| 2) Lola Deem, <i>CJPRMA</i> | 9) Brian Cooney, <i>Marsh</i> |
| 3) Robert German, <i>CJPRMA</i> | 10) Jim Pinckney, <i>Marsh</i> |
| 4) Caren White, <i>CJPRMA</i> | 11) Julie Thierl, <i>Pomona</i> |
| 5) Robin Johnson, <i>Driver-Alliant</i> | 12) Lori Tomsy, <i>Santa Rosa</i> |
| 6) Byrne Conley, <i>Gibbons & Conley</i> | 13) David Clovis, <i>Vallejo</i> |
| 7) Amara Morrison, <i>Livermore</i> | |

III. APPROVAL OF MINUTES

A motion by Vice President Wildermuth, seconded by Director Born, to approve the minutes of the Board of Director's meeting on February 13, 2003, passed unanimously.

IV. PRESENTATIONS

- 1. Dave Lindquist – Vallejo**
- 2. Chuck Lamoree – Vacaville**

V. CONSENT CALENDAR

- 1. Financial Reports of CJPRMA for the periods ending January 31 and February 28, 2003**
- 2. Additional Covered Party Certificates Approved by the General Manager**
- 3. Notification of New Claims Received**
- 4. Notification of Claims Closed**
- 5. Appointment of New Board Members/Alternates**

A motion by Director Born, seconded by Director Kaslar, 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

- 6. Status Update on Membership Application of the City of Concord**

The General Manager said that the City of Concord had decided to join CPEIA, the CSAC municipal pool, rather than CJPRMA, for financial reasons.

- 7. Status Update on Feasibility Study for an Excess Workers Compensation Pool**

The General Manager said that he had received an email from Milliman stating that they had received a lot of the data that had been requested, but

that some members had not yet responded. He said that they would not be able to go forward with the study until they received all of the requested data. He said that he would let them know which members still needed to provide information.

8. Status Update on CAJPA Accreditation

The General Manager said that everything had been submitted for the accreditation study and that it would be reviewed by the CAJPA Accreditation Committee in May. He said that he expected that they would be approved for Accreditation with Excellence once again. That meant that CJPRMA had been continuously Accredited with Excellence since May 28, 1991.

9. Report from Investment Manager

Marty Cassell, of Chandler Asset Management, was present to review CJPRMA's investment portfolio. He discussed the overall economic environment, its effect on interest rates, the investment objectives for CJPRMA's portfolio, sector distribution of the CJPRMA portfolio, and the performance of the CJPRMA portfolio.

President Henderson asked why the cash equivalent portion of the accounts had appeared to decrease or disappear. Mr. Cassell said that the cash equivalents were either money market funds or short-term commercial paper. He said that it built up when something matured and they had not yet reinvested it, or if the General Manager notified them that a large payment was coming up, they would plan for that. He said that they tried to keep the cash balance as low as possible.

Director Davis said that when the General Manager had visited REMIF in January, he had said that, essentially, losses had been paid out of the investment income and that the principle had stayed where it was. The General Manager said that, in essence, they had paid all of their losses out of investment income, and that the principle had either been returned to the members, in the form of redistributions, or was still in the investment program.

10. Report from Broker

Jim Pinckney and Brian Cooney, of Marsh, were present to provide status updates on the renewal of the current commercial insurance programs.

Mr. Pinckney presented information on the general liability reinsurance renewal. He said that the coverage was exactly as the same as the expiring program. He said that the renewal rate had increased slightly from about \$.16 to \$.1797. He said that they currently had a 100% minimum but that the new program would have a 90% minimum, meaning that if payroll decreased, then premium would decrease as well. He said that they were still negotiating a roll-forward option for the 2004-2005 program year.

The General Manager said that the rate that had been set in the actuarial study would be sufficient to cover the reinsurance premium.

Mr. Pinckney presented information on the APD program renewal. He said that they had gone to market and that, once again, Fireman's Fund had provided the best rates.

Mr. Cooney presented information on the Property program renewal. He said that the program for 2003-2004 was very similar. He said that they were looking at dropping the limit from \$300 million to \$200 million, which was still a significant limit relative to the highest valued location. He said that they were looking at a program with Discover Re with a \$50,000 deductible and an option to bring the deductible down to \$25,000 for about a \$.005 increase. He said that, based on our loss history, they would have to have six losses to equal the increase in premium for the \$25,000 deductible. He said that they had put together a program with Discover Re that was based on a three-year earned-loss ratio, which meant that they would bank the premiums in the good years to offset potential losses in others. He said that they had to reach a 75% earned-loss ratio in order to have any adjustment going forward, except for the predetermined \$.005 increase at renewal. He said that if their loss history continued to stay the same, as time passed, they would have a lot of money to base that earned-loss ratio on. He said that, if the earned-loss ratio exceeded 100%, the maximum premium increase was capped at 25%, and if the earned-loss ratio exceeded 125%, the maximum premium increase would be 50%.

