



CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

BOARD OF DIRECTORS MEETING

April 17, 2001 – 9:00 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 9:06 a.m.

II. ROLL CALL

PRESENT

- | | |
|-------------------------------------|---|
| 1) Darrell Handy, <i>Alameda</i> | 10) Mary Richardson, <i>San Leandro</i> |
| 2) Bob Koch, <i>Chico</i> | 11) Sharon Andrus, <i>San Rafael</i> |
| 3) Robyn Kain, <i>Fairfield</i> | 12) Bill Kaslar, <i>Santa Rosa</i> |
| 4) Patricia Born, <i>Fremont</i> | 13) Roger Carroll, <i>SCORE</i> |
| 5) Bill Henderson, <i>Livermore</i> | 14) George Bist, <i>Stockton</i> |
| 6) Kirk Evans, <i>Lodi</i> | 15) Kerry Adamo, <i>Sunnyvale</i> |
| 7) Rex Miller, <i>NCCSIF</i> | 16) Paul Wildermuth, <i>Vacaville</i> |
| 8) Mike Acorne, <i>Petaluma</i> | 17) David Lindquist, <i>Vallejo</i> |
| 9) Jeff Davis, <i>REMIF</i> | 18) Jeff Tonks, <i>YCPARMIA</i> |

ABSENT

Redding, Roseville

OTHERS PRESENT

- | | |
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| 1) Craig Bowlus, <i>Aon Risk Services</i> | 6) Jim Pinckney, <i>Marsh</i> |
| 2) Lola Deem, <i>CJPRMA</i> | 7) Phyllis Sammon, <i>Marsh</i> |
| 3) Robert German, <i>CJPRMA</i> | 8) Gus Guinan, <i>San Rafael</i> |
| 4) Caren White, <i>CJPRMA</i> | 9) Robin Johnson, <i>SCORE</i> |
| 5) Byrne Conley, <i>Gibbons & Conley</i> | 10) Myriam Castaneda, <i>Sunnyvale</i> |

III. APPROVAL OF MINUTES

A motion by Director Richardson, seconded by Director Andrus, to approve the minutes of the January 18, 2001 Board of Directors meeting, passed unanimously.

IV. PRESENTATIONS

- None

V. CONSENT CALENDAR

President Henderson said that they would remove item #5 for further discussion.

1. Financial Reports of CJPRMA for the Periods Ending December 31, 2000, January 31 and February 28, 2001

Director Kain asked about the legal fees being paid to Farmer & Murphy and Shapiro, and what they were for. The General Manager said that Murphy handled the appeals on several of their cases and that Shapiro was for one of REMIF's cases.

2. Additional Covered Party Certificates Approved by the General Manager

3. Notification of New Claims Received

Director Born asked why they were just being notified of Claim #25, which was from 1998. She asked if there was anything they could do when a claim was reported so late. The General Manager said that they could only bring it to the attention of the member that the claim was reported late and ask why. Director Born asked if January 30, 1991 was the correct date for Claim #26. The General Manager said that it was and that they would discuss it further in agenda item #11.

4. Notification of Claims Closed

A motion by Director Miller, seconded by Director Born, to approve Items 1 through 4 on the Consent Calendar, passed unanimously.

5. Status Report on PG & E Investment

The General Manager said that he wanted to update them on their investment in PG & E. He said that they had a \$1 million note in PG&E that was currently worth about \$640,000. He said that the Investment Manager was recommending that they not sell the note because she thought that they would get back all of their principal and interest if they continued to hold it until the bankruptcy was resolved.

President Henderson asked if any of the members had taken any action on any PG & E investments.

Director Davis asked if they needed to give the General Manager the ability to sell the note if something went bad before the next board meeting. The General Manager said that he didn't think anything would happen before the next board meeting, but that if there was a problem, he would call a meeting. Director Davis asked what the investment policy was on buying and selling investments. The General Manager said that the Investment Manager had discretion to buy and sell. Board Counsel said that they had changed the investment policy to state that if a note's value fell below the investment rate, the note didn't have to be sold if it was deemed not reasonable to do so. Director Carroll said that that was the policy.

A motion by Director Tonks, seconded by Director Miller, to approve Item 5 on 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. Review of Insurance for Property, Auto Physical Damage and Boiler & Machinery

The General Manager said that Jim Pinckney and Phyllis Sammon of Marsh would be presenting the information on the APD, Property and Boiler & Machinery renewals.

