



CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

BOARD OF DIRECTORS MEETING

November 21, 2002 – 9:35 A.M.

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

(707) 558-0330

Minutes

I. CALL TO ORDER:

President Henderson called the meeting to order at 9:41 a.m.

II. ROLL CALL

PRESENT

- | | |
|-------------------------------------|--|
| 1) Darrell Handy, <i>Alameda</i> | 9) Mary Richardson, <i>San Leandro</i> |
| 2) Bob Koch, <i>Chico</i> | 10) Sharon Andrus, <i>San Rafael</i> |
| 3) Robyn Kain, <i>Fairfield</i> | 11) Brien Farrell, <i>Santa Rosa</i> |
| 4) Patricia Born, <i>Fremont</i> | 12) Roger Carroll, <i>SCORE</i> |
| 5) Bill Henderson, <i>Livermore</i> | 13) John Hinson, <i>Stockton</i> |
| 6) Kirk Evans, <i>Lodi</i> | 14) Barbara Coats, <i>Sunnyvale</i> |
| 7) Scott Ellerbrock, <i>PERMA</i> | 15) Paul Wildermuth, <i>Vacaville</i> |
| 8) Jeff Davis, <i>REMIF</i> | 16) John Pomidor, <i>Vallejo</i> |

ABSENT

NCCSIF, Petaluma, Redding, Roseville, YCPARMIA

OTHERS PRESENT

- | | |
|--|--|
| 1) Lola Deem, <i>CJPRMA</i> | 8) Byrne Conley, <i>Gibbons & Conley</i> |
| 2) Robert German, <i>CJPRMA</i> | 9) Jim Pinckney, <i>Marsh</i> |
| 3) Caren White, <i>CJPRMA</i> | 10) Craig Bowlus, <i>Marsh</i> |
| 4) Greg Jones, <i>Concord</i> | 11) Amy Meyer, <i>Maze & Associates</i> |
| 5) Craig Labadie, <i>Concord</i> | 12) Dennis Molloy, <i>PERMA</i> |
| 6) Marilyn Kelley, <i>Driver-Alliant</i> | 13) Julie Thierl, <i>Pomona</i> |
| 7) Robin Johnson, <i>Driver-Alliant</i> | 14) David Lindquist, <i>Vallejo</i> |

III. APPROVAL OF MINUTES

A motion by Director Davis, seconded by Director Born, to approve the minutes of the June 20, 2002 Board of Directors meetings, passed unanimously.

IV. PRESENTATIONS

None

V. CONSENT CALENDAR

- 1. Financial Reports of CJPRMA for the Periods Ending June 30, July 31, August 31 and September 30, 2002**
- 2. Additional Covered Party Certificates Approved by the General Manager**
- 3. Notification of New Claims Received**

Director Koch said that there was an error in the information reported on claim number 1999-2000-0090. The General Manager said that he would correct it.

- 4. Notification of Claims Closed**
- 5. Appointment of New Board Members/Alternates**

The General Manager said that they had received a letter from the City of Vacaville, appointing Gerald Hobrecht as the Alternate, and that he would like to add that to the agenda bill.

- 6. Holiday Schedule for 2003**

A motion by Director Koch, seconded by Director Born, to approve the Consent Calendar, passed unanimously.

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

VII. ACTION CALENDAR

The General Manager said that they had added Item 23, Application of Exclusion for Racing Contests, to the agenda and had posted it on Monday, at the request of Board Counsel.

7. Proposed Meeting Schedule for 2003

The General Manager said that the Board had discussed this over the last two years and had decided to eliminate the January meeting and add a meeting in February, just prior to the PARMA Conference. He said that they had also adjusted the date of the April meeting so that it did not conflict with the RIMS conference.

Director Koch said that he thought that it was important that they meet regularly so that they did not lose contact.

A motion by Director Born, seconded by Director Kain, to approve the proposed meeting schedule for 2003, passed unanimously.

8. Proposed Revision to By-Laws

The General Manager said that this was simply an administrative item. He said that Appendix A of the By-Laws listed the old address of the CJPRMA office and that they needed to correct that to reflect the new location.