Director Davis asked if the \$25,000 deductible would hold for the entire three years of the program. Mr. Cooney said that they would see if Discover Re could commit to the three years, but that it would most likely be a year to year issue.

The General Manager said that they had a guarantee for the \$50,000 deductible for three years with the opportunity, in the first year, to buy down to \$25,000 and a review of that opportunity in the next two years.

Director Kain said that she thought it would be better if they stayed at a \$25,000 deductible.

Director Davis said that if they increased the deductible now, it would be very difficult to decrease it in the future. He said that he thought they should buy it down.

A motion by Director Davis, seconded by Director Richardson, to adopt the \$25,000 deductible for the 2003-2004 Property program, passed unanimously.

Mr. Cooney also presented the renewal information for the Boiler and Machinery program. He said that there was an increase in the deductible for transformers and generators, from \$5000 to \$10,000. He said that the deductible for extra expense was increasing from \$1000 to \$5000. He said that the overall rate increase was 10%. He said that there would also be some enhancements and revisions to the policy.

Mr. Pinckney said that he was required to offer a quote that complied with the Federal Terrorism Act for the members of the APD program. He said that the price for that coverage, for the 2003-2004 Program Year, was \$5238. The General Manager said that it was the decision of the APD participants, but that he wouldn't recommend it. Mr. Pinckney said that for a claim to be covered by this portion of the policy, it would have to be part of a federally declared terrorist activity.

A motion by Director Davis, to add terrorism coverage to the APD program, died for lack of a second.

11. Approval of Coverage for a New Member (IVECA) of PERMA

The General Manager said that PERMA had admitted IVECA, a joint powers authority created to develop an emergency communications system in Imperial County. He said that they had no payroll and no facilities at this time but that they needed coverage. He said that Article XII of the By-laws stated that JPAs admitted to CJPRMA after April 28, 1992 may not add new members for CJPRMA coverage purposes, for a period of three years following their admission to the JPA, without the specific approval of two-thirds of the CJPRMA Board. He said that he would recommend that the Board approve the addition of IVECA (PERMA) to the liability program.

The General Manager said that CJPRMA used to have a minimum premium policy, but that it had been eliminated. He said that they now had a few members in PERMA that had no employees and no payroll and that, essentially, they were not being charged a premium for coverage. He said that Director Ellerbrock had instituted a program in PERMA for charging a

premium based on a minimum payroll of \$200,000. He said that he would recommend that the Board do something similar.

A motion by Director Tonks, seconded by Director Born, to approve the addition of IVECA (PERMA) for \$5 million in coverage until the addition was approved by the reinsurer, effective January 29, 2003, and to institute a minimum premium based on payroll of \$200,000, effective April 15, 2003, passed unanimously.

12. Proposed Change in Actuaries

The General Manager said that he felt that there had been problems with timeliness and communication with ARM Tech over the past two years. He said that he had spoken with Milliman USA, who was the second lowest bidder when they went out for RFPs last year, and that they had agreed to honor that bid if CJPRMA awarded them the actuarial study beginning this year. He said that it would cost approximately \$4100 more this year and approximately \$1600 more over the next two years. He said that he was recommending that they award the contract to Milliman.

Director Born asked if Milliman would give the members a break on actuarial studies like ARM Tech had done. The General Manager said that he didn't know.

A motion by Vice President Wildermuth, seconded by Director Graham, to approve the proposed change in actuarial firms to Milliman USA, passed unanimously.

13. Report from Board Counsel on Coverage for Rent Control

This item was continued to the June meeting.

14. Proposed Addition of Staff Position

The General Manager said that this item had been referred to the Personnel Committee for the drafting of a job description and the establishment of a salary range.

Director Lyons said that the Personnel Committee had discussed the proposed position, surveyed the members to find out what they wanted from it, and reviewed other job descriptions for similar positions. She said that the various responsibilities of the proposed position were taken from the survey, comments made to the Personnel Committee, and other job

descriptions. She said that they had determined that a salary range of \$80,000-90,000 was warranted, based on the job market and on the member survey.

Director Handy asked if this position would cover the duties that the General Manager did not have time for. The General Manager said that the Risk Manager would provide enhanced services that they had not provided in the past.

Director Kain said that she saw the position as a resource for safety issues.

Director Davis said that the job description did not include training coordinator or training provider. He said that he thought that would be a major function of the position. Director Lyons said that they included “suggests specific training programs to reduce claims in critical areas” in the job description. Director Davis suggested that they replace “suggests” with “coordinates and conducts.”