He said that first he wanted to discuss an email he had received relating to FEMA. He said that, as a part of the federal budget process, the Bush Administration had indicated a reduction in costs and a savings of \$83 million relating to the mandatory requirement of having public entities insure their buildings. He said that it provided no help whatsoever for earthquake related losses.

Jim Pinckney, of Marsh, presented the renewal information for the Auto Physical Damage program. He said that, in regards to marketing the APD program, they had gone to several carriers and tried to keep the form and policy the same as it had been in years past. He said that all of the carriers looked at the program with a different emphasis, but that Fireman's Fund, the current provider, had offered the best rates and terms. He said that the program had a \$1 million limit for any one loss and a \$10,000 deductible per loss for vehicles valued over \$25,000. He said that the rate for the 2001-2002

year would be .2633, which was slightly lower than the rate for 2000-2001, which was .2688. He said that, historically, the rate had gone from .54 in 1996-1997 to .2633 for the upcoming year, even though the value base had increased from \$50 million to \$74 million.

Vice President Koch asked if they should start looking at increasing the \$1 million limit, since the value of some vehicles, like fire trucks, was close to \$800,000 each. Mr. Pinckney said that if the high value vehicles were in a concentrated area, it could be a problem. Vice President Koch asked what affect that would have on the rates. Mr. Pinckney asked the members if it was a common problem. He said that the APD program also covered earthquake and flood, and that the limit was not an aggregate.

Director Davis suggested that they leave the program as it was and add a second program to cover vehicles valued from \$250,000 to 750,000. Mr. Pinckney said that he would look into what it would cost to raise the aggregate to \$1.5 or \$2 million and that if the rate increase was minimal, he would bring it back for their approval.

The General Manager asked Mr. Pinckney if the increase in coverage would raise the rate more than 25%. Mr. Pinckney said that he didn't think it would. The General Manager said that, if the Board desired, they could give him authority to bind the policy as long as the rate didn't increase by more than 25%. Director Davis asked if the information could be made available by the June meeting so that they could bind it then. Mr. Pinckney said that they could have the information to them within two weeks.

Board Counsel pointed out that they were in a dispute with Fireman's Fund on one particular loss, regarding the difference between reported values and the amount of coverage provided. He said that, with the original form, there was coverage for the total loss with a deduction for depreciation. He said that Mr. Pinckney had negotiated an endorsement to that, which had deleted the deduction for depreciation. He said that, with the loss in dispute, the adjusters were offering to pay for the fair market value of a used vehicle and not a new one. He said that when they deleted the "deduction for depreciation" language, it meant that they would pay new for old and that that was the basis upon which the members had been reporting values for premium calculation purposes. He said that the latest correspondence from Fireman's Fund indicated that, even with the endorsement, they covered like kind for like kind, or fair market value for a similar used vehicle. He said that he didn't understand what the endorsement added to the policy. He said that they needed to resolve that issue before they renewed with Fireman's Fund.

Mr. Pinckney said that, in the simplest terms, the insurance company was saying that they would determine the value of a totaled 1994 pickup truck by

getting bids on the cost of a 1994 pickup of like kind and quality. He said that, by saying that they would not deduct for depreciation, they were saying that they would not account for excess mileage or wear and tear when determining the value of the totaled vehicle. He said that if they could justify an increase in value for additional equipment, then that would be covered.

Director Acorne said that they needed to have the language clarified before they renewed with Fireman's Fund, and asked what the alternatives were if they decided not to do so.

Mr. Pinckney said that the insurance company had stated that the responsibility for determining the value of the vehicles was the members' and that the insured was expected to have "reasonable knowledge of the cost to replace each item they own with another unit of like kind and quality." Director Acorne asked if they should stay with Fireman's Fund. Mr. Pinckney said that his answer was to properly value the vehicles being insured.

Vice President Koch said that he wanted the insurance to replace a \$55,000 truck with a \$55,000 truck. Mr. Pinckney said that that would be profiting from the loss. Vice President Koch said that he wanted replacement value, which is what he assumed the coverage was all along. Board Counsel asked if Vice President Koch was expecting new for old. Vice President Koch said that he was. Board Counsel asked if that coverage could be purchased. Mr. Pinckney said that he didn't think so.

Director Born asked if they were supposed to report depreciated values, although they had always been told to report the replacement values. She said that her values were going to change significantly.

Director Handy asked if the premium was based on the stated values and not on the description of the vehicle. Mr. Pinckney said that it was. He said that that was why the underwriters didn't have a problem. Board Counsel said that it was a principal of insurance law that the insured amount was only the actual value. Director Handy said that they were paying a premium based on a stated dollar amount, and that if the insurance company wasn't going to follow that, then they should be entitled to a refund of overpaid premium.