A motion by Director Born, seconded by Director Handy, to approve the proposed revision to the By-Laws, passed unanimously.

9. Proposed Committee Rosters

President Henderson said that he was recommending that the committee rosters be composed as noted in the agenda bill. The General Manager said that the ad hoc Transit Committee would be surveying the members regarding the composition of their transit districts and their coverage needs. Mr. Lindquist asked if it would be possible to have a representative of Vallejo, who was not a Board member, on the Transit Committee. The General Manager said that they could. President Henderson said that they would add a Vallejo representative to the roster.

A motion by Vice President Wildermuth, seconded by Director Born, to approve the proposed committee rosters, with the addition of a Vallejo representative to the ad hoc Transit Committee, passed unanimously.

10. Confirmation of Conflict of Interest Code

The General Manager said that the Fair Political Practices Commission required that every multi-county agency review its Conflict of Interest Code every two years. He said that there were no changes.

A motion by Director Davis, seconded by Director Born, to approve the Conflict of Interest Code, passed unanimously.

11. Proposed Changes to Investment Policy

The General Manager said that Chandler Asset Management had recommended two minor changes to the Investment Policy. They related to reducing the maturity period for Banker's Acceptances from 270 days to 180 days and changing the credit percentage for Commercial Paper with a maturity of less than 31 days to 25%. He said that those changes went into effect on January 1, 2002, and that Chandler had already made the changes. He said that Chandler had been in compliance with the law, but that they needed to update the Investment Policy to reflect compliance.

A motion by Director Kain, seconded by Vice President Wildermuth, to approve the changes to the Investment Policy, passed unanimously.

12. Proposed Addition of the City of Tule Lake (PERMA) to the Liability Program

The General Manager said that Tule Lake had made application to, and been approved for, membership in PERMA. He said that PERMA had informed them that they only had \$1 million in coverage through PERMA until the CJPRMA Board approved them for membership as well. He said that, in 1992, a policy had been adopted that stated that, for any JPA that joined CJPRMA after April 1992, CJPRMA had the right to decline coverage for new members for a period of three years. He said that PERMA was the only JPA to which that policy would apply. He said that he had looked at Tule Lake's application to PERMA and that it looked like a city with minimal exposure. He said that he was recommending that they approve coverage for Tule Lake, effective December 1, 2002.

Director Davis said that Tule Lake had three police officers and had had two false arrest claims. He asked Director Ellerbrock if he had looked into that. Director Ellerbrock said that he had relied on the loss information that had been provided and that it had shown minimal losses.

Director Kain asked what kind of procedures Tule Lake had in place for keeping officers current with training. Director Ellerbrock said that PERMA provided each of its members with a police policy manual, updated annually, and that they provided training as well.

President Henderson asked Director Ellerbrock about the jump in payroll from \$150,000 in 2001-2002 to an estimated \$250,000 in 2002-2003. Director Ellerbrock said that the difference was due to a grant received by the police department for payroll. He said that the actual payroll for 2001-2002 showed the net amount, but that the estimated payroll for 2002-2003 did not.

Mr. Jim Pinckney, of Marsh, said that the application had been furnished to the reinsurers, and that they had approved the acceptance of Tule Lake.

A motion by Director Handy, seconded by Director Born, to accept the City of Tule Lake (PERMA) for membership, effective December 1, 2002, passed unanimously.

13. 2002 Financial Audit

Ms. Amy Meyer, of Maze & Associates, presented the results of the 2002 Financial Audit. She said that there were no management recommendations. She said that they would have to make some minor changes to the financial statements so that they would be in compliance with the requirements for the CAJPA accreditation, but that the changes would not affect the audit.

A motion by Director Born, seconded by Director Kain, to approve the 2002 Financial Audit, passed unanimously.

14. 2002 Actuarial Study and Proposed Redistribution Plan

Mr. Mujtaba Dattoo, of ARM Tech, was present to discuss the results of the 2002 Actuarial Study.

He said that the recommended rates for the 2003-2004 program year were \$0.239 for Pool B, \$0.461 Pool C, and \$0.191 for Pool D.

