



**CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY**

**BOARD OF DIRECTORS MEETING**

**April 16, 2002 – 9:05 A.M.**

**Bodega Bay Lodge  
103 Coast Highway 1  
Bodega Bay, CA 94923**

**(707) 875-3525**

**Minutes**

**I. CALL TO ORDER:**

President Henderson called the meeting to order at 9:05 a.m.

**II. ROLL CALL**

***PRESENT***

- |  |                                       |
|--|---------------------------------------|
| 1) Darrell Handy, <i>Alameda</i>       | 9) Sharon Andrus, <i>San Rafael</i>   |
| 2) Robyn Kain, <i>Fairfield</i>        | 10) Bill Kaslar, <i>Santa Rosa</i>    |
| 3) Patricia Born, <i>Fremont</i>       | 11) Roger Carroll, <i>SCORE</i>       |
| 4) Bill Henderson, <i>Livermore</i>    | 12) John Hinson, <i>Stockton</i>      |
| 5) Kirk Evans, <i>Lodi</i>             | 13) Barbara Coats, <i>Sunnyvale</i>   |
| 6) Randy Graham, <i>NCCSIF</i>         | 14) Paul Wildermuth, <i>Vacaville</i> |
| 7) Jeff Davis, <i>REMIF</i>            | 15) David Lindquist, <i>Vallejo</i>   |
| 8) Mary Richardson, <i>San Leandro</i> | 16) Jeff Tonks, <i>YCPARMIA</i>       |

***ABSENT***

*Chico, Petaluma, Redding, Roseville*

***OTHERS PRESENT***

- |  |                                   |
|--|-----------------------------------|
| 1) Jack Rauwolf, <i>CAPRI</i>                | 8) Phyllis Sammon, <i>Marsh</i>   |
| 2) Lola Deem, <i>CJPRMA</i>                  | 9) Scott Ellerbrock, <i>PERMA</i> |
| 3) Robert German, <i>CJPRMA</i>              | 10) Mike Acorne, <i>Petaluma</i>  |
| 4) Caren White, <i>CJPRMA</i>                | 11) Gus Guinan, <i>San Rafael</i> |
| 5) Marilyn Kelley, <i>Driver-Alliant</i>     | 12) Lori Tomsy, <i>Santa Rosa</i> |
| 6) Byrne Conley, <i>Gibbons &amp; Conley</i> | 13) George Bist, <i>Stockton</i>  |
| 7) Jim Pinckney, <i>Marsh</i>                | 14) Rick Taylor, <i>Stockton</i>  |

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

A motion by Director Handy, seconded by Director Kaslar, to approve the minutes of the February 14, 2002 and March 28, 2002 Board of Directors meetings, passed unanimously.

### **IV. PRESENTATIONS**

- George Bist – Service Award

President Henderson presented Mr. Bist with a plaque thanking him for his years of service on the CJPRMA Board of Directors.

- Michael Acorne – Service Award

President Henderson presented Mr. Acorne with a plaque thanking him for his 15 years of service on the CJPRMA Board of Directors.

### **V. CONSENT CALENDAR**

- 1. Financial Reports of CJPRMA for the Periods Ending January 31 and February 28, 2002**
- 2. Additional Covered Party Certificates Approved by the General Manager**
- 3. Notification of New Claims Received**
- 4. Notification of Claims Closed**

A motion by Director Born, seconded by Director Kain, 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. Report from Broker on Insurance Renewals**

Mr. Jim Pinckney, of Marsh, presented the renewal information for the Auto Physical Damage program. He reviewed the policy, which has a \$1.5 million loss limit and a \$10,000 deductible, for vehicles with reported values in excess of \$25,000. He said that the values reported should be replacement values. He said that the expiring rate was .2633 per \$100 of reported value

and that the renewal rate would be .2790 per \$100 of reported value. That was about a 6% increase.

Ms. Phyllis Sammon, of Marsh, presented the renewal information for the Property Program. She said that the property insurance market had started tightening last year, and that as a result of the events of September 11, 2001, capacity had shrunk substantially. She said that, in the past, earthquake and flood coverage had been the commodity, but that now fire insurance that was the commodity. She reviewed the rate history of the Property program.

Mr. Pinckney said that some carriers were starting to include a margin clause on their policies. He said that that meant that they would pay replacement value plus a certain percentage to cover cost overages when replacing property. He said that that was not part of CJPRMA's policies, but that they should be aware of it. He said that they should make sure that their reported values were accurate.

Ms. Sammon said that Chubb, the excess property carrier, was concerned with some of the values. She said that they were most concerned with libraries and knowing how the values for library contents were determined. She said that she would like it if they could have appraisals of the libraries with values in excess of \$5 million. She asked that copies of any recent valuations of those properties be provided for the underwriters. Director Kaslar asked about city libraries whose contents were owned by the county. Ms. Sammon said that they would not report values for contents in that case.

President Henderson asked about traveling artwork. Ms. Sammon said that there were no sublimits for that in their current program. She said that they wanted to value their properties as accurately as possible.

Ms. Sammon said that they were going into the third year of a three year program with Discover Re for the primary layer of the Property Program. She said that they did not expect anything to change except for the addition of a few exclusions due to reinsurance. She said that there would be a terrorism exclusion, but that she did not yet have the exact definition. She said that there was a terrorism policy that could be purchased, with \$200 to \$500 million in coverage. She said that if the exclusion used the ISO language, it would not exclude fire following an act of terrorism.

