**CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY**

**BOARD OF DIRECTORS MEETING**
**THURSDAY DECEMBER 14, 2023 9:00 A.M.**

**CJPRMA Office**
**3201 Doolan Road, Suite 285**
**Livermore, CA 94551**
**(925) 837-0667**

## MINUTES

**I. CALL TO ORDER** – President Jensen called the meeting to order at 9:10 A.M.

**II. ROLL CALL**

**PRESENT**

1) Yibin Shen, Alameda
2) Chelsea Phebus, Chico
3) Erika Milton, Fairfield
4) Jas Sidhu, Livermore
5) Beverly Jensen, Lodi
6) Julie Harryman, LPFD
7) Elizabeth Ehrenstrom, NCCSIF
8) Jordan Green, Petaluma
9) Virginia Bolman, Roseville
10) Megan Stephenson, San Leandro
11) Genevieve Coyle, San Rafael
12) Blake Michaelsen, SCORE
13) Rosemary Rivas, Stockton
14) Tina Murphy, Sunnyvale
15) GeorgeAnne Meggers-Smith, Vacaville
16) David Due, YCPARMIA

**NOT PRESENT** – Fremont, Redding, Richmond and Santa Rosa

**OTHERS**

17) Byrne Conley, Board Counsel
18) Bill Dennehy, Chandler Asset Management
19) Stephen Church, Chandler Asset Management
20) Tracy Fleck, Aon Global Risk Consulting
21) Katy Rose, PINS Advantage
22) Brian Snider, PINS Advantage
23) Jason, Allen, Alameda
24) Sylvia Dominguez, Lodi
25) Amber Hatfield, Livermore
26) Jen Martel, Sunnyvale (via Zoom)
27) Armond Sarkis, Vallejo (via Zoom)
28) Tony Giles, CJPRMA
29) Vahe Hovakimian
30) Marinda Griese, CJPRMA
31) Marcia Hart, CJPRMA
32) Shawn Millar, CJPRMA
33) Susanna Bañuelos, CJPRMA

**III. PRESENTATIONS**

- Katy Rose and Brian Snider spoke to the Board of Directors about PINS Advantage.

## IV. CLOSED SESSION

1. **<u>Government Code Section 54956.95 (a)</u>**
   Conference with Legal Counsel – Litigation

   **Name of Case:** Barrera, Daniel et al. v. City of Woodland (YCPARMIA)
   **Court:** United States District Court, Eastern District of California
   **Case No.:** 2:18-cv-00329-JAM-KJN

2. **<u>Government Code Section 54956.95 (a)</u>**
   Conference with Legal Counsel – Litigation

   **Name of Case:** Gonzalez, Mario v. City of Alameda
   **Court:** United States District Court, Northern District of California
   **Case No.:** 4:21-cv-09733-DMR

3. **<u>Government Code Section 54956.95 (a)</u>**
   Conference with Legal Counsel – Litigation

   **Name of Case:** Cikes, Stipe v. City of San Leandro
   **Court:** United States District Court, Northern District of California
   **Case No.:** 4:22-cv-02572-DMR

4. **<u>Government Code Section 54956.95 (a)</u>**
   Conference with Legal Counsel – Litigation

   **Name of Case:** James, Dana v. City of Oroville (NCCSIF)
   **Court:** United States District Court, Eastern District of California
   **Case No.:** 2:23-at-00092

## V. ACTION ON CLOSED SESSION ITEMS

- The Board of Directors conferred with staff regarding litigated claims.

## VI. THIS TIME IS RESERVED FOR MEMBERS OF THE PUBLIC TO ADDRESS THE BOARD OF DIRECTORS ON MATTERS OF BOARD BUSINESS. STATE LAW PROHIBITS ACTION BY THE BOARD ON NON-AGENDA ITEMS.

## VII. COMMUNICATIONS

**A.** Board Members
**B.** General Manager/Secretary
**C.** Next Scheduled Meetings: Executive Committee (02/15/2024) Santa Rosa, CA
Board of Directors (3/21/2024) via Zoom

*Per Government Code section 54954.2, persons requesting disability-related modifications or accommodations, including auxiliary aids or services to participate in the meeting, are requested to contact CJPRMA at (925) 837-0667 24 hours in advance of the meeting.*

## VIII. APPROVAL OF MINUTES

- A motion was made by Director Rivas and seconded by Director Ehrenstrom to approve the minutes from the Board of Directors meeting held on August 17th, 2023 and the special Board of Directors meeting on September 21, 2023. Directors Shen, Phebus, Milton, Sidhu, Harryman, Jensen, Green, Bolman, Stephenson, Coyle, Michaelsen, Murphy, Meggers-Smith and Due approved the motion. Fremont, Redding, Richmond and Santa Rosa were absent. Motion passed.