Director Davis said that the bottom line was that the broker could not purchase the insurance coverage that they thought they had. Director Davis said that they needed a two tiered program, with the first tier being for the common items like vehicles valued below \$100,000 and the second tier being for more expensive items like fire trucks. He said that they could also go from a \$1 million to a \$2 million aggregate at the same time.

Mr. Pinckney said that, to date, the APD program had responded appropriately and promptly on each claim. The General Manager said that this was the only claim that had ever caused problems.

Mr. Pinckney said that he would look at Vice President Koch's suggestion to increase the aggregate. He also reminded the members to keep their reported values as close to the actual values as possible.

Director Tonks said that if YCPARMIA were still in the APD program, he would have drastically cut their values to an actual cash value basis on a depreciated basis because if they were not going to get new for old, there was no justification for keeping the values high.

The General Manager asked Mr. Pinckney what would happen if the members reduced their valuations. If there was a loss and the adjuster felt that the vehicle had been undervalued, would that be a problem? Mr. Pinckney said that he didn't think so, as long as the reported value was close to the market value.

Board Counsel asked if the stated value was the most that the insurance company would pay. Mr. Pinckney said that the stipulated value was the most they would pay.

President Henderson suggested that an ad-hoc committee of the APD participants meet to resolve these issues. He said that he would leave it to them to select a chairperson and schedule a meeting.

Phyllis Sammon, of Marsh, presented the renewal information on the Property and Boiler & Machinery programs. She gave a brief historical overview of the property insurance market and explained the hardening of the current market.

Ms. Sammon said that they were seeing an even faster increase in pricing this year. She said that in a sampling of March 1 renewals, about 76% of renewals had rate increases of less than 25%, 19 % had rate increases of between 25% and 50%, and 5% had rate increases of over 100%. She said that in a sampling of April 1 renewals, 32% had rate increases of between 25% and 50%, and 13% had rate increases over 100%. She said that the prediction was that rates would continue to increase throughout the year.

Ms. Sammon said that CJPRMA had done very well loss-wise, with only two claims in excess of the \$25,000 deductible. She said that they were going into the second year of a guaranteed three-year rate, based on losses.

Director Born said that her property manager had increased many of the property values due to the increased cost of replacement. She asked if the

other members were doing the same thing. Director Kaslar said that that had been one of his concerns as well. Ms. Sammon said that she had seen a trend in the members of being more conscientious when reporting property values.

President Henderson asked how the members did their valuations. Director Kain said that Fairfield sent out the listings to each of its departments and that they were diligent in updating their values. President Henderson said that they had used Valuation Resource Management, in the past, and that their report was close to what the city departments were reporting. Ms. Sammon said that that was a good test. She said that property was insured for replacement cost.

President Henderson asked if property from police searches was covered if it was stored in a city building, even if it wasn't reported. Ms. Sammon said that it would be for one time only. She said that the property policy covered personal property within insured buildings.

President Henderson asked if bridges were covered under the property policy. Ms. Sammon said that they were if they were reported.

Ms. Sammon said that the rate for the primary portion of the property policy was a little under \$.015. She said that that covered the first \$5 million and was fixed for three years, and wouldn't be adjusted until losses exceeded 70%. She said that they were currently at 10%. She said that Chubb had been the excess carrier for many years. She said that there were 88 properties valued in excess of \$5 million. She said that they used a composite rate for the primary and excess, and that that was currently \$.0199. She said that the overall program rate increase was 7%, bringing the rate to about \$.02236. She said that they were still working with Chubb, but that they were approaching other carriers. She said that they were trying to get the rate down lower, but that it wouldn't go any higher than \$.02236.

Board Counsel asked if the \$300 million limit was sufficient for everyone. The consensus was that it was.

Board Counsel asked if it was the same rate for members who were not already in the property program who wanted to join. Mr. Pinckney said that it was, unless they had an adverse loss history.

President Henderson asked if they should expect an extreme increase in rates at the end of the three-year program. Ms. Sammon said that they could be past the hard market by then.

Ms. Sammon said that the last Boiler & Machinery program was still with Hartford Steam Boiler. She said that the Boiler & Machinery program was

renewing at the expired rate. She also said that the Boiler & Machinery market was going up as well.

Director Davis asked if they were going into the second or third year on the excess liability reinsurance program. The General Manager said that 2001-2002 would be the third year of the three-year program.