Director Davis said that it seemed that they had a timing problem. He said that they needed to know what the definition of terrorism would be before they could make any decisions. He said that, at the Executive Committee meeting, they had seen a number of different definitions, some of which were extremely broad. He asked why they did not yet have the definitions. Ms. Sammon said that Discover Re had just told her that they would be including a terrorism exclusion at the insistence of their reinsurers.

Board Counsel asked how much of the \$5 million Discover Re covered themselves and how much was reinsured. Mr. Pinckney said that he wasn't sure, but that in the past, it had been \$2.5 million.

Ms. Sammon said that, in January, she had talked about Chubb having reduced capacity. She said that that had come about. She said that, although they were still working and exploring other markets, Chubb was only able to provide coverage of \$145 million excess of \$5 million, and that the rate for that would be \$.07 per \$100 of values. She said that that would only provide \$150 million in total coverage. She said that the primary rate would not change due to the three year program. She said that their expiring combined rate was \$.021 and that the new combined rate, for \$150 million in coverage, would be \$.03007 per \$100 in value. She said that they would continue to market for the \$150 million excess of \$150 million level. She said that she expected that the cost would be an additional \$1000 per \$1 million of additional coverage.

The General Manager suggested that they approve the \$150 million in confirmed coverage, and come back with quotes for the layer in excess of \$150 million. The General Manager asked Ms. Sammon if she wanted them to provide authorization not to exceed a certain amount, because they would need to bind coverage before the June meeting.

Director Davis asked what the estimated rate would be if they could get the coverage to \$300 million. Ms. Sammon said that it would be approximately \$.03531 per \$100 of value. Director Davis said that they should give the General Manager authority to the high amount since time was of the essence.

Director Born asked if they should discuss reducing the limit as well as the proposed terrorism exclusions.

Director Tonks asked if there would be coverage for terrorism and sabotage if they reduced the limit to \$150 million. Mr. Pinckney said that there could be, if they increased the deductible to \$100,000. Director Tonks asked if it would be possible to put together a program that filled in the gaps for the terrorism exclusion. Mr. Pinckney said that they would have a better chance of eliminating the exclusion in the primary level if they increased their deductible. He also said that terrorism buybacks were available.

The General Manager asked if it was worth it to them to go from a \$25,000 deductible to a \$100,000 deductible in order to avoid the terrorism exclusion. He said that he didn't see them getting hit with a terrorism loss, but that they would be increasing their exposure for normal losses.

Director Davis said that they did not know what the definition of terrorism was yet. He said that some of the exclusions were defining simple vandalism as acts of terrorism, and that they needed coverage for those sorts of claims.

Director Handy said that, because terrorism was not yet well defined, the burden of proof was shifted to the carriers, which was in their favor. Director Davis said that the terrorism exclusions they had looked at at the Executive Committee meeting were very well defined, and specifically stated that vandalism was a terrorist activity. Board Counsel said that one of the forms they had looked at attempted to shift the burden of proof to the insured.

Director Davis said that there was a benefit to retaining the \$300 million limit and the \$25,000 deductible. He said that they may need to trade those away next year if the market continued to change. He said that he thought they should maintain their deductible and coverage limits for as long as possible.

Board Counsel asked if they could go to a \$100,000 deductible just for terrorism and maintain the \$25,000 deductible for everything else. Ms. Sammon said that they were trying to define that, but that that was something she was trying to do. Board Counsel said that even if they did that, that terrorism would only be covered up to \$2.5 million because of the reinsurance. Ms. Sammon said that the reinsurance market had eliminated terrorism. Board Counsel said that if they could get that \$2.5 million in coverage, it could be used to try to get more coverage next year.

A motion by Director Davis, seconded by Director Born, to give the General Manager authority (1) to bind up to \$150 million in coverage with a .03007 rate with a \$25,000 deductible, and (2) to bind up to \$300 million in coverage with a rate not to exceed .037 with a \$25,000 deductible, with the caveat that he and Board Counsel be satisfied that they have the narrowest terrorism exclusion possible or none at all, passed unanimously.

Ms. Sammon presented the renewal information for the Boiler & Machinery policy. She said that the coverage had been with Hartford Steam Boiler for many years, and that Hartford had been purchased by Industrial Risk Insurers. She said that they would be surveying the participants for information on large power generation equipment, and that there could possibly be premium adjustments based on that information. She said that the total premium would be \$163,673 which was approximately a 20% increase. She said that the premium for each city varied because there were different rates for different types of equipment. She said that the equipment survey was included in the packets she would pass out and that they should be completed and returned to CJPRMA by July 1.

A motion by Director Wildermuth, seconded by Director Andrus, to approve the proposed APD rate of .2790 and the Boiler & Machinery rates, passed unanimously.

Mr. Pinckney said that he had two options to discuss for the reinsurance program. He said that, unfortunately, he did not have a quote from Discover Re, but that he did have some quotes from American Re. The General Manager said that the reason there were no Discover Re quotes was because he had not received all the requested survey information from the members. He said that they would not get quotes from Discover Re until all the members had supplied the requested information.