## IX. CONSENT CALENDAR

1. **Additional Covered Party Certificates Approved by the General Manager (A)**

2. **Settlement of Claims Discussed in Closed Session (I)**

3. **Status Update on General Manager's Goals and Objectives (I)**

4. **Financial Report of CJPRMA as of June 30, 2023 (I)**

5. **Business Calendar for 2023 & 2024 (A)**

6. **New Board Members/Alternates (I)**

- A motion was made by Director Meggers-Smith and seconded by Director Rivas to approve the consent calendar. Directors Shen, Phebus, Milton, Sidhu, Harryman, Jensen, Ehrenstrom, Green, Bolman, Stephenson, Coyle, Michaelsen, Murphy, and Due approved the motion. Fremont, Redding, Richmond and Santa Rosa were absent. Motion passed.

## X. ACTION (A) AND INFORMATION (I) CALENDAR

7. **Report from the Investment Manager (I)**

Bill Dennehy, Chandler Asset Management, was present to discuss the portfolio and our investment strategy. In addition, he will be providing an update on economic factors that have had a direct impact on the investments.

Pool investments are managed by Chandler Asset Management. The assets are held in CJPRMA's bank custody account managed by the Bank of New York.

The investment program is divided into three parts. The Loss Payment Account is utilized to provide funds for operating expenses and the payment of losses. The Loss Payment Account invests in high grade securities with a maximum maturity of 5 years. Both Long Term Growth Accounts are utilized to provide long term asset growth to offset inflation. The maturity range of their investments is a maximum of ten years.

As of October 31, 2023, the Loss Payment Account was valued at $45,400. This was an increase of $234 from its valuation of $45,166 on July 31, 2023. Consistent with the previous reporting period, transaction activity in the portfolio was muted. The majority of the allocation remains in LAIF (~71%) and the money market sweep vehicle in anticipation of cash flow needs. No withdrawals occurred from the Loss Payment Account during the reporting period.

As of October 31, 2023, the Long Term Growth Account / Tactical was valued at $10,622,758. This was a decrease of $3,126 from its valuation of $10,625,884 on July 31, 2023. Various securities were purchased across the Treasury, Agency, and corporate portions of the allocation. The purchased securities ranged in maturity from April 2028 to September 2028. Multiple securities were sold, and one was called, with the proceeds being used to purchase the new holdings.

As of October 31, 2023, the Long Term Growth Account was valued at $24,343,335. This was a decrease of $992,002 from its valuation of $25,335,337 on July 31, 2023. Purchasing activity was light during the reporting period as the Chandler team continued to focus on keeping the portfolio more conservatively positioned. Three Treasury securities were purchased with the positions ranging in maturity from November 2032 to August 2033. Several holdings were sold to assist with the purchase of these new securities.

The investments in all accounts comply with CJPRMA's investment policy.

- This item was for information only.

**8. Approval of the 2023 Actuarial Study and Program Year 2024/25 Funding Rates (A)**

Tracy Fleck of Aon Global Risk Consulting conducted the 2023 actuarial study and was present to discuss the results. The CJPRMA staff report was provided to the Board of Directors.

Estimated Outstanding Losses

This year, the value of estimated outstanding losses increased $22.5 million (25.4%) to $110.1 million. Case reserves increased $17.6 million and IBNR increased $4.9 million. In fiscal year 2022/23 there were $26.2 million in claim expenses and settlements paid. This reflects the continued trend of high severity and frequency of claims.

Equity

The CJPRMA target equity policy is $22.5 million. The equity in the liability program as of June 30, 2023, shows a deficit of $78.2 million. When combined with the Excess Loss Fund of $19.7 million this reduces the equity deficit to $58.5 million. This deficit positions us $81 million short of the target equity of $22.5 million.