The General Manager said that there were two proposed redistribution plans. He said that the plan proposed by ARM Tech was for \$5,237,621, but that that created a deficiency in the 1998/1999 program year. He said that staff was recommending Plan 2, which was for \$4,753,359 and would increase the confidence level for all program years to the mandated level of 80%. He said that he would not recommend that they redistribute the \$600,000 in Pool D at this time because there was still a possibility of claims arising that were not covered by reinsurance.

A motion by Director Kain, seconded by Director Davis, to approve the 2002 Actuarial Study, to approve the proposed rates of \$0.239 for Pool B, \$0.461 Pool C, and \$0.191 for Pool D, and to approve the redistribution plan set forth in Plan 2, passed unanimously.

15. Possible Application for Membership from CalTIP

The General Manager said that this was an information item only. He said that CalTIP had approached CJPRMA about membership, but that they had subsequently decided not to apply for membership at that time. He said that it was possible that they would apply in the future.

16. Application for Membership from the City of Concord

President Henderson introduced Greg Jones, Assistant City Manager, and Craig Labadie, City Attorney, from the City of Concord.

The General Manager said that the City of Concord had made application in September. He said that Concord had a population of 121,780, 461 full time employees, payroll of \$34,088,014 and a comprehensive written safety program. He said that they had a position of Risk Manager that was currently unfilled due to the person being on special assignment, and that he wanted to know if that position would be refilled in the future. He said that, currently, the liability loss control program was under the direction of the City Attorney's office and that other safety related programs were under Human Resources. He said that they averaged about 105 claims per year, which was not out of the ordinary, and that total incurred values on those claims over the past three years ranged from \$214,000 to \$687,000.

The General Manager said that CJPRMA had paid two claims on Concord's behalf, as members of CCCMRMIA. He said that one related to a sex discrimination case in the police department with a total cost to CJPRMA of \$868,718. He said that the second related to an accidental police shooting case and the subsequent development of flesh-eating bacteria, with a total cost to CJPRMA of \$1,611,749.

The General Manager said that Concord's financial audit showed a deficit in retained earnings for the risk management internal service fund of about \$4.1 million. He said that that related to bonds the city had sold to fund the Hardin judgment. He said that they actually had about \$900,000 still in the fund, but that it showed on the audit as a negative balance.

The General Manager said that the third item that would be of concern to them related to Concord's litigation with their current JPA, CCCMRMIA, in a coverage dispute relating to the Hardin case. He said that he, President Henderson and Board Counsel had met with city officials regarding this issue, and that they were able to alleviate many of their concerns. He said that Mr. Labadie was present to discuss that litigation with the Board.

Mr. Jones said that the city planned to fill the Risk Management position that was currently vacant due to the Risk Manager being on special assignment for three to four months. He said that, at the end of that time, they would decide whether that person would come back or if they would recruit. He said that the deficit balance in the risk management internal service fund was showing due to judgment obligation bonds that they were required to issue to pay the judgment on the Hardin case. He said that it was a fifteen year bond issue, and that the payments were fully funded in the internal service fund as

well as their premiums and non-covered liability claims. He said that they did ten year financial planning and that it maintained a positive fund balance over the ten year period.

Mr. Labadie said that Concord had been a member of CCCMRMIA since 1977, and that this had been the only coverage dispute they had had with the group.

The General Manager asked if there was any potential for a decision from the appellate court that could be adverse to JPAs. Mr. Labadie said that there was a potential, but that he didn't think that it was likely.

Board Counsel said that he, President Henderson and the General Manager had discussed this case at some length and that they were impressed that there had been no bad faith claim filed against CCCMRMIA. He said that it was a straight forward claim for defense costs, and that it clearly had some merit because the trial court judge had granted summary judgment in Concord's favor.

Director Handy said that he thought that the City of Concord was a good risk.

Director Koch asked what had been done in the police department and citywide with regard to sexual harassment. Mr. Jones said that they had done extensive training and that a lot of the leadership in the police department had changed. He said that they had a new chief, two new police captains and five new lieutenants. He said that the police department had become nationally certified by CALEA (Commission on Accreditation for Law Enforcement Agencies). That had been a three year process of reviewing policies and general orders. Mr. Labadie said that they were no longer seeing sexual harassment claims or complaints coming out of the police department.