Mr. Pinckney said that they were at the end of their three year program with Discover Re, which had provided \$10 million coverage excess of \$5 million. He said that the premium for the 2001-2002 program year was approximately \$850,000. He said that the program had had some good features such as being non-cancelable, having premiums calculated on a prospective basis with no audits, and a state-of-the-art manuscript form. He said that there was also a fairly new, second layer with American Re, providing \$10 million in coverage excess of \$15 million, at a premium of \$476,000. He said that adding this new partner had been a good idea. He said that there was a terrorism exclusion in that upper layer, as well as one for mold and fungus.

President Henderson asked how tight the terrorism exclusion was. Board Counsel said that it hadn't been much of a concern because they had coverage for the first \$15 million, and that they were more concerned about the Property program.

Board Counsel said that they did not have subsidence coverage over \$5 million, or coverage for class actions relating to discrimination over \$5 million either. He said that they had coverage within the pool limits only.

Mr. Pinckney said that the layer covered by Discover Re was reinsured for the layer of \$5 million excess of \$5 million by Employers' Re. He said that the delay in getting a quote was partly on the underwriting side and partly on the Employer's Re side. He said that ERC was asking hundreds of questions, which were being filtered down to the General Manager. He said that they were expecting increases ranging from 35% to 40% for the \$10 million layer, but that he did not have anything concrete at that point in time. He said that he had been heavily marketing the program, mostly to American Re, who currently insured their top layer. He said that he had just received a bindable quote the day before. He said that their payroll base, going forward, was about \$1 billion. He said that their quote, for the \$10 million excess of \$15 million layer, was approximately \$575,000. He said that they had also been given a quote for the full \$20 million excess of \$5 million, and that,

generally, those kinds of limits were not available in one policy. He said that the quote for the full limit was approximately \$1,567,000.

Director Born asked if they had looked at any limits less than \$20 million. Mr. Pinckney said that they hadn't because they wanted to keep the program similar to what it had been in the past. The General Manager said that decreasing the limits would not save them a significant amount of money because it was the lower layers that were the most expensive to insure.

Mr. Pinckney said that the conditions in the American Re quote were not materially different from their existing program. He said that some of the conditions were that American Re retained the right to review any new members and had a requirement that members with day care centers provide additional information on a small application. He said that, other than that, the remainder of the issues closely followed the Memorandum of Coverage. He said that the current terrorism exclusion would remain the same going forward.

Director Davis said that, at the Coverage Committee meeting, they had talked about the American Re terrorism exclusion being the most onerous.

Board Counsel said that Employer's Re had much more favorable language in their terrorism exclusion. He asked Mr. Pinckney if it was possible to go back to American Re with the ERC language for negotiation.

Mr. Pinckney said that there were a few pieces missing. He said that they needed to get the Discover Re quote so that they could compare the two options. He also said that he wasn't sure what would happen to the Property program, if anything, if they did not renew liability with Discover Re.

Director Davis asked if it the quote was for a one year program. Mr. Pinckney said that it was, but that he was trying to negotiate a multi-year deal.

Director Davis said that one of their biggest categories of losses had been police officer shootings and that they needed to ensure that that would not be considered a terrorist activity under the current terrorism exclusion. Mr. Pinckney said that that was not the intent of the exclusion.

Marilyn Kelley asked if it was an option to continue with Discover Re for \$5 million excess of \$5 million, drop the Employer's Re coverage, and have American Re cover the \$15 million excess of \$10 million layer. Mr. Pinckney said that American Re would prefer to cover the entire limit, or to continue covering only the top \$10 million, but that if they wanted to change the way the limits were divided, it could be discussed. Mr. Pinckney said that it was a possibility, but that he didn't know what that would do to the pricing.

The General Manager said that the American Re quote was only good until April 26, 2002 because there was a capacity issue. He said that he hoped to get a quote from Discover Re before that.

Mr. Pinckney said that the rate for American Re, going forward, on the \$10 million excess of \$15 million, would be .0574. He said that for \$20 million excess of \$5 million, it would be .1563.

Board Counsel said that the rate for \$10 million excess of \$15 million, based on the quoted rates for the other layers, would be approximately .0989. He said that the increase was only 8% or 9%, which was very low compared to the market.

Director Lindquist asked what the implication of the rates would be with regard to the pool rates. The General Manager said that it would be between \$0.05 and \$0.08.

Board Counsel said that they had overfunded by about \$400,000 in the previous year, anticipating rate increases. The General Manager said that they didn't transfer funds between program years. Board Counsel said that the Board's motion had been to leave that money there with the notion that it might be transferred into the following year. The General Manager said that it might change the rate, but that he didn't expect it to change the rate significantly.

Mr. Pinckney said that there was also a margin clause included in the quote. He said that what that meant was that there was a 5% margin for increases in payroll without an increase in premium. He said that they needed to get approval from the insurance company before adding any new members.

Mr. Pinckney said that he wanted to get the property coverage bound as soon as possible. He also said that he needed the survey information from the members as soon as possible so that he could get a quote from Discover Re. He suggested that they give the General Manager authority to negotiate the terms of the reinsurance, not to exceed the pricing in the quotes he already had, and to work with the terrorism exclusions.