A motion by Director Richardson, seconded by Vice President Koch, to grant the General Manager authority to bind the APD, Property and Boiler & Machinery renewals at the rates indicated (.02236 for Property; expiring rate for Boiler & Machinery), passed unanimously.

7. Proposed Revisions to Memorandum of Coverage for 2001-02

Board Counsel said that there were only three items that were recommended for change to the Memorandum of Coverage. He said that the first item related to Exclusion #14 which covered land use planning and inverse condemnation. He said that in 1997 they had added the last sentence of the exclusion and that they had taken that language from an ISO form which originally dealt with sewage and electrical capacity. He said that the Coverage Committee had voted to remove that last sentence because inverse condemnation liability was liability without fault. Second, inverse condemnation didn't have some of the usual immunities and, third, attorney fees could be awarded. He said that removing the last sentence would narrow coverage but that that was the consensus of the Coverage Committee.

Director Acorne asked if the change would bring the exclusion into compliance with California law. Board Counsel said that they had added the sentence because of California law in order to broaden the coverage. He said that the Coverage Committee was of the opinion that they didn't want to provide the broader level of coverage.

Director Carroll asked how they were protecting the members by removing the last sentence. Director Tonks said that a matter plead on inverse condemnation was strict liability and carried the onus of attorney fees and expert costs. A matter plead as an accident would cover negligent design or upkeep. He said that they weren't giving up coverage for accidents: they were only giving up coverage in the area of strict liability.

Director Kain asked if the organization was in a strong enough financial position to keep the language as it was. Board Counsel said that they were because of reinsurance.

Vice President Koch asked if, by keeping the language, they were sticking to the philosophy the organization had of broadening coverage to the members.

Director Davis said that the problem that they had had with adding the language was that they couldn't define accidental.

A motion by Director Davis, seconded by Director Richardson, to delete the last sentence from Exclusion #14, passed by a vote of 10-8.

Board Counsel said that the next item for discussion was Exclusion #38, which had been added at the request of the reinsurer. He said that, because they blended general liability and errors and omissions coverage into a single form, the reinsurer wanted a fiduciary duty exclusion. He said that the language had been proposed by Discover Re and that they had adopted it as an exclusion so that their form would match what the reinsurer needed. He said that a question had been raised regarding what would happen if a member was in a fiduciary capacity managing property and someone was injured on that property. He said that his thought was that the exclusion was never intended to apply to bodily injury. He said that the Coverage Committee wanted to narrow the coverage by adding "Under public officials errors and omissions coverage, claims (including emotional distress claims) arising from the covered party's activities in a fiduciary capacity" to the beginning of Exclusion #38.

Director Born asked for an example of a claim that would fall under this exclusion. Board Counsel said that an ERISA claim, which is also excluded, or a suit by a bond holder claiming misrepresentation in the issuance of municipal bonds, would be examples of that type of claim.

A motion by Director Acorne, seconded by Director Carroll, to add the proposed language to Exclusion #38, passed unanimously.

Board Counsel said that the third proposed change was to Definition #19. He said that there was a standard ISO endorsement that exempted soot, vapor or fumes from heating equipment within a building from the pollution exclusion. He said that case law had been split before that language was added to the pollution exclusion. He said that the Coverage Committee had considered it and decided to add "The term pollutants, as used herein, also does not refer to smoke, fumes, vapor or soot originating from equipment used to heat or cool a building," to Definition #19.

President Henderson asked if this change to the definition would include biologicals. Board Counsel said that it would.

Director Adamo asked if there would be coverage if someone sprayed pepper spray into the HVAC system at a public building. Director Richardson said that that wasn't a fume originating from the HVAC system.

President Henderson asked if active tuberculosis going through the HVAC system would be considered as originating from the equipment.

Director Davis said that the Coverage Committee had discussed cases where gas escapes from the equipment itself, and that that was why they used the term “originating from” and were not referring to something carried by the equipment, like pepper spray or tuberculosis.

Director Handy asked if Legionnaires disease would be covered under this definition. Board Counsel said that it sounded to him like it would. Director Born asked if mold would be treated the same way. Board Counsel said that he thought that it would be the same.

Director Adamo asked if this was referring to a failure of the HVAC equipment versus an indoor air quality issue.

Director Wildermuth said that he thought that the intent of the proposed language was to limit it to the smoke, fumes, vapor or soot that came from the equipment and not from extraneous sources. Director Handy asked what they could do to make that more clear. Director Kain said that she thought that it was clear. President Henderson said that it did not say biologicals.