Director Born asked if Concord had given notice of withdrawal from CCCMRMIA. Mr. Labadie said that they had until the end of December to do that. Director Born asked if they were looking at other alternatives solely due to the litigation. Mr. Labadie said that the litigation had strained Concord's relationship with CCCMRMIA, but that they were also looking for other reasons. He said that it had been an ongoing discussion for the past ten years regarding whether or not it was good for Concord to be the one large member in the county. He said that many of the loss prevention programs offered by CCCMRMIA were not that helpful to Concord. He said that it seemed to be a better fit to join a group where the members were of a similar size and level of sophistication to Concord. Director Born asked if they had the ability to take a \$500,000 SIR. Mr. Labadie said that they were looking at that in more detail, but that they expected they would. Director Born asked if they had made application to any other JPAs. Mr. Labadie said that they had also applied to two others.

Director Davis said that he had a number of issues. He said that, if they joined, they would only have one vote. He also said that, if they joined, they would not get redistributions for quite some time. Mr. Jones said that they understood that.

The General Manager said that, if they did come in, it would be effective July 1, 2003, and that the contribution they would generate would be about \$303,000 with a \$500,000 SIR or about \$222,000 with a \$1 million SIR.

President Henderson asked Mr. Labadie if they intended to remain in ERMA. Mr. Labadie said that they would maintain employment liability coverage either through ERMA or through a JPA.

Director Davis asked what Concord intended to do with their claims now that CCCMRMIA would not be handling them. Mr. Labadie said that they already doing most claim handling in-house. He said that they would probably look into retaining a TPA.

Director Davis said that they had two major public facilities, the Concord Pavilion and Water World. He asked what they had done to protect Concord from liability with regard to those facilities. Mr. Labadie said that Water World was on city owned property but was ground leased to Six Flags/Magic Mountain, which provided indemnity for any claims arising out of Water World, and that it was not a source of liability to the city. He said that, with regard to the Concord Pavilion, they had entered into an operating agreement with Bill Graham Presents, which had assumed the liability exposure.

Director Wildermuth said that, with a population of 121,000, 461 seemed like a pretty lean staff. Mr. Jones said that they did not have a fire department or a water department.

Director Kain asked, with regard to the actuarial study, if they took a \$500,000 SIR and the study recommended that they increase the funding level in the risk management internal service fund, would the city council be willing to make the commitment to do that. Mr. Labadie said that they were prepared, and understood that, if they changed their SIR, they would need to increase that funding. He said that their current SIR was \$100,000.

Director Davis said that he noticed that on their "Claims Reported over \$50,000" table in the application that they hadn't had any claims over \$50,000 in the last two years. The General Manager said that Craig Bowlus had done the claims audit for Concord and that they would have known if there were any claims over \$50,000. Mr. Labadie said that they did have one come in after they had submitted the application.

Director Hinson asked for a description of the types of claims that they handled in-house and the kinds of cases they expected to have in the future. Mr. Labadie said that they were handling one land use case and one rent control case, which were outside the scope of coverage. He said that handling claims in-house was relatively new to them, and that they had found that, on a lot of the smaller claims, they could save money by bringing in the cases that didn't have a potential exposure approaching the SIR.

Director Kain asked what risk management services they would expect to receive from CJPRMA. Mr. Jones said that they didn't expect much, because they handled most risk management functions in-house. He said that the expectation levels were not high, but that if there were services that they could benefit from, they would utilize them. Director Kain said that, since CCCMRMIA was a primary pool and CJPRMA was an excess pool, it was important that their risk management position be staffed. Mr. Jones said that their plan was to have the risk management position filled by July 1, 2003.

Director Koch asked if their safety program was a workplace safety program. Mr. Jones said that it was. Director Koch asked what they were doing to evaluate the safety of their public facilities. Mr. Jones said that they had a safety committee that conducted a public inspection program. He said that they had committed to inspect a minimum of 24 sites each year. He said that they had an aggressive sidewalk repair program as well as a street repair program. He said that some of it was done in the operational areas and was overseen by the HR function and some was done by the safety committee.