President Henderson asked if American Re was in a position to pick up Discover Re's property program if it became an issue. Mr. Pinckney said that they would entertain the idea, but that the rates and deductible would likely change.

Marylin Kelley said that she thought that Discover Re was being very careful about their renewals and maintaining relationships. She said that she thought that maintaining their relationship with Discover Re was very important and that they should be willing to go over the quoted price or change deductibles

in order to maintain that relationship. She said that if they weren't with Discover Re next year, their rates would probably triple, but that if they maintained their relationship, their rates would probably only double. Ms. Sammon said that that was true.

Director Kain asked how they could proceed with the renewal and still maintain the integrity of the property program, while getting a good rate on the liability program.

Mr. Pinckney said that the first priority was to bind the property coverage from Discover Re. He said that, after that, they needed to get quotes from Discover Re for liability, which he was expecting to be at an increase of between 20% and 40%. He said that they needed to remember that the rates they currently had had not increased in three years.

A motion by Director Davis, seconded by Director Tonks, to give the General Manager the authority to negotiate the reinsurance, with the caveat that the terrorism language be the clearest possible, at a rate not to exceed the quoted rate of .1563 plus 10%, passed unanimously.

## **6. Selection of Firm to Conduct Financial Audit**

The General Manager said that he had sent out several RFPs. He said that he had received a number of responses, but that many of them had been negative. He said that they had only received four proposals and that they were outlined in the agenda bill. He said that James P. Marta & Co. and Maze & Associates were very competitive, but that the other two were substantially higher. He said that he was recommending that they approve Maze & Associates because they had been conducting the Financial Audit for the past several years, they knew the organization, and their price was the lowest.

A motion by Director Handy, seconded by Director Carroll, to approve the proposal submitted by Maze & Associates, passed unanimously.

## **7. Selection of Firm to Conduct Actuarial Study**

The General Manager said that they had sent out several RFPs for the Actuarial Study, but that they had only received two responses. He said that the two they had received were from Milliman USA and ARM Tech. He said that he was recommending that they approve the proposal submitted by ARM Tech because of their history with the organization and their pricing.

A motion by Director Handy, seconded by Director Davis, to approve the proposal submitted by ARM Tech, passed unanimously.

## **8. Proposed Budget for 2002-2003**

The General Manager said that they were going to come in approximately \$180,000 under budget. He said that there had been \$100,000 allocated for outside consultants that hadn't been used and about \$26,000 allocated for increased office expenses that also hadn't been used because the new lease would not take effect until May 1. He said that G&A expenses for Board Counsel were under budget as well. He said that they were asking for a 3.4% reduction in the existing budget for 2002-2003.

Director Davis said that he thought that they should look into hiring a risk manager to provide training and consulting for the members.

Director Born asked if this was a topic for the Executive Committee to address. She said that they could determine what the position should entail and what the qualifications should be.

The General Manager said that they might want to refer this to the Executive Committee for further discussion and to create a job description for recommendation to the Board. He said that they could amend the budget to reflect the cost of making an addition at any time.

Director Davis said that he had recently done something similar with the REMIF board, and that they had suggested having each member contribute an engineer or public works person. He said that that wouldn't work because those people wouldn't have time to do that. He said that they needed an outside person.

The General Manager said that he would survey the Board in order to determine what functions they thought this position should provide. He said that he would give that information to the Executive Committee.

Director Lindquist said that CalTIP had recently hired a risk manager for training and other purposes and that they might want to talk to them about it.

A motion by Director Born, seconded by Director Andrus, to approve the proposed operating budget for 2002-2003, passed unanimously.

## **9. Application for Membership of PERMA**

The General Manager said that PERMA had had a claims audit conducted by Craig Bowlus, and that a report had been provided to CJPRMA with the results. He said that PERMA, the Public Entity Risk Management Authority, had 24 members including 17 cities, three transit districts and four special districts. He said that their goals and objectives were very similar to those of CJPRMA. He said that they had about \$9 million in assets, with \$2.7 set

aside for designated claims and IBNR. He said they generated about \$2.3 million in premium deposits annually and provided \$20 million in general liability coverage to their members, with SIRs varying from \$0 to \$1 million. He said that they had a number of coverage programs as well as an extensive risk management services program. He said that he had reviewed their loss history and that there wasn't much that was different from the patterns shown by CJPRMA members.

Scott Ellerbrock, PERMA's general manager, said that they had had one loss for \$2.8 million in the past five years, and only three losses in excess of \$500,000. He said that the \$4 million indicated on the Staff Report was a cumulative number, not per occurrence.

The General Manager said that the projected contributions to CJPRMA would be approximately \$592,000, if PERMA had a \$1 million SIR, and approximately \$800,000, if they chose the \$500,000 SIR. He said that there were a few coverage issues that would need to be resolved if they were going to approve PERMA for membership. He said that CJPRMA had two exclusions for transit districts in its Memorandum of Coverage and that PERMA had three transit districts as part of their membership. He said that the Coverage Committee had discussed eliminating those exclusions for the entire organization and/or granting PERMA an exemption from the exclusions. He said that one exclusion was for buses with more than 30 passengers.