Board Counsel said that his suggestion was that they tell him what they wanted to cover and that he would draft the appropriate language. He said that his interpretation was that if mold were to build up in a heating system and blow out, making someone sick, that that would be considered as originating from. He said that if they didn't want Legionnaires disease covered, they should say so.

Director Adamo suggested that they amend the proposed language to include “equipment failure causing.” He said that, from a health and safety standpoint, the language needed to be refined.

Board Counsel asked what, exactly, they wanted covered and what they didn't want covered. President Henderson asked whether they wanted to cover biologicals or not. Director Adamo said that covering biologicals was iffy, but that it needed to be more specifically related to equipment failure causing the smoke, fumes, vapor or soot.

Director Carroll asked if they were talking about a definition that related to an exclusion. He asked if they were talking about excluding it because of equipment failure. The General Manager said that this language would provide additional coverage. Director Born said that if they adopted the language, they would have coverage for smoke, fumes, vapor or soot.

Director Kain asked if there was existing coverage in the event of Legionnaires disease. Board Counsel said that they didn't because the pollution exclusion didn't require that the pollutant be put out into the atmosphere. It could be in the air within a room or a building. Director Kain asked if Legionnaires disease would be considered pollution. Board Counsel said that it would because it's an irritant or contaminant.

Vice President Koch asked if they could adopt the language and send the biological issue back to the Coverage Committee.

Director Davis asked if a commercial policy would cover this exposure. Board Counsel said that the proposed language came directly from an ISO endorsement, and that there wouldn't even be an additional premium for it.

Director Kaslar asked if "originating from" also referred to "distribution of" or "circulation of" the pollutant by the equipment.

Director Davis said that the original intent of the pollution exclusion was that they didn't want to pay for dumps or dump sites and that it had gradually expanded. He said that maybe they needed to redefine pollution.

A motion by Director Born, seconded by Director Kain, to amend Definition #19, was tabled.

Board Counsel said that the Coverage Committee had also discussed whether there should be an exclusion for Rankin v. Murrieta type claims. He said that the committee did not want to add an exclusion for that type of claim. He said that the Coverage Committee had also discussed the case of C.C. Meyers v. City of Folsom, and that they had decided to make no change to the Memorandum of Coverage for that type of case either. He said that the committee also discussed the issue of liability of an independent contractor hired to perform a city function. He said that the question was when did someone become a covered party under the Memorandum of Coverage. He said that, to be a covered party, one had to be either an employee, a volunteer or an official. He said that if there was an independent contractor who was appointed to an official position, they were covered for their acts as an official, but that if an independent contractor was hired, they would not be a covered party.

Director Davis said that he had assumed that the City of Eureka's fireboat had been covered when it was used in the marina, but that it wasn't. He said that he would like it to be covered, either by changing the Memorandum of Coverage or by endorsement. Board Counsel said that the purpose of that exclusion was to avoid overlapping with marina coverage. He said that a marina policy should provide that coverage. Director Davis said that the marina policy didn't cover the fireboat. The General Manager said that they

would try to look at his marina policy and come back with a recommendation if he would provide it to them.

Board Counsel said that the last thing that the committee had discussed was the “other insurance” clause, which was essentially an escape valve that said that they were always excess to anything else that was collectable, including other JPAs. He said that the question was what if they named an additional covered party and that additional covered party also had coverage. He said that they couldn’t change the language without making it more complicated but that the intent was that CJPRMA’s coverage would apply ahead of any other coverage.

8. Report from Board Counsel

The General Manager said that there were two issues that they had asked Board Counsel to report on. He said that one related to the validity of emailed certificates of coverage and that the other related to tow truck ordinances.

Board Counsel said that Civil Code section 1633.7 was added about a year ago, and that California had passed the Uniform Electronic Transactions Act, effective January 1, 2000. He said that Civil Code section 1633.2 defined transaction and that it applied to governmental agencies. He said that Civil Code section 1633.7 said that a “record or signature may not be denied legal effect or enforceability solely because it is in electronic form.” He said that this had been raised on the issue of whether or not they could do this for additional covered party endorsements. He said that his opinion was that they could, but that he didn’t recommend that they do it without having paperwork backup.

Vice President Koch asked if electronically transmitted certificates of coverage would be valid even if they originated in a different state. Board Counsel said that he thought they would, and that because it was a uniform act, it was likely that other states had the same procedures.

Board Counsel said that it really was a matter of proof and what would be admissible in court. He said that, under this act, electronic signatures were. He said that the question to the Board was whether they wanted to change their policies.