Approved Funding Plan

The deficit equity position in the program caused the organization to reevaluate long-term funding and rate setting. With the increase in estimated outstanding losses, cost of inflation, jury awards, and legislative change, it was time to review different methods of calculating premiums to improve the financial position of the program. The following three-year plan to the funding methodology was approved at the December 2020 BOD meeting

- PY 2021/22 return to the conventional method of funding.
- PY 2021/22 decrease the discount rate from 2% to 1%, review annually.
- PY 2021/22 increase the confidence level to 75%.
- PY 2022/23 eliminate the $500,000 member SIR.
- PY 2022/23 increase the confidence level to 80%.
- PY 2023/24 increase the confidence level to 85%.

<u>Premium Funding 2022/23</u>

For PY 2022/23 the second of three steps of the funding plan were implemented. This increased the total premium collected to $38.1M, which is a $6.4M (20.1%) increase from 2021/22.

The funding for PY 2022/23 was calculated using the following:

- Conventional method of funding
- 1% discount rate
- 80% confidence level
- Pool SIR $7.5M

PY 2022/23
Conventional Method
80% Confidence
Discount 1%
$7.5M Pool SIR

*(Table A)*

| | | SIR - $750K | SIR - $1M | SIR - $1.25M | SIR - $1.5M |
|---|---|---|---|---|---|
| Losses | $22,110,329 | 1.295 | 1.151 | 1.067 | 0.975 |
| Reinsurance | 14,416,328 | 0.791 | 0.791 | 0.791 | 0.791 |
| Admin | 1,600,000 | 0.088 | 0.088 | 0.088 | 0.088 |
| | Total Rate | 2.174 | 2.030 | 1.946 | 1.854 |
| Funding | $38,126,656 | $18,708,944 | $16,402,709 | $3,015,003 | $0 |
| Payroll | $1.82B | | | | |

<u>Premium Funding 2023/24</u>

For PY 2023/24, in keeping with our three-year funding plan, total premium collected rose to $48.2M, which is a $10.1M (26.5%) increase from 2022/23.

The funding for PY 2023/24 was calculated using the following:

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- Conventional method of funding
- 1% discount rate
- 85% confidence level
- Pool SIR $7.5M

<u>PY 2023/24 Rates</u>
Conventional Method
85% Confidence Level
Discounted 1%
$7.5M Pool SIR

*(Table B)*

| | | SIR - $750K | SIR - $1M | SIR - $1.25M | SIR - $1.5M |
|---|---|---|---|---|---|
| Losses | $30,467,022 | 1.742 | 1.496 | 1.354 | 1.226 |
| Reinsurance | 16,033,355 | 0.825 | 0.825 | 0.825 | 0.825 |
| Admin | 1,700,000 | 0.087 | 0.087 | 0.087 | 0.087 |
| | Total Rate | 2.654 | 2.408 | 2.266 | 2.138 |
| Funding | $48,200,377 | $17,676,926 | $26,967,989 | $3,555,461 | $0 |
| Payroll | $1.94B | | | | |

<u>Premium Funding 2024/25</u>
In keeping with the plan, the following criteria were used in calculating the funding rates for PY 2024/25.

The funding for PY 2024/25 was calculated using the following:
- Conventional method of funding
- 1% discount rate
- 85% confidence level

Assumptions:
- o Reinsurance increases 25%
- o Overhead increases 18%

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PY 2024/25 Proposed Rates
Conventional Method
85% Confidence Level
Discounted 1%
$7,500,000 SIR

*(Table C)*

| | | SIR - $750K | SIR - $1M | SIR - $1.25M | SIR - $1.50M |
|---|---|---|---|---|---|
| Losses | | 2.278 | 2.084 | 1.971 | 1.874 |
| Reinsurance | $19,709,175 | 0.948 | 0.948 | 0.948 | 0.948 |
| Admin | 2,000,000 | 0.096 | 0.096 | 0.096 | 0.096 |
| | Total Rate | 3.322 | 3.128 | 3.015 | 2.918 |
| Increase % | | 25.17% | 29.90% | 33.05% | 36.48% |
| Est. Payroll | $2.08B | | | | |

In the event that the reinsurance market requires it or it is determined to be in CJPRMA's financial interest to increase its SIR, staff requested AON provide rates for a $10M pool SIR.

Below is (*Table D*) that shows the proposed rates with a $10M pool SIR. The assumptions remain the same, not knowing what affect the increase in the pool SIR would have on reinsurance cost.