Mr. Ellerbrock said that SunLine, their biggest transit district, had fifty buses that accommodated more than 30 people, the City of Victorville had six, the City of Banning had four and the City of Adelanto had two. Director Kain asked if those cities had their own drivers and mechanics or if they contracted out their operations. Mr. Ellerbrock said that they all had city drivers and that the vehicles were maintained by employees of the cities.

Mr. Ellerbrock discussed their loss history involving transit related incidents in excess of \$50,000 from July 1, 1997 through the present. The General Manager said that they did not seem to have a serious loss history resulting from transit operations.

Director Davis asked if SunLine operated between cities. Mr. Ellerbrock said that they operated in the Coachella Valley and were not confined to one city. Director Davis said that he thought that, in the past, the predecessor of PERMA had been a banking JPA. Mr. Ellerbrock said that the worker's compensation program was but that the liability program was a full risk sharing pool, up to \$1 million. He said that they also purchased insurance from Muni Mutual for \$1 million excess of \$1 million and from Great American for \$18 million excess of \$2 million. He said that, prior to that,

they were a founding member of CARMA, but that they had pulled out of that pool in 1997 due to fundamental differences in philosophy.

The General Manager said that he had talked to PERMA a few years ago about what a well-run organization they were and that he thought that they would be a good fit with CJPRMA.

Director Davis asked Mr. Ellerbrock about the \$2 million deficit in 2000-2001. Mr. Ellerbrock said that, in a JPA, they collected premiums in one fiscal year, but paid claims applicable to prior policy years. He said that it was not an actual deficit, because it was for claims in prior years. He said that they had a 90% confidence level overall.

Mr. Ellerbrock said that they had been accredited with excellence from CAJPA for the last six years, and that he expected that they would obtain the same result when they renewed their accreditation this year. The General Manager said that they conducted actuarial studies, claims audits and financial audits on an annual basis. Mr. Ellerbrock said that they had just purchased risk policy manuals and the subscription service for all of their police departments. He said that they were very proactive in loss control.

Director Born asked how the PERMA board was set up. Mr. Ellerbrock said that each member had a representative on the board, which met quarterly. He said that they had an executive committee of seven members, elected from the board, that met monthly to handle the overall operations. He said that his staff consisted of a Claims Manager and Claims Specialist, who handled all claims administration for their members, regardless of retention. They also had a General Manager, an Administrative Assistant who handled the accounting, and a Secretary.

Director Lindquist said that he was concerned about PERMA's leaving CARMA. He said that one of the things that CJPRMA sought was long-term relationships. He said that he would want to be assured that PERMA would stay with CJPRMA. Mr. Ellerbrock said that, as long as he was General Manager, PERMA would be aware of the benefits of pooling. He said that his board realized the importance of longevity in risk-sharing. He said that the situation with CARMA came down to opposing views on the issue of satisfaction of the self insured retention.

The General Manager said that CJPRMA had had a similar issue, in the past, and had decided that the members could cover the retained limit however they chose. He also pointed out that their governing documents required a minimum three-year commitment from new members.

Director Born said that they needed to focus on the transit issue. She said that the question was, whether they wanted to open up transit coverage to all members or just provide it to PERMA.

The General Manager suggested that they eliminate the exclusion. He said that a lot of CJPRMA's members were in CalTIP, so they already had coverage with lower SIRs.

Director Tonks said that transit was a unique situation where you could have 40 or 50 claimants from one incident. The General Manager said that they had made an exception for YCPARMIA, for the Esparto School District.

The General Manager said that one of the issues they were looking at, relating to the reinsurance program, was that if they made a change to the Memorandum of Coverage, the reinsurers would have to approve the changes. He said that there were other ways that they could cover the risk, such as by buying a policy or joining another type of program. He said that they would have to explore that.

Director Kain said that the City of Fairfield operated a transit district as well, but that they contracted out the operations. She said that she would like to see the Memorandum of Coverage extended to provide coverage for transit operations. She said that she was currently purchasing \$10 million in coverage, with a \$100,000 deductible, for \$77,000.

Board Counsel said that Exclusion #38, the Transit Authority Exclusion, excluded claims "arising out of the operation of vehicles by or on behalf of any transit authority...unless the vehicles are owned or leased" by the city "and driven, maintained and supervised by employees of the covered party." He said that if they contracted out the service, then that exclusion would apply. He said that SunLine used their own employees, so that exclusion would not apply. He said that Exclusion #27, the Multi Passenger Vehicle Exclusion, would be the one that applied. It excluded "claims arising out of the ownership, operation, maintenance, or use of any vehicle with over 30 passenger seats or carrying over 30 passengers."

Director Lindquist said that those exclusions were the reason that Fairfield, Vallejo and Vacaville had joined CalTIP in the first place. He said that they contracted out their service.

Board Counsel said that what the Executive Committee had asked the General Manager to do was explore whether they could reinsure that exposure or perhaps purchase coverage from CalTIP for all the members.

The General Manager said that he would need information from every member that had a transit district.

Mr. Pinckney said that he had a few comments. He said that, at that point, they were ready to go with the reinsurers. He said that if they decided to add a new member, they would have to be approved by the reinsurance company as well. He said that problems could also arise if they made changes to the Memorandum of Coverage. He said that he would like to put forth a nominal exposure and see what effect PERMA's transit districts had on the reinsurance. He said that they could consider making changes to the Memorandum of Coverage for the whole organization, later.