Board Counsel said that, regarding the tow truck ordinance issue, he had provided them with two cases to review. He said that, in the Tocher case, there had been a challenge to Santa Ana’s towing ordinance. He said that the argument of the towing company was that the permit process was preempted by federal law. He said that the federal court had agreed, and said that the Federal Aviation Act, which included regulation of trucking, preempted state

law on price, routes and services of trucking, including tow trucks. He said that the two exceptions were for state safety regulations regarding motor vehicles and the price of nonconsensual tows. He said that the 9th Circuit Court found that Santa Ana's ordinance had violated federal law in that it required insurance from tow truck operators, required that the towing yard be next to its building, had a rate schedule for all tows, hours of operations, and advertising limits on towing companies. He said that the 9th Circuit also threw out portions of the California Vehicle Code which required that tow companies accept credit card payments, required that there be consent from the property owner to remove vehicles from private property and that permitted local regulations. He said that the analysis of the 9th Circuit was that that would hurt national and regional towing companies because they would have to deal with a different standard in each city they did business in. He said that the 9th Circuit decided that a city could keep its own rotational tow lists, and that regulations could be imposed on those companies when the city was the contractor. He said that the Court found that the state could not delegate safety regulations to local entities. He said that after that, the California Court of Appeals considered the issue and came to a completely opposite conclusion. He said that Renne case, the court said that they were not bound by federal appellate courts on federal law, only by the U.S. Supreme Court. He said that in the Renne case, the towing company had been towing without a permit, without the authorization of the property owner, refusing to take credit cards and charging excessive fees. He said that the court declined to follow the federal court ruling that the California law had been preempted. He said that the Court said that it was appropriate to require police notification, written permission from the property owner, and the acceptance of credit cards. He said that the Court found that those requirements fell under safety regulations and that there was no bar on the state delegation of regulation of towing to local cities. He said that the issue was now a choice of forum. He said that if the suit was brought in federal district court, it would be bound by the 9th Circuit Court's opinion but that if the suit was in state court, it would be bound by the California Court of Appeals opinion until the two were reconciled. He said that what they needed to worry most about were permit ordinances, requirements of certain amounts of insurance that were more than the minimum required by the vehicle code, and specific requirements regarding how the towing yard was to be set up. He said that they could set price guidelines for nonconsensual tows because that was one of the things exempted from the federal statutes.

9. Proposed Revision to Investment Policy

The General Manager said that Kay Chandler, the Investment Manager, had requested that an amendment be made to the Investment Policy. He said that the first amendment related strictly to extending the amount of time that they could invest in commercial paper from 180 days to 270 days. He said that that was a change in the law that had occurred in 2000. He said that the

second amendment was to delete “fixed coupon callable or putable securities” from the definition of derivatives, which Ms. Chandler said was a common practice.

The Treasurer said that he had no problem with either proposed amendment.

A motion by Director Kaslar, seconded by Director Wildermuth, to amend the Investment Policy as recommended, was approved unanimously.

10. Proposed Redistribution of Pooled Workers Compensation Funds

The General Manager said that he had been asked to look at taking the Workers Compensation line item out of the budget and redistributing the funds. He said that they had researched the program years in which the program had existed, calculated the premiums, determined the pro rata share of the premiums paid, and then calculated the amount available for refund. He said that the balance of the fund was almost \$148,000. He said that he was not going to ask them to approve the proposed plan because he had just received a potential Workers Compensation claim. He said that he would come back with a recommendation to redistribute the funds once the issue of that specific claim had been cleared up.

11. Report on Fund Balances in the 1990-91 and 1991-92 Program Years

The General Manager said that when the last redistribution had been proposed, they had used the fund balances from June 30, 2000. That resulted in balances remaining in each of the two closed program years. He said that he was recommending redistributing the remaining \$115,000 from the 1991-92 program year. He said that the 1990-91 program year should remain open due to a recently reported claim.

A motion by Director Born, seconded by Director Davis, to approve the redistribution of the remaining fund balance in the 1991-92 program year, passed unanimously.

12. Report on Search for New Office Space

The General Manager said that he wanted to bring the Board up to date on the search for new office space. He said that the current lease would expire in April 2002. He said that facilities were currently leasing for \$4.25/square foot but that they were paying \$1.96/square foot under the existing lease. He said that the building they were in had been sold in January. He said that there had been an agreement with the prior landlord that they could abandon the existing lease with no penalty, but that the new owner would not honor it. He said that they had looked at a number of different facilities but that none were

acceptable. He said that they were going to postpone the search until October or November.