The General Manager said that, when claims were received by the city, if there was some sort of hazard, they automatically notified the appropriate department to address those issues. Mr. Labadie said that part of their claims review was to have someone go out to the site, and if something was identified as an unsafe condition, to notify the appropriate department to have them correct the problem. He said that, on police claims, they looked at policies and practices and highlighted issues for the police department to follow up on.

Director Farrell said that the City of Santa Rosa's program was set up very similarly with regard to liability. He said that, what he saw in Concord's claims history was a pretty extraordinary record of very few claims involving the ordinary torts that they regularly saw.

Director Davis asked the General Manager if he had asked the actuary what bringing in the City of Concord would do to their rates. The General Manager said that he had not discussed it but that he expected it to have a very minimal impact.

Director Born asked who the Board member would be. Mr. Labadie said that it would probably be himself or the new risk manager. He said that they would be open to discussion with the Board as to what they wanted of a representative. Director Born asked if they were committed to attending the Board meetings. Mr. Labadie said that the city wanted to have active representation.

A motion by Director Handy, seconded by Vice President Wildermuth, to approve the City of Concord's application for membership, passed by a vote of 15 to 1, with Chico opposing the motion.

17. Withdrawal of the Yolo County Courts from YCPARMIA

The General Manager said that there was a mandatory program for liability coverage through the state for county courts. He said that the Yolo County Courts, a member of YCPARMIA, were being forced to withdraw in order to participate in the state mandated program. He said that YCPARMIA had decided to let them withdraw effective January 1, 2003 and to refund 50% of their premium so that there wouldn't be dual coverage. He said that he was recommending that they do the same thing. He said that the net impact would be a refund of about \$18,000.

A motion by Director Kain, seconded by Director Richardson, to approve the withdrawal of the Yolo County Courts, effective January 1, 2003, and to refund 50% of their premium for the 2002-2003 program year, passed unanimously.

18. Request for Amicus Brief

Board Counsel said that Barden v. City of Sacramento was a case in which the district court had sided with the city, but the Ninth Circuit Court of Appeals reversed, and decided that the ADA applied to anything that a public entity did. He said that that meant that every trip and fall claim could become a federal action, under which attorney fees would be available for violating ADA standards. He said that the City of Sacramento was petitioning the U.S. Supreme Court for a hearing and had requested that other public agencies add their names to the amicus brief. He said that his recommendation was that they add CJPRMA and its member agencies' names to the amicus brief in support of the petition for hearing.

Director Davis said that REMIF had already done this. Director Farrell said that the City of Santa Rosa had also been listed as an amicus in Sacramento's case, but that the plaintiff's law firm in that case had served a public records act request on them as a result.

A motion by Director Born, seconded by Director Handy, to add CJPRMA and its member entities' names to the amicus brief, passed unanimously.

19. Location of Annual Meeting

The General Manager said that he and President Henderson had looked at a number of facilities with the idea that they would recommend moving the location of the annual meeting. He said that Bodega Bay's costs had continued to increase, and that last year they had been billed an additional \$6,000 for unused room nights. He said that they had thought that a change of atmosphere might encourage Board members to come and stay for the entire annual meeting. He said that the cost last year had been about \$28,000, with an additional \$4,000 for offsite meals. He said that the estimated cost for Seascape, which was the site that he was recommending, would be about \$30,000, with an additional cost for offsite meals. He said that the costs were comparable, but that it might be a good idea to try a new location. He said that the cost for guests would increase from \$50 to \$110 because that was the rate charged by Seascape for all meals for each attendee. He said that the facilities at Seascape had been beautiful and that the food was excellent.

Director Born asked if they should address the issue of members leaving the annual meeting and being charged for the missed nights. The General Manager said that it was a major issue, that they needed to discuss it further, and then bring something back for a formal policy. He said that, at the last Executive Committee meeting, they had discussed billing the members who had committed to coming to the meeting and then had left early.

Director Kain asked why people were leaving early. President Henderson said that there were a variety of reasons. Director Carroll said that, at the last annual meeting, the final day had been solely about the property program and since SCORE was not a participant, he had decided not to stay. Director Koch said that the problem was that they had to commit to the meeting so far in advance.