The General Manager said that one possible way to resolve the issue was to issue the same endorsement to PERMA that had been issued to YCPARMIA for the Esparto School District, for one year. That would give them time to explore expanding coverage to include all members' transit districts.

Director Kaslar asked if PERMA had considered joining CalTIP for transit coverage. Mr. Ellerbrock said that they had looked at it, but that they felt that PERMA was a better option.

The General Manager said that it was a three year commitment for PERMA if they decided to join. He said that, if they were going to require that commitment from PERMA, that they should make a three year exception to the exclusion for PERMA. He said that they could work on resolving the transit coverage issue over the course of the next few months.

Director Davis said that their reinsurance renewal was still being negotiated, and that the addition of PERMA's transit districts could cause premium increases. He said that he didn't think that they would be able to make a decision without knowing what the addition of PERMA would do to the reinsurance renewal.

The General Manager said that they could put a sublimit on the transit coverage, if the reinsurers would not extend their coverage, of either \$5 million or \$10 million. Mr. Ellerbrock said that he didn't know how his board would react to that.

Director Kaslar asked what kind of coverage PERMA currently provided. Mr. Ellerbrock said that they had \$20 million in coverage with a \$125,000 SIR. He said that there was no exclusion for transit in PERMA's Memorandum of Coverage.

Director Kain said that she supported PERMA's application but that she was uncomfortable about offering a new member transit coverage when they had existing members who were not extended that coverage. She said that she did not support that kind of proposal.

The General Manager pointed out that they already made an exception for YCPARMIA and had for several years.

Director Born said that she thought that they had discussed exploring possible options, during the next year, for extending transit coverage to all the members. The General Manager said that, while he would like the opportunity to do that, he didn't want to miss the opportunity to have PERMA become a member. He said that that was why he had suggested granting PERMA an exemption from the transit exclusions; exploring options for coverage for all the members; and then opening up that coverage, if possible, in the future.

Director Lindquist asked Mr. Ellerbrock if any of the transit districts in PERMA contracted out their service, and would therefore be excluded under the CJPRMA Memorandum of Coverage regardless of the size of their buses. Mr. Ellerbrock said that the Victor Valley Transit Authority did, but that they would not be picking up that coverage. He said that they required the contractors to purchase insurance.

Director Davis said that it seemed to him that there was a two part problem. He said that the first part was introducing the new variable of 62 buses from PERMA, and that if they were to open up coverage to the whole pool, there would be 500 or more. He said that that would change the market considerably, and that they would probably lose the rates that they had already negotiated. He said that they had loosened up the transit exclusions over time, and that perhaps this was another step in that evolution.

Director Lindquist asked Mr. Ellerbrock how SunLine would react if CJPRMA decided to make a deal with CalTIP for coverage.

Director Handy asked for clarification about SunLine. Mr. Ellerbrock said that it was a special district, and that its controlling board was made up of the nine cities, in the Coachella Valley, that it served.

Director Kain asked, if they endorsed PERMA back in for transit coverage and then CJPRMA decided to seek transit coverage at an additional cost, whether that would be included within PERMA's rate structure. The General Manager said that they would have to participate along with the rest of the members.

Director Handy asked if PERMA would be applying for the property program as well. Mr. Ellerbrock said that they would look at the property program at some point in the future. He said that PERMA provided an optional property program for its members, as well.

Director Handy asked if PERMA's transit districts were involved in the American Public Transit Association. He said that they had national standards for loss control, training guidelines, and other services for public transit. Mr. Ellerbrock said that he did not know, but that he would find out.

The General Manager said that, for new membership, Article XX of the JPA Agreement required the affirmative vote of 2/3 of the entire Board of Directors. He said that that meant that they would need 14 affirmative votes and that there were only 16 members present.

Director Kain asked Mr. Ellerbrock what the March Joint Powers Authority was. Mr. Ellerbrock said that PERMA had two members that were JPAs that took over closed Air Force bases. He said that the March JPA took over the March Air Force base and that VVEDA took over the George Air Force base. He said that they were JPAs composed of the surrounding cities and that they contracted out all of their services and had very limited exposure.

Director Kaslar asked if there were any CJPRMA members with transit who had their buses covered under the APD program. The Administrative Analyst said that she hadn't seen any. Mr. Ellerbrock said that SunLine provided their own property coverage.

Mr. Pinckney asked what the expected time line was. Mr. Ellerbrock said that he needed to have an answer for the PERMA board in time for their June 20 meeting.

The General Manager asked if CJPRMA approved their application for membership, would CJPRMA be Mr. Ellerbrock's recommendation to the PERMA board. Mr. Ellerbrock said that they would. He said that when he prepared the PERMA budget, he had used the proposed rates for CJPRMA, so that there would be no budget issue. Director Born asked Mr. Ellerbrock if he had talked to his board about the possibility of joining CJPRMA. Mr. Ellerbrock said that he had and that he had gotten positive feedback from them.

Director Davis said that there was a terrorism issue with buses as well. The General Manager said that they already covered the 30 passenger buses, so it would not be much different with the 50 passenger buses.

Director Kain asked what date the data regarding loss history in the application was effective. Mr. Ellerbrock said that it was probably mid-February data. Director Kain said that it looked like their claims were slowly dropping from year to year.