Director Born asked how it had been determined that they needed to increase the amount of office space from 2000 square feet to 3000 square feet. The General Manager said that they needed about a 50% increase in space to accommodate storage and an additional staff member if the Board decided to hire another person.

Vice President Koch asked if that increase in space would include a conference room. The General Manager said that it would include a conference room at least large enough to hold committee meetings.

Director Handy asked if they were looking in the same geographical area. The General Manager said that he had been looking in Fairfield, Vacaville and Vallejo, as well as where the office was currently located. He said that he had looked at facilities at Mare Island as well but that they were not feasible.

13. Report on Administrative Expenses

The General Manager said that he wanted to bring them up to date on the ratio of administrative expenses to premium contributions. He said that they had been good at keeping the ratio stable over the past 5 years, with the percentage ranging between 6.9% and 6.44%. He said that they were estimating about 11% for the current year. He said that the reasons for that increase were that they had added \$100,000 to the budget for consultants, \$35,000 for office relocation expenses, and suffered the loss of CSJVRMA and CCCMRMIA. He said that even if they removed the \$135,000 that wasn't included in the budget in the prior year, the percentage would still be substantially higher because they were collecting approximately 30% less premium. He said that he expected that ratio to be stable for the 2001-2002 year and that, after that, it would depend on what programs the Board wanted to undertake. He said that they would continue to have double-digit administrative expenses unless they brought in additional members. He said that, as a matter of information, East Bay Parks had not decided to apply for membership.

Director Born asked if they were asking other JPAs what their administrative expenses were when they were doing the market surveys. The General Manager said that he didn't think that that was included in the survey but that they could add it. He said that they were getting a poor response to the market survey as it was.

Director Born said that 11% was a high figure for administrative expenses and that it was incumbent upon them to make sure that they were

competitive. The General Manager said that they had been competitive until they lost two members.

Director Tonks said that, at the primary level, YCPARMIA's administrative costs were at 10% but that that was a little misleading because they had had a reduction in premium.

Director Davis said that REMIF's administrative costs were about 10-11% and that their premiums had stabilized. He said that his costs were going to go up, though.

Board Counsel said that NCCSIF's costs were about 11%-12%, and that CARMA's were over 13%. He said that they could bring the number back down once they were done with the special projects. He said that they could look at other JPAs annual reports to find out what their costs were.

Director Bist asked if they could be provided with additional backup explaining the increase, including how the loss of the two members affected the increase and what the increased services were. The General Manager said that that information came straight out of the financial audit. Director Bist asked how much of the percentage was based on the loss of the two members. Director Davis said that there was almost a \$3.5 million difference in premium collected. The General Manager said that almost \$2.7 million was due to the loss of CSJVRMA and CCCMRMIA. Board Counsel said that they had also lowered rates by about 14% and that that had also contributed to the increase in ratio.

14. Proposed Budget for 2001-02

The General Manager said that it looked like they were going to come in about \$112,000 under budget for the 2000-2001 fiscal year. He said that the major reasons for that was that the contingency fund had not been utilized, PERS costs were lower than anticipated, the additional \$35,000 for office relocation had not been utilized, about \$4500 for legal services had not been utilized and about \$6500 for other consultants had not been utilized. He said that they were proposing a budget for 2001-2002 that was almost identical, with a cost increase of about \$1600, or .002%. He said that that was to maintain the same amount of money for the anticipated additional cost for office space and \$100,000 for consultants relating to marketing, loss control or whatever else they decided to do once the reports from Lapidus Consulting and ARM Tech were completed. He said that he was asking that they approve the budget as proposed and that they could make adjustments to it throughout the year, if necessary.

Director Born asked why the Contingency Fund line item was increased by \$5,000. The General Manager said that, a number of years ago, there had

been an agenda item setting the Contingency Fund at \$35,000. He said that he had cut that, but that he was putting it back in to maintain the same level the Board had previously approved in order to have a fall back position for any unanticipated expenses.

Director Kain asked why they had budgeted the same amount for rent as they had in the previous year. The General Manager said that that included the \$35,000 increase that they had previously approved.

Director Davis asked if the \$2000 in the printing line item would be enough to cover the printing of the Annual Reports. The General Manager said that they hadn't gotten an estimate yet.

Director Kain asked why \$1600 was being budgeted for bond premiums when only \$300 had been spent this year. The Financial Analyst said that that expense was amortized, and that the bond premiums were paid from February through February. Director Kain asked what the actual cost for those premiums was. The Financial Analyst said that it was \$1475 annually, and that they budgeted \$1600 in case of increases.