Director Kaslar asked whether the position would serve the needs of the group as a whole or the individual cities. The General Manager said that the individual would first find out what the needs of the members were and then put together a program that would benefit the majority.

Director Handy said that, because the group had so many needs, they should expect additional costs to pay for training and other contractors. He said that they would be providing primary level services.

Director Lyons said that the Personnel Committee had envisioned that the Risk Manager would suggest specific training programs and act as a resource to help members get to the places they wanted to be. She said that the position could be whatever they wanted it to be.

Vice President Wildermuth said that they were looking at the position as one of loss control and loss prevention for general liability as it affected the excess pool.

A motion by Director Kain, seconded by Vice President Wildermuth, to approve the proposed position of Risk Manager, with the change of the language in Item #5 from “suggests” to “coordinates and conducts,” passed unanimously.

15. Proposed Budget for 2003-2004

The General Manager said that it was anticipated that they would end the year about \$122,000 or 11% under budget. He said that about \$60,000 of that was related to the non-use of funds allocated for outside consultants and the contingency fund. He said that about \$20,000 had been saved on Board Counsel's claims related expenses. He said that the proposed budget for 2003-2004 showed an increase of about \$15,000 or 1.4%. He said that the majority of that increase was found in PERS costs. He said that the new position was not included in the new budget, and that it would add an additional \$106,000-110,000.

A motion by Director Lyons, seconded by Director Kaslar, to approve the proposed budget for the 2003-2004 program year, passed unanimously.

16. Presentation of Annual Report

The General Manager presented the 2002 Annual Report.

17. Risk Transfer Issues

The General Manager said that a number of issues had arisen relating to risk transfer, indemnification language in contracts, insurance policies, improper risk transfer, etc. He said that there was one instance where PERMA had requested a certificate of coverage for the City of Riverside to provide engineering services to the March JPA. He said that the Memorandum of Coverage provided coverage for contractual indemnity and that they would be obligated to provide the cert. He introduced Carol Frost, of Municipality Insurance Services, and said that her company had a program called SPARTA which provided coverage for contractors. He said that Ms. Frost's company also provided special events coverage.

Board Counsel said that the March JPA was formed by the City and County of Riverside and the Cities of Moreno Valley and Perris in order to operate the retired March Air Force Base. He said that another JPA, made up of the Cities of Moreno Valley, Perris and Riverside, was formed in order to provide electric utilities to the tenants on the property. He said that the City of Riverside would provide the electric service, but the JPA would provide the customer service. He said that the City of Riverside wanted to be able to bill the JPA for their time and to be covered by the new JPA. He said that PERMA had sent in the request for that coverage and that the General Manager had said that the risk transfer was going in the wrong direction. He said that the Board had never made a formal risk transfer policy, but that there was a policy, leaving it to the General

Manager's discretion, to bring certs back to the Board that were not considered routine. He said that they provided broad form contractual indemnity coverage, providing that if a member entered a contract in the ordinary course of their governmental operations, which the March JPA issue was, and the member agreed to indemnify another party, then that was an insured risk under the Memorandum of Coverage. He said that the General Manager was going to issue the certificate for the March JPA. He said that this raised the question of whether there should be some kind of premium attached to it.

Director Davis said that they had talked about taking contractual liability coverage out of the Memorandum of Coverage a few years ago, but that the Board had decided against it. He said that the issue was how they could prevent members from indemnifying in the wrong direction.

Board Counsel said that the next issue was one that the City of Fremont had with Geotechnical Engineering. He said that Geotechnical Engineering's insurance company had not filed the additional insured endorsement with the State of California Department of Insurance because their policies contained an automatic additional covered party clause where required by contract. He said that he would be very skeptical of that without seeing the policy himself. He said that there were several endorsements that ISO used, including the CG 2010, the CG 2033 for owners, lessees and contractors of the named insured, or CG 2034 for owners of equipment leased to the named insured. He said that it was possible for a contractor to have the 2033 or 2034 endorsement and that they would cover the member as an additional insured only in a limited way. He said that they also needed to look out for escape clauses, such as the CG 0056 which allowed coverage to become excess if they provided you with additional insured status. He said that it was important for them to see the policies rather than accept an assurance that what they were getting was substantially similar to what they were asking for in the contract.

Board Counsel said that there were three types of indemnity agreements. He said that Type 1 indemnified the other party for everything except their sole negligence. He said that Type 2 indemnified the other party for everything except their active negligence, and was required by the Civil Code and the Insurance Code for construction projects. He said that that was why they needed to make sure that they got the endorsement from the insured so that they did not have to depend on the other party's interpretation of active negligence.