PY 2024/25 Proposed Rates
Conventional Method
85% Confidence Level
Discounted 1%
$10,000,000 SIR

*(Table D)*

| | | SIR - $750K | SIR - $1M | SIR - $1.25M | SIR - $1.50M |
|---|---|---|---|---|---|
| Losses | | 2.441 | 2.247 | 2.134 | 2.037 |
| Reinsurance | $19,709,175 | 0.948 | 0.948 | 0.948 | 0.948 |
| Admin | 2,000,000 | 0.096 | 0.096 | 0.096 | 0.096 |
| | Total Rate | 3.485 | 3.291 | 3.178 | 3.081 |
| Est. Payroll | $2.08B | | | | |

A table showing the potential member premiums for PY 2024/25 was provided to the Board of Directors for review.

- A motion was made by Director Rivas and seconded by Director Ehrenstrom to approve the 2023 actuarial study and program funding rates for 2024/25. Directors Shen, Phebus, Milton, Sidhu, Harryman, Jensen, Green, Bolman, Stephenson, Coyle, Michaelsen, Murphy, Meggers-Smith and Due approved the motion. Fremont, Redding, Richmond and Santa Rosa were absent. Motion passed.

## 9. Cash Assessment for Liability Program (A)

How We Got Here

Beginning with program year 2018/19, CJPRMA began to experience a steady decline in its net position in the liability program. The table below shows the net position for the program as a whole as of the end of program years 2017/18 through 2021/22. The net position includes the assets in the ELF:

| Evaluation Date | Net Position |
|---|---|
| 6/30/2018 | $22,052,565 |
| 6/30/2019 | $4,059,956 |
| 6/30/2020 | ($5,153,964) |
| 6/30/2021 | ($23,315,095) |
| 6/30/2022 | ($33,351,480) |

There were several reasons for the decline. First, the claims environment in California changed significantly, with higher verdicts becoming more prevalent, which also resulted in higher settlements. Changing public sentiment regarding law enforcement, social inflation, and third-party litigation funding all contributed to this. Also, CJPRMA had developed an actuarial method that used a ten-year rolling average of claims to determine funding rates for the liability program. This provided consistency and smoothing for pool members, but it was not sufficient to quickly adapt to a changing environment. In 2018, CJPRMA hired a new general manager and claims administrator. During the first year of their tenure, they discovered that many claims had reserves that were not adequate for the new environment. During her first year at the pool, the claims administrator reviewed and updated reserves on all open claims. This was an important task, but it resulted in recognition of higher liabilities for the pool. Verdicts and case settlements subsequently reinforced these estimates.

The Board of Directors recognized that it needed to take action to address the eroding equity position of the pool. At its December 10, 2020, meeting the Board approved a three-year program to address the net position. These were the items approved by the Board.

- PY 2021/22 return to the conventional "ground up" method of funding.
- PY 2021/22 decrease the discount rate from 2% to 1%, review annually.
- PY 2021/22 increase the confidence level to 75%.
- PY 2022/23 eliminate the $500,000 SIR.
- PY 2022/23 increase the confidence level to 80%.
- PY 2023/24 increase the confidence level to 85%.

Prior to 2020, the Board had approved applying excess equity to program years with negative equity rather than issuing redistributions. Also, the pool kept investment income in the program rather than using it to reduce premium. As a point of reference, between 1997 and 2017, CJPRMA returned $79,546,506 to members in the form of redistributions.

Pool staff and the Board of Directors had hoped that these efforts would be sufficient to avoid the need for an assessment in the liability program. The continued decrease in the net position indicates that these changes alone have not been enough. These changes are important, and they should help the pool collect adequate contributions for the liability program in the future, but it has not had much impact on the past.

In December 2021, the Board of Directors approved a surcharge for members with a loss ratio of greater than 100 percent. The surcharge was first collected in July 2022, and a total of $4,451,054 has been collected to date. In July 2024, the pool will collect $3.5 million - $5 million.

At its strategic planning meetings in October 2022, the Board of Directors identified "Be in a positive net position by June 30, 2025" as its number-one strategic priority. On December 12, 2022, the Board approved the strategic plan with that priority.

<u>Assessment</u>

The CJPRMA by-laws defines a cash assessment as "an amount determined by the *Board of Directors* to be paid by each member entity as necessary to meet the *Authority's* obligations." The bylaws continue, "A two-thirds vote of the entire Board is required to levy a cash assessment for any pooled coverage program."

Article XII of the by-laws addresses assessments.