Director Kain asked how big the stadium listed on page 11 of the application was. Mr. Ellerbrock said that it seated less than 20,000 people, and that it

was rented out for concerts, baseball games and other events. The General Manager pointed out that they did not exclude stadiums.

Director Kain asked about the two agencies that listed underground operations. Mr. Ellerbrock said that he wasn't sure, but that he would find out.

A motion by Director Born, seconded by Director Handy, to accept PERMA as a member, providing that there would be a minimal impact on the reinsurance renewal rate, that they be exempted from the transit exclusions for a three year period, and that CJPRMA work on finding other ways to cover all CJPRMA members for transit, passed unanimously.

#### **10. Proposed Revisions to Memorandum of Coverage for 2002-2003**

Board Counsel said that there were a number of issues to be discussed. He said that the first item was the transit exclusion. He said that exclusion #27 excluded passenger buses seating or carrying over 30 passengers, and that general liability was excluded for transit districts unless they were run by employees of the covered party. He said that under exclusion #38, they did include Errors and Omissions coverage for up to \$2 million for transit districts, even if they contracted out for services. He said that the question that the Coverage Committee had was about making an exception for PERMA by way of endorsement. He said that the Committee had recommended that the General Manager investigate either purchasing coverage for all members from CalTIP or finding out what rate the reinsurers would charge for coverage in the \$4 million excess of \$1 million layer. Director Davis suggested that they set this item aside for the time being.

Board Counsel said that the next issue was the Firing Range exclusion. He said that, historically, the Firing Range exclusion was very simple, but then they had added a number of subparts to it and made exceptions for the City of Fremont and the City of Roseville. He said that the exclusion was only for the private use of a firing range. He said that any use by public safety officers was covered. He said that the endorsements for Fremont and Roseville extended the coverage when the firing range was used under certain conditions. He said that the recommendation of the Coverage Committee was to merge that language into the Memorandum of Coverage and to make it available for all members.

A motion by Director Lindquist, seconded by Director Davis, to adopt the proposed language for firing ranges, passed unanimously.

Board Counsel said that the Coverage Committee had had a long discussion about terrorism, and that they had examined terrorism exclusions from Employer's Re and American Re. He said that they had decided that the

Employer's Re coverage was better because the exclusion was narrower. He said that there was real concern about the language because it seemed broad enough to include police shootings. He said that the direction he had gotten was to continue to provide coverage, as is, for the first \$5 million. He said that, if the reinsurer required an exclusion for terrorism, it would only apply above \$5 million. He said that the committee had also directed the General Manager to negotiate with the reinsurer to determine if the terrorism exclusion could be drafted in such a way as to only exclude acts by certain defined groups.

A motion by Director Davis, seconded by Director Born, to adopt the proposed language for terrorism, passed unanimously.

Board Counsel said that Employment Practices Liability Coverage had been added to the program in 1995 or 1996 by way of an endorsement. He said that, in later years, they had merged that endorsement into the body of the Memorandum of Coverage. He said that, three years ago, Discover Re had offered to double whatever amount CJPRMA provided as coverage. He said that, at that time, the offer was for \$2 million excess of \$2 million or \$2.5 million excess of \$2.5 million. He said that they had gone with the lower limit. He said that they had had only one EPL claim since then that had reached the excess level, with a total cost of about \$1.9 million. He said that the Committee had discussed having the General Manager explore the possibility of a \$3 million excess of \$3 million EPL limit if the reinsurer was still willing to do that, or a \$5 million limit with CJPRMA covering the first \$2 million and the last \$1 million, with the reinsurer continuing to provide the \$2 million excess of \$2 million layer.

A motion by Director Davis, seconded by Director Born, to have the General Manager explore an increase in EPL limits, passed unanimously.

Board Counsel said that the next issue was pollution sublimits. He said that they had started with the 1973 ISO form exclusion, which had been in place since 1986, and made some revisions in 1989 to tighten up the language. He said that they had started with an absolute pollution exclusion but had made some subsequent exceptions both with and without sublimits. He said that they had never had any pollution claims. He said that the discussion at the Coverage Committee meeting had been whether they should increase the pollution sublimits to \$4 million in the areas of sewer backups, sudden and accidental, chlorine and curbside recycling.

A motion by Director Lindquist, seconded by Director Tonks, to increase the pollution sublimits to \$4 million, passed unanimously.

Board Counsel said that the next issue they had discussed had been mechanics' liens. He said that they had had a few cases involving change-

order type claims. He said that Exclusion #4, Bid Specifications, excluded “claims arising out of estimates of probable cost or cost estimates being exceeded or faulty preparation of bid specifications or plans including architectural plans.” He said that Exclusion #4 would not exclude Rankin v. Murietta type claims; instead it was aimed at change orders and mechanics’ liens claims made directly from the subcontractors for cost overruns or damages. He said that the proposed language was “Mechanic’s lien claims, stop notice claims, change order claims, or similar claims by contractors for the value of services or materials provided; this exclusion extends to such claims however denominated, including claims of breach of oral or written contract, third party beneficiary claims, quantum meruit claims, and/or open account claims.”

A motion by Director Tonks, seconded by Director Kaslar, to approve the proposed exclusion, passed unanimously.