A motion by Director Coats, seconded by Director Carroll, to move the annual meeting to the Seascape Resort in Aptos, passed unanimously.

20. Assignment of Defense Counsel

The General Manager said that this matter had been agendized at the request of Director Davis. He said that a number of members had expressed dissatisfaction with the level of competency of some city attorney's offices in their handling of general liability cases. He said that some city attorney's offices were very competent and had excellent staff, but that they had had some unpleasant experiences with others.

Director Davis said that the most recent example of his concern was the Vallejo case in which it was clear that the city attorney's office did not properly handle the case. They ended up paying a large sum of money out on that matter. He said that it seemed to come and go, depending on what experience the city attorneys had. He said that he knew he would not get support if he said that there should be no city attorneys assigned to any of CJPRMA's cases, but that he felt that it should be looked at and that they should create some sort of evaluation process to determine whether or not a particular attorney should be involved. He said that city attorneys had a conflict of interest in that they represented the city council, as well as having staff that could be intimidated by that same city council. He said that he thought that something should be done about utilizing city attorneys.

Board Counsel said that, with respect to the issue of the Vallejo case, he had talked to the city attorney, and that he was making a number of changes. He said that they would be adopting a litigation handling policy based on CJPRMA's, with some changes, as well as sending more cases to outside counsel. He said that, in ten years of Vallejo handling cases in-house, this was the first problem they had experienced. He said that it would be an ongoing issue for all members to look at outside counsel and city attorneys to determine how they were doing. He said that it wouldn't be a bad idea to ask Craig Bowlus to look at that when he did the next claims audit.

President Henderson said that he thought that they could do a presentation at the League's conference as a JPA to help educate city attorneys. He said that he thought that there was a lack of understanding of what a pool was and that there were a lot of cities who still thought of a pool as an insurance company. He said that that was one way they could address this issue.

The General Manager said that they had had an issue with the City of Lodi, but that he had had discussions with the city attorney's office and that he was satisfied that they had addressed the problems he had noted. He said that his concern was that staff in the city attorneys' offices, for the most part, did not have the level of expertise necessary for defending general liability matters. He said that the other issue was with contract city attorneys who assigned cases to their own firms.

Director Farrell said that the General Manager had identified areas where additional training and discussion would be beneficial and that he would be interested in participating in that.

Director Davis said that the issue he was concerned with was problems that they did not find out about until after the fact. He said that they also had had problems with city attorneys who did not share information with Board members. He said that if they could establish a process where that

information was shared early on, then they could make corrections sooner and avoid the problems.

Board Counsel said that they, as a staff, needed to do a better job of enforcing the litigation reporting requirements by meeting with city attorneys and going over the issues with them.

21. Proposed Position of Risk Manager

The General Manager said that, at the Executive Committee meeting in July, there was further discussion of the proposed addition of the administrative position of Risk Manager to the existing staff. He said that the proposed position would provide services such as risk management training, site surveys, promoting the use of model policies and procedures, making visits to members and assisting them with the design and function of their risk management programs, and various other functions. He said that it would be a resource that they could tap on a regular basis. He said that if the Board approved the proposed risk management position, it would be referred to the Personnel Committee for the drafting of a job description and the establishment of a salary range. He said that he thought that this would be the single best service they could provide to the members.

Director Koch asked if they could reserve the right to change their minds about the position once the job description was determined. The General Manager said that they could.

Board Counsel said that they could use the \$30,000 in the training reimbursement fund to offset the cost of a new position. He also said that the Risk Manager position would free some time for the General Manager.

A motion by Director Davis, seconded by Director Farrell, to approve the proposed administrative position of Risk Manager, to refer it to the Personnel Committee, with input from the Claims Committee, for the drafting of a job description and the establishment of a salary range, passed unanimously.