Director Adamo asked if the current office rent included an increase in PG&E costs. The General Manager said that that expense wasn't passed on to the tenants. He said that they paid for common area maintenance, but not utilities.

A motion by Director Acorne, seconded by Director Kain, to approve the proposed 2001-2002 budget, passed unanimously.

15. Proposed Policy on Delinquent Claims Status Reporting

The General Manager said that the Board had asked him to create a proposed policy on claims reporting. He said that the proposed policy stated (1) that a list of claims that hadn't had an updated status report in the prior six months would be presented to the Board during closed session at each meeting, (2) that requests for status updates would be sent directly to defense counsel or third party administrators, with copies to the board members, and (3) that at the time of any declared redistributions, funds would be withheld from any member who wasn't currently updated on all their claims, pursuant to the Memorandum of Coverage, which required quarterly updates.

Director Davis asked if the status updates the General Manager was referring to were the same ones that were sent currently. The General Manager said he was and that he would provide them with a copy of that listing in closed session so that they could see who was delinquent.

Director Davis said that on the list the General Manager had sent a few weeks ago, there were about 10 or 15 claims that were in arrears. The General Manager said that he had brought a new list and that there were only two claims in arrears and that he had spoken to defense counsel on both.

The General Manager said that he was going to create a new form cover letter to send to defense counsel explaining what information he was requesting. Director Davis said that he would not get reserve information that way. The General Manager said that he could get that information from the Board Member if defense counsel or the TPA couldn't provide it. He said that there seemed to be an information time gap between the Board Members and the TPAs and that that was of real concern to him.

A motion by Director Davis, seconded by Director Born, to approve the proposed policy, passed unanimously.

16. 2000 Claims Audit

Mr. Craig Bowlus, of Aon Risk Services, presented the 2000 Claims Audit.

Director Handy asked if the numbers in the exhibits were weighted with respect to the two members who left CJPRMA. Mr. Bowlus said that they were actual totals. Director Handy asked how they matched up with other JPAs. Mr. Bowlus said that they were very similar, and in some regards better. He said that he saw a lot fewer EPL cases, but that he also saw a lot more delays in reporting.

Mr. Bowlus said that he had been out of the office when the final copies of the audit were sent out, and that he had found some typos. He said that he had sent everyone corrected copies of the audit.

Director Kain said that she had many concerns about the accuracy of the information contained in the reports. Mr. Bowlus said that he would talk to her about that, individually.

Director Born said that, in the past, they had received copies of each member's report. Mr. Bowlus said that what they received was the executive report, the individual member's review sheets and the summary. The General Manager said that they had not received copies of all members' reports, but that they could have copies if they wanted them. Board Counsel suggested that they look at the copies there at the meeting and then return them to the General Manager so that the information would not be floating around.

Vice President Koch said that he had some concerns about the quality of the reports.

President Henderson said that, if they had any specific comments or criticisms regarding the report, they could talk directly to Mr. Bowlus or to the General Manager.

A motion by Director Kaslar, seconded by Director Tonks, to approve the 2000 Claims Audit, passed unanimously.

17. Organizational Goals and Objectives

Marilyn Snider, of Snider & Associates, facilitated the organizational goals and objectives session. A copy of the report from that session is attached.

VIII. 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: 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: Quenzer v. City of Lodi

Court: San Joaquin County Superior Court

Case No.: CV009074

4. Government Code Section 54956.9 (a)

Conference with Legal Counsel - Pending Litigation

Name of Case: Staunton v. City of Clovis

Court: United States District Court, Eastern Division of California

Case No.: CV-F-99-5902 AWI/DLB

5. Government Code Section 54956.9 (a)

Conference with Legal Counsel - Pending Litigation

Name of Case: Lionsgate v. City of Petaluma

Court: Sonoma County Superior Court

Case No.: 220489

6. **Government Code Section 54956.9 (a)**
Conference with Legal Counsel - Pending Litigation
Name of Case: Kao v. City of Rohnert Park
Court: United States District Court, Northern District of California
Case No.: C 98-0387 THE
7. **Government Code Section 54956.9 (a)**
Conference with Legal Counsel - Pending Litigation
Name of Case: Kuns v. City of Ukiah
Court: California State Court of Appeals, First Appellate District
Case No.: A 087470

IX. ACTION ON CLOSED SESSION ITEMS

X. ADJOURNMENT