> "Upon a two-thirds vote of the *entire Board*, the *Board* shall have the authority to levy a *cash assessment* for any *pooled coverage program*. There must be a finding by the *Board* that there are insufficient funds available to the *Authority* to meet its legal obligations.
>
> A *cash assessment* shall be directed only to those *member entities* or former *member entities* which participated in the *pooled coverage program* during the *program year* in which the *covered loss*, causing the assessment, was incurred.
>
> Any costs, including attorney fees incurred by the *Authority* in collecting any *cash assessment*, shall be reimbursed in full by the *member entity* against which such collection action has been taken."

Article XVIII of the CJPRMA Joint Powers Agreement also addresses assessments.

> "The *Board* by a two-thirds vote of the entire body shall have the authority to levy a *cash assessment* upon a determination that it is necessary to meet the *Authority's* obligations.
>
> All *cash assessments* shall be determined and payable in accordance with the policy contained in the Bylaws."

The Joint Powers Agreement also discusses the effect of assessments on former members of the pool. Former members of the pool are still responsible to pay any cash assessment for program years in which they participated.

> "The withdrawal or expulsion of any *member entity* after the inception of its participation in the *Authority* or any *pooled coverage program* shall not terminate its responsibility:
>
> A. to cooperate fully with the *Authority* in determining the cause of losses and in the settlement of *claims* incurred during the coverage period, as defined in the *Memorandum of Coverage*;
>
> B. to pay any cash assessments or other amounts determined by the *Board* to be due and payable for each *program year* of each program in which it participated until all *claims*, or other unpaid liabilities, covering such periods have been finally resolved;"

**<u>Excess Loss Fund</u>**

The CJPRMA bylaws define an Excess Loss Fund (ELF) intended to be used to pay for deficit years. Here is the language from the bylaws:

> *"For Program Years 2008-2009 and following, the Authority will establish an Excess Loss Fund that will be used to provide funds in the event losses, loss adjustment expenses, and defense costs expended for any program year exceed the amount of cash contributions (and any interest earnings thereon) for loss funding for that program year. Payments from the Excess Loss Fund will not be charged back to the program year nor will the payments result in any assessment against program year members but will instead act as a form of "stop loss" for the loss fund for that program year."*

**<u>Cash Assessment Proposal</u>**

As shown in the table above, the deficit as of June 30, 2022, was $33,351,480. Staff selected program years 2012/13 through 2016/17 for the potential assessment. All of these years are currently in deficit, and the total amount of deficit for those program years is $33,630,917, which closely aligns with the current deficit. Former members City of Vallejo and REMIF participated in all these program years and would be subject to the assessment. The general manager has contacted both agencies to inform them of the likelihood of a future assessment.

Following the June 2023 Board of Directors meeting, the Board President appointed an ad hoc committee to make recommendations for a possible assessment. The committee met several times since July and developed a proposal for the Executive Committee's review. The elements of that proposal are:

- Assess the deficit years 2012/13 through 2016/17.
- Use the available funds in the Excess Loss Fund to reduce deficit in those years.
- Approve an assessment for the amount remaining after application of the ELF.

- After application of the ELF, the deficit in the selected years will still be approximately $14 million, to be assessed effective July 1, 2024.
- Allow members to pay in as many as three years in equal annual installments due July 1 of each year.
- Members that pay immediately will pay a flat amount.
- Members who pay via installments will be charged an interest rate equivalent 10 Year Constant Maturity Treasury Index as of July 1, 2024, consistent with Board Policy B15 "Policy on Program Year Deficits." The 10 Year Constant Maturity Treasury Index rate as of December 5, 2023, was 4.18 percent.
- This assessment will only address these years, and CJPRMA will still have deficit years remaining that will mean that CJPRMA will still have a negative net position. The remaining negative net position will be approximately $19 million.
- The pool will monitor the net position to evaluate improvement to the net position based on current funding. This evaluation period will continue until June 2025. At that time, the pool will decide whether a second assessment is needed. The years for possible assessment are likely to be 2017/18 and 2018/19.

The intent of handling the assessment in two phases is to ease the financial burden on members. From program year 2021/22 through program year 2023/24, CJPRMA has increased its confidence level for funding from 70% to 85%. The hope is that surplus generated from this period will offset some of the 2017/18 and 2018/19 deficits and minimize or eliminate the need for a second assessment. Along with increasing verdicts/settlements and a rise in reinsurance costs, members have already faced steadily increasing premiums. The recommended approach attempts to strike a balance between addressing the current deficit and keeping costs as reasonable as possible for members.