22. Report on SB 688 (Change in Statute of Limitations)

Board Counsel said that this was an information item only. He said that there had been an amendment to the Code of Civil Procedure that would take effect on January 1, 2003 that would extend the statute of limitations for personal injury claims from one year to two years. He said that city claims were governed by the Tort Claims Act; however, federal claims would now have the two year statute of limitations. He said that the summary judgment statute had been changed in favor of plaintiffs' attorneys. He said that they had changed the time to make the motion before the hearing from 28 days to 75 days, but that the opposition was still due only 14 days before. He said

that he didn't think that it had made that much of a difference, but that it would put a lot of pressure on defense counsel to conduct discovery early.

President Henderson asked if there were any suggestions regarding what they could do to protect themselves. He said that, for example, there was a statute to keep tapes of police dispatch for 100 days. He asked if they should now keep them for two years. Board Counsel said that, if they had a potential civil rights claim, they might want to wait longer, and that if they had an incident report, it was always a good idea to keep the dispatch tape.

23. Application of the Exclusion for Racing Contests

Board Counsel said that the City of Marysville had a concession contract for an off-highway vehicle park, and that part of it stated that the concessionaire shall conduct races at certain times of the year. He said that language had been included that stated that the City did not sponsor, control, or participate in any speed contests held on practice or race days at the OHV facility. He said that he had written to Driver-Alliant, the administrator for NCCSIF, stating that the CJPRMA exclusionary language would apply. He said that there was a specific exclusion for claims arising out of automobile or motorcycle drag racing, speed racing or similar speed contests, sponsored, controlled or participated in by a covered party. He said that he was asking if the Board thought that the exclusion should not apply. He said that it was on city property, so they could still be sued for a dangerous condition.

The General Manager said that he had brought this to the Board for confirmation that the exclusion would apply.

Marylin Kelley, of Driver-Alliant, said that the OHV park had been in Marysville for ten years, but that they had always had coverage up to \$5 million. She said that, during the last year, they were unable to get coverage and the city had required them to close the park. She said that they were trying to find some way to accommodate the park.

Board Counsel said that the day to day activities of the park would be covered but the races would not.

Director Davis asked if the Board's confirmation of the exclusion would give them more protection in court. Board Counsel said that it would. The General Manager said that they would send a letter to the City of Marysville to that effect.

A motion by Director Koch, seconded by Director Kain, to confirm the applicability of Exclusion #34 (Racing Contests) to the Marysville agreement, passed unanimously.

VIII. COMMITTEE REPORTS

A) Claims: Patricia Born, Chair

The Claims Committee had nothing to report.

B) Coverage: Jeff Tonks, Chair

The Coverage Committee had nothing to report.

C) Personnel: Carolyn Lyons, Chair

The Personnel Committee had nothing to report.

D) Communications: Bob Koch, Chair

The Communications Committee had nothing to report.

IX. CLOSED SESSION

1. **Government Code Section 54954.5**

Case Review/Planning

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

Conference with Legal Counsel - Pending Litigation

Name of Case: Lifton v. City of Vacaville

Court: Ninth Circuit Court of Appeals

Case No.: 02-15450

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

Conference with Legal Counsel - Pending Litigation

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

Court: Supreme Court of the United States

Case No.: 01-1744

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

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

Conference with Legal Counsel - Pending Litigation

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

Court: United States District Court, Northern District of California

Case No.: C 00-03785 VRW

6. **Government Code Section 54956.9 (a)**
Conference with Legal Counsel - Pending Litigation
Name of Case: Zaporteza v. City of Vallejo
Court: Solano County Superior Court
Case No.: FCS 016330
7. **Government Code Section 54956.9 (a)**
Conference with Legal Counsel - Pending Litigation
Name of Case: Yohanan v. City of Woodland
Court: N/A
Case No.: N/A
8. **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
9. **Government Code Section 54956.9 (a)**
Conference with Legal Counsel - Pending Litigation
Name of Case: Vallejo Unified School District v. City of Vallejo
Court: Solano County Superior Court
Case No.: 15644

X. ACTION ON CLOSED SESSION ITEMS

The General Manager said that they had recovered \$2.5 million in Davis v. City of Auburn.

XI. ADJOURNMENT

A motion by Director Born, seconded by Vice President Wildermuth, to adjourn the meeting at 2:05 p.m., passed unanimously.