Carol Frost, of Municipality Insurance Service, presented information on the SPARTA and special events insurance programs. She said that

SPARTA was with the Essex Insurance Company and that the special events program was written by Scottsdale Insurance Company. She said that the participating entity was the named insured, but that the individual member was named on each certificate. She said that the policy was written with the entity as the named additional insured, and that the verbiage in the additional insured endorsement was exactly what the indemnification language currently required by the entity was for their subcontractors. She said it provided primary, first dollar defense after a \$500 deductible, which was payable by the contractor. She said that they could write general liability up to \$5 million, as well as provide professional liability on a per-occurrence basis and non-owned auto endorsements. She said that the rates varied, based on the price of the contract. She said that both programs required no work from the members. She said that the \$5100 premium was a deposit against future premiums and that the premium for the special events program was only \$500.

Director Handy asked what form of additional insured endorsement they used. Ms. Frost said that they used a manuscript endorsement that was created by her and the entity. She said that it was basically a Type 1.

Director Coats asked if they could insure their own SIR for special events. Ms. Frost said that they could, but not in excess of the SIR.

Director Davis asked if they provided coverage for encroachment permits. Ms. Frost said that they did.

President Henderson asked who handled their claims. Ms. Frost said that they had never had a loss, but that Essex had assigned a claims representative for investigation and loss handling.

Director Kain said that this sounded like a good idea for the smaller contracts she was dealing with but that she was running into trouble with contractors that would not be covered by the SPARTA program.

A motion by Director Kain, seconded by Vice President Wildermuth, to make application to the SPARTA Program and Special Events Program, passed unanimously.

VIII. COMMITTEE REPORTS

A) Claims: Patricia Born, Chair

The Claims Committee had nothing to report.

B) Coverage: Jeff Tonks, Chair

Director Tonks said that there was a joint meeting of the Coverage Committee and the ad hoc Transit Committee scheduled for May 6, 2003.

C) Personnel: Carolyn Lyons, Chair

President Henderson thanked the Personnel Committee for their work on the new Risk Manager position. Director Lyons said that the Personnel Committee had also looked at some benefit enhancements for staff and had decided that, based on the current economic environment, they would defer consideration until a later date.

D) Communications: Bob Koch, Chair

The Communications Committee had nothing to report.

E) Membership Standards: Patricia Born, Chair

Director Born said that the Membership Standards Committee had met recently and that they had talked about what the core principles for Board members were, surveying members to find out which had full time risk managers and about a mandatory attendance policy. She said that they wanted to find out from the rest of the Board what things they thought were important for the Committee to be looking at. Vice President Wildermuth said that they should have risk management policy statements adopted by the Board. Director Kain said that it would be helpful if there were some direction from CJPRMA as to what the minimum elements of each member's risk management statement should contain. Director Born said that once they developed the core principles and minimum standards, they needed to decide how those would be enforced. The Board agreed that there should be a minimum number of Board meetings that should be attended by each member. Vice President Wildermuth said that they needed to make the statement that CJPRMA was a member supported and member managed entity. The General Manager said that one of the things they should also look at was who they wanted to sit on the Board. He said that the Director or Alternate should be someone who had the experience and expertise to contribute to what it was they wanted to do. President Henderson said that there also needed to be communication between the Board member and whoever managed the claims. President Henderson asked if having a risk management program was one of the original underwriting requirements for membership. The General Manager said that the application called for an effective risk management program. He said that they would need to define what an effective risk management program was. Director Kain suggested that there could be an incentive for members who met the definition of an effective risk management program. Director Davis said that a majority of the members did not have to

meet that requirement for membership when the pool was started. President Henderson said that his concern was with the members who weren't participating in Board meetings and what their risk management programs were and what risks they were exposing CJPRMA to. Director Born said that she had wanted feedback from the Board and that the Membership Standards Committee would meet again to discuss that.

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: Vaziri v. City of St. Helena

Court: Napa County Superior Court

Case No.: 26-16511

4. 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

5. **Government Code Section 54956.9 (a)**
Conference with Legal Counsel - Pending Litigation

Name of Case: Thornburgh v. City of Auburn

Court: Placer County Superior Court

Case No.: S CV-14683

6. **Government Code Section 54956.9 (a)**
Conference with Legal Counsel - Pending Litigation

Name of Case: MHC Financing v. City of San Rafael

Court: United States District Court, Northern District of California

Case No.: C 00-03785 VRW

X. ACTION ON CLOSED SESSION ITEMS

None.

XI. ADJOURNMENT

A motion by Director Born, seconded by Director Richardson, to adjourn the meeting at 2:51 p.m., passed unanimously.