Also, if an assessment is approved, CJPRMA staff will review current reserves for accuracy and review the values for the deficit years so that the pool assesses with the most current and accurate information available.

It should be noted that CJPRMA is not alone in the current predicament. Other pools, such as ICRMA, PERMA and SELF have issued significant assessments, while other pools such as CJPIA and PRISM have increased rates significantly to offset past program year deficits. Ultimately, all losses incurred within a pooled layer of coverage must be funded, through deposit premiums, and, when necessary, assessments. Under our governing documents, the goal is to ultimately match loss experience to the years of each member's participation, and the proposed assessment plan is designed to accomplish this goal.

The Executive Committee has reviewed this proposal and recommended that the Board of Directors approve it. Staff also recommended approval of the proposed assessment. Failure to approve the assessment means that CJPRMA will continue to operate with a negative net position. This negatively impacts the pool when seeking to purchase reinsurance and attract new members. Some bond rating agencies are looking at the pooling arrangements of municipalities, and a negative net position could affect members' credit ratings. A continued deficit could lead to negative findings on the pool's financial audit.

- A motion was made by Director Harryman seconded by Director Rivas to approve an assessment for the liability program in the amount of $14,160,384 as set forth in Item #9 of the agenda packet at page 245; the assessment to be billed on July 1, 2024, and due within 30 days thereafter. Provided further, members will be given the option to pay their assessment in three annual installments to be billed July 1 of 2024, 2025 and 2026, upon execution of an installment agreement, each installment due within 30 days. The installment agreement would carry simple interest at the 10-Year Constant Maturity Treasury Index rate in effect on June 1 of 2024, 2025, and 2026 respectively, provided further that the note will not exceed 4% per annum.

Directors Shen, Phebus, Milton, Sidhu, Jensen, Ehrenstrom, Green, Bolman, Coyle, Michaelsen, Meggers-Smith and Due approved the motion. Sunnyvale did not approve. San Leandro was absent at the time of voting. Fremont, Redding, Richmond and Santa Rosa were absent. A two-thirds vote of the entire board is required to approve an assessment. There are currently 20 members of CJPRMA, so two-thirds of the entire board is 13 members. 14 members approved the assessment. Motion passed.

**10. Approval of Annual Review of Member Loss History and Approval of Surcharges - Corrections (A)**

Board of Directors Policy B25 (Annual Review of Members Loss History) requires an annual review of member loss history that utilizes an eight-year period ending June 30 of the current year. The policy evaluates all members and compares total contributions for the eight-year window and total CJPRMA incurred losses. If a member has a loss ratio that exceeds 100%, the member will be subject to a surcharge in the following program year. Surcharges will be applied according to the following table:

| Loss Ratio | Surcharge |
|---|---|
| 101-120% | 10% |
| 121-140% | 15% |
| 141-160% | 20% |
| 161-180% | 25% |
| 181+% | 30% |

The single highest loss in the eight-year period is excluded from the calculation of the loss ratio, and a $2.5 million cap is applied to all losses. The Member Loss Ratio report for 2015/16 – 2022/23 was provided to the Board of Directors for review.

Using the policy methodology, five members will be subject to surcharges in 2024/25.

| Member | Loss Ratio with $2.5M Cap | Surcharge |
|---|---|---|
| Alameda | 127% | 15% |

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| | | |
|---|---|---|
| NCCSIF | 115% | 10% |
| Richmond | 129% | 15% |
| San Leandro | 249% | 30% |
| Stockton | 259% | 30% |

The policy contains the following language:

*If a member is at the highest loss ratio tier (181+%) for consecutive years, the following shall apply:*

- *Second year at highest tier: Surcharge increase from 30% to 35%.*
- *Third year at highest tier:*
  - *Surcharge increase from 35% to 40%.*
  - *Mandatory increase to next highest retention.*
  - *Notice of intent sent to member that removal will be suggested the next year if the member continues at the highest tier.*

This is the third year in a row that Stockton has been at the highest tier, so Stockton's surcharge in program year 2024/25 will be 40%. Also, Stockton's retention will increase from $1,250,000 to $1,500,000. Finally, the general manager will send a notice of intent to Stockton to inform them that their removal from the pool will be recommended next year if they continue at the highest tier.

The policy also contains this provision:

- *A member can choose to increase its SIR to the next highest retention and will only be responsible for 50% of the surcharge.*
- *A member can choose to increase its SIR two levels and avoid the surcharge completely.*

If any of the members subject to the surcharge choose to increase their SIR, they will be able to reduce their surcharge for program year 2024/25.