Board Counsel said that the Coverage Committee had also discussed the Mold Exclusion. He said that they did not know if the reinsurer was going to want a Mold Exclusion. Mr. Pinckney said that he thought that they would. Board Counsel said that mold was an issue that was arising out of both property and general liability coverage. He said that the committee had looked at exclusions from American Re and Employer’s Re, but did not see much difference between the two. He said that he would like authority to add an exclusion for mold in conformity with whatever the reinsurer wanted. He asked if they wanted to leave the coverage for mold in place up to a \$5 million sublimit, or if they wanted to exclude mold entirely. He said that there had been discussion of property claims and worker’s compensation claims relating to mold, but that the Coverage Committee could not think of any general liability claims relating to it.

The General Manager said that schools had a lot of mold claims.

Director Handy said that they had discussed mold at the PARMA meeting. He said that there were new disclosure laws that required disclosing the existence of mold, and that the clean up costs could be tremendous.

Director Davis said that another area of liability would be when city facilities were rented to outside parties. He said that the only way to handle that would be to get an exclusion as part of the contract and risk transference.

The General Manager said that, to the extent that the reinsurer would impose an exclusion, he would recommend that they put in a sublimit of \$5 million, so that they could still provide some level of coverage.

A motion by Director Handy, seconded by Director Richardson, that the coverage for mold be continued up to a \$5 million sublimit, if the excess reinsurer required a mold exclusion, passed unanimously.

Board Counsel said that the Coverage Committee had also discussed the arbitration of coverage disputes, but that that would be held over until the June meeting. He said that the Executive Committee had directed the Coverage Committee to do further research and to bring back some recommended language.

Board Counsel said that there was one more issue to be discussed. He said that it was exclusion #38, Transit Authorities. He said that when they went through the Pollution Exclusion, they had doubled the sublimits for that type of claim. He said that the Transit Exclusion also had a sublimit of \$2 million for Errors and Omissions. He asked if the Board was interested in increasing that to \$4 or \$5 million as well. He said that PERMA had \$20 million in E & O coverage for their transit districts.

A motion by Director Kain, seconded by Director Kaslar, to increase the Errors and Omissions coverage for transit authorities to \$5 million, or higher if the reinsurer covered it, passed unanimously.

## **11. Review of Organizational Goals and Objectives**

The General Manager said that the Annual Report for 2001 was ready for distribution. He said that he expected to have the Annual Report for 2002 completed by November.

The General Manager said that several visits had been made to potential members. Director Born said that she and Director Coats had visited the City of Santa Clara. The General Manager said that he and President Henderson had visited the City of Richmond, which looked to be a good fit. He said that they were giving serious consideration to CJPRMA. He said that he and Director Born had also visited the City of Hayward. He said that they had sent information out to a number of other organizations and that he expected to hear from CAPRI as well.

President Henderson asked if the General Manager had been out to give presentations to any of the members. The General Manager said that he usually went to YCPARMIA and REMIF to do presentations, and that NCCSIF had asked him to come out, as well. He said that he'd also made a visit to Redding.

Director Born said that one of their Goals and Objectives was to improve accountability at all levels. She said that she thought it was incumbent upon

all of them to get information to CJPRMA in a timely manner so that they could conduct the business of the pool efficiently.

## **VIII. COMMITTEE REPORTS**

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

Director Born said that the Claims Committee had met on April 4, 2002. She said that the sexual harassment policies of NCCSIF and REMIF would be posted on the web site. She said that they were also going to add an investigation check list. She said that they had talked about coming up with policies for sidewalk inspections, and training on sidewalk policies. She said that they had also talked about hiring a risk manager.

Board Counsel said that they had discussed mentally disturbed persons and how police responded to them. He said that there had been an article in the PARMA newsletter suggesting a formal policy. He said that the proposed policy was really a tool for plaintiff's lawyers because the standards were too broad. He said that they didn't think that, as a pool, they should be recommending policies in that area.

President Henderson asked if it was possible to include a sample ordinance for sidewalks. Board Counsel said that they had talked about that. He said that he would like to collect information on what the members' sidewalk inspection programs consisted of.

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

The minutes from the Coverage Committee meeting of April 4, 2002, had been discussed during Item # 10.

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

The Personnel Committee had nothing to report.

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

The Communications Committee had nothing to report.

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

Director Wildermuth said that the Finance Committee would probably meet one more time to discuss the next JPA Performance Report to determine if it was doing what it was intended to do.

The General Manager asked if anyone read the JPA Performance Report. The Board said that they did and that it had good information.

## **IX. CLOSED SESSION**

### **1. Government Code Section 54954.5(a)**

Case Review/Planning

### **2. 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

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

Conference with Legal Counsel - Pending Litigation

**Name of Case:** Thompson v. City of Orinda

**Court:** Contra Costa County Superior Court

**Case No.:** C 98-03939

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

Conference with Legal Counsel - Pending Litigation

**Name of Case:** Davis v. City of Auburn

**Court:** Placer County Superior Court

**Case No.:** SCV9736

## **X. ACTION ON CLOSED SESSION ITEMS**

## **XI. ADJOURNMENT**

A motion by Director Born, seconded by Director Andrus, to adjourn the meeting at 4:13 p.m., passed unanimously.