- A motion was made by Director Ehrenstrom and seconded by Director Rivas to approve the Annual Review of members Loss History and Surcharges for Program Year 2024/25. Directors Shen, Phebus, Milton, Sidhu, Harryman, Jensen, Green, Bolman, Stephenson, Coyle, Michaelsen, Murphy, Meggers-Smith and Due approved the motion. San Leandro was absent at the time of voting. Fremont, Redding, Richmond and Santa Rosa were absent. Motion passed.

**11. Review and Approve Board Policy B26 "CJPRMA Underwriting Policy" (A)**

The Board of Directors last reviewed the underwriting policy and approved modifications to the policy in December 2020.

The policy requires that the Board of Directors review the policy at least once every three years. It has been three years since the Board has reviewed the policy. During the work to develop a plan for an assessment, the ad hoc working committee identified several issues that they would like to see addressed with respect to underwriting. However, those issues were tabled until the assessment could be resolved. The Board is evaluating the proposed assessment at its December 14, 2023, meeting.

One of the suggestions that arose was the possible formation of a standing Finance & Underwriting Committee and the development of a comprehensive Finance & Underwriting Policy that would encompass several current policies.

Since the focus of the Board and staff has been to get the assessment planned and implemented, staff recommends that the Board of Directors approve policy B26 "CJPRMA Underwriting Policy" now and look at future modifications in 2024. Next steps would include discussions with the Executive Committee regarding a new Finance & Underwriting Committee. If that committee is formed, it will work on developing the new policy.

Elements required by the policy for review include:

1. Is the process adequately measuring the risks facing the organization?
2. Is the process adequately allocating costs?

The ad hoc committee and the Executive Committee considered these issues during the development of the assessment.

To be accredited by CAJPA, the pool must comply with its own internal policies, so it is important to approve this policy now even with a plan to modify it soon.

- A motion was made by Director Ehrenstrom and seconded by Director Meggers-Smith to review and approve Board Policy B26 "CJPRMA Underwriting Policy". Directors Shen, Phebus, Milton, Sidhu, Jensen, Harryman, Green, Bolman, Stephenson, Coyle, Michaelsen, Murphy, and Due approved the motion. San Leandro was absent at the time of voting. Fremont, Redding, Richmond and Santa Rosa were absent, Motion passed.

**12. Approve Member Engagement Policy (A)**

The CJPRMA Member Engagement Committee has been meeting monthly since May 2023.

The committee and staff prepared a draft Member Engagement Policy, which was approved by the Executive Committee on September 21, 2023.

- A motion was made by Director Bolman and seconded by Director Green to approve the proposed Member Engagement Policy. Directors Shen, Phebus, Milton, Sidhu, Jensen, Harryman, Ehrenstrom, Coyle, Michaelsen, Rivas, Murphy, and Meggers-Smith and Due approved the motion. San Leandro was absent at the time of voting. Fremont, Redding, Richmond and Santa Rosa were absent. Motion passed.

**13. Report Out from Claims Committee (I)**

The Claims Committee was scheduled to meet on October 12, 2023. However, due to many mediations and settlement conferences impacting claims staff and the general manager in October, the meeting was cancelled. The Claims Committee is scheduled to meet again on January 11, 2024. The general manager will provide a report to the Board about the January Claims Committee meeting at the March 21, 2024, Board of Directors meeting.

- This item was for information only.

**14. Update on Industry and Legislative Initiatives (I)**

The CJPRMA general manager has been appointed to serve on the CAJPA Legislative Committee assigned to the JPA subcommittee. The state legislature just finished the first year of its two-year legislative calendar. Many bills were signed into law, and many were vetoed. That leaves “two-year” bills that survive into 2024.

Here are some of the bills for which CAJPA has taken a position that have an impact on CJPRMA:

- AB 742: The bill would prohibit a police canine from being used to bite unless there is an imminent threat of death or serious bodily injury to the officer or another person by the person against whom the canine is used. The bill would attribute the death of or serious bodily injury to a person caused by a police canine to the canine’s handler as constituting deadly force. CAJPA is opposed.
- SB 265: This bill would require Cal OES to direct Cal-CSIC to prepare, and Cal OES to submit to the Legislature on or before January 1, 2025, a strategic, multiyear outreach plan to assist critical infrastructure sectors in their efforts to improve cybersecurity and an evaluation of options for providing grants or alternative forms of funding to, and potential voluntary actions that do not require funding and that assist, that sector in their efforts to improve cybersecurity preparedness. The bill would make related findings and declarations. Establish assessments and grants through California Cybersecurity Integration Center for critical infrastructure including water/wastewater treatment, government, healthcare. CAJPA supports.
- SB 504: Support to local government agencies for wildfire defensible space. CAJPA supports.
- AB 807: Bill requires State Prosecutor to Investigate any use of force resulting in death of citizen, even if armed. This creates another anti-law enforcement vehicle that could exposure officers to criminal and civil liability, even when civilian was armed. CAJPA opposes.
- SB 838: Allows victim compensation for police officer use of force, even if the officer is not charged with a crime. CAJPA opposes.

CAJPA’s Legislative Action Day will be held in March, but the date has not been finalized yet.

CJPRMA's claims administrator, Marinda Griese, serves as the Vice President of the CAJPA Board of Directors. In September 2023, the CAJPA Board established an ad hoc committee to work on next steps for the liability data collection project and develop an action plan for legislative efforts.

**Report from RIMS 2023**

Safety National reported on trends from the 2023 RIMS Conference. These will be familiar to CJPRMA members.

**Nuclear Verdicts Continue to Affect Liability Cases**
Large verdicts continue to become larger and more frequent in liability cases. Defined as a jury award that is $10 million or over, product liability, auto liability, general liability, and personal injury are the cases that are at the most risk of resulting in a nuclear verdict. There are several contributing factors to this trend. First, there are now third-party litigation funding organizations that stand to benefit from nuclear verdicts. Second, attorneys are becoming more aggressive in their advertising with the promise of large payouts. Third, there is a lack of tort reform to serve as a control for this issue. One strategy is to offer the defense a settlement number in every trial. The plaintiff will use it to figure out which jurors are comfortable with high awards and establish a baseline value for the case. Mock trials can help with the determination of that offer. Technology solutions are also emerging, including predictive modeling that can help identify litigation triggers and provide alerts to the adjuster on the possibility of a nuclear verdict.

**Liability Issues Become Primary Challenge for Public Entities**
Various liability issues are causing many challenges for public entities.

- The insurance market has become challenging for public entities to buy coverage. In some cases, they often seek unlimited liability or extremely high limits, which is hard to place.
- Cities with no state tort caps, like the state of Illinois, see astronomical costs related to liability. Public entities seek tort reform in those states with no tort caps.
- Now that COVID controls are lifting, trials are speeding up and schedules are extremely busy to address the cases going to court.
- Some plaintiffs' attorneys are looking for fame and do not want to negotiate settlements in lieu of pursuing nuclear verdicts. This makes it hard for them to be reasonable in accepting settlement offers.
- School districts are experiencing a dramatic influx in claims as the statute of limitations for sexual misconduct claims has been extended. This is sweeping, so if it has not happened in your state, it is likely to come.
- Public transit experiences "frequent flyers" that submit a regular cadence of claims. They are working to monitor situations with video and try to keep their approach to those claims decisions fact based.

    - This item was for information only.

**15. Report out from Member Engagement Committee (I)**

The committee meets on the third Monday of each month, 10:00 – 11:00 a.m., via Zoom.

The members of the Member Engagement Committee are:

- Bev Jensen, City of Lodi Director and Board President
- Erika Milton, City of Fairfield Director
- Virgnia Bolman, City of Roseville Director
- Jordan Green, City of Petaluma Director

The Committee completed a draft Member Engagement Plan that was approved by the Executive Committee on September 21, 2023. The draft is on the agenda for the Board of Directors' review and approval at the December 14, 2023, Board meeting. The Executive Committee and staff recommend approval of this new policy.

The committee has been waiting for approval of the plan to recommence meetings. If the plan is approved, the committee will meet again starting in January 2024.

- This item was for information only.

**16. Risk Management Issues (I)**

Staff and the Board of Directors discussed risk management issues that are of concern to the members and for the provision of status updates on the risk management program.

1. Waiver of Subrogation – Tony Giles, CJPRMA
2. Insurance for Aquatics Programs – Tony Giles, CJPRMA
3. Liability limits above $40 million – Tony Giles, CJPRMA

- This item was for information only.

XI. **ADJOURNMENT –** President Jensen adjourned the meeting at 3:04 P.M.