



CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

BOARD OF DIRECTORS MEETING

September 30, 2004 – 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 9:37 a.m.

II. ROLL CALL

PRESENT

- | | |
|-------------------------------------|---|
| 1) Darrell Handy, <i>Alameda</i> | 12) Pam Durocher, <i>Roseville</i> |
| 2) Barbara Coats, <i>Fremont</i> | 13) Mary Richardson, <i>San Leandro</i> |
| 3) Robyn Kain, <i>Fairfield</i> | 14) Gus Guinan, <i>San Rafael</i> |
| 4) Bill Henderson, <i>Livermore</i> | 15) Lynne Margolies, <i>Santa Rosa</i> |
| 5) Kirk Evans, <i>Lodi</i> | 16) Roger Carroll, <i>SCORE</i> |
| 6) Randy Graham, <i>NCCSIF</i> | 17) Mark Moses, <i>Stockton</i> |
| 7) Scott Ellerbrock, <i>PERMA</i> | 18) Darrell Handy, <i>Sunnyvale</i> |
| 8) Ron Blanquie, <i>Petaluma</i> | 19) Paul Wildermuth, <i>Vacaville</i> |
| 9) Julie Theirl, <i>Pomona</i> | 20) Will Venski, <i>Vallejo</i> |
| 10) Jeff Davis, <i>REMIF</i> | 21) Jeff Tonks, <i>YCPARMIA</i> |
| 11) Pug Thomas, <i>Redding</i> | |

ABSENT

Chico

OTHERS PRESENT

- | | |
|---|--|
| 1) Kay Chandler, <i>Chandler Asset Management</i> | 6) Marilyn Kelley, <i>Driver-Alliant</i> |
| 2) David Clovis, <i>CJPRMA</i> | 7) Byrne Conley, <i>Gibbons & Conley</i> |
| 3) Lola Deem, <i>CJPRMA</i> | 8) Craig Bowlus, <i>Marsh</i> |
| 4) Robert German, <i>CJPRMA</i> | 9) Jim Pinckney, <i>Marsh</i> |
| 5) Caren White, <i>CJPRMA</i> | 10) Amy Meyer, <i>Maze & Associates</i> |
| | 11) Guy Avagliano, <i>Milliman USA</i> |

III. APPROVAL OF MINUTES

A motion by Director Wildermuth, seconded by Director Richardson, to approve the minutes of the Board of Director's meeting held on June 17, 2004, passed unanimously.

IV. PRESENTATIONS

None

V. CONSENT CALENDAR

- 1. Financial Reports of CJPRMA for the periods ending May 31 and June 30, 2004**
- 2. Additional Covered Party Certificates Approved by the General Manager**
- 3. Notification of New Claims Received**
- 4. Notification of Claims Closed**
- 5. Appointment of New Board Members/Alternates**

The General Manager said that, due to letters that came in after the agenda was mailed, there were two additions. He said that for the City of Fremont, the Director would be Barbara Coats and the Alternate would be Sandra Fox and that for the City of Sunnyvale, the Director would be Darrell Handy and the Alternate would be Valerie Armento. He said that there was no restriction in the governing documents on one person representing more than one member.

- 6. Adoption of Conflict of Interest Code**
- 7. Adoption of Investment Policy**
- 8. Appointment of Treasurer**
- 9. Meeting Schedule for 2005**

The General Manager said that the date for the September meeting was tentative because the dates for the CAJPA conference had not yet been confirmed.

- 10. Holiday Schedule for 2005**

A motion by Director Kain, seconded by Director Richardson, to approve the consent calendar, as amended, passed unanimously.

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

Board Counsel discussed the case of Medina v. City of Fontana and the Safe Routes to School grant program.

Board Counsel also discussed the fact that some members had been having trouble with local brokers getting additional insured endorsements in favor of their entities on work being done for them. He said that some carriers would not issue endorsements that made the city a primary insured. He said that, under current law, if a member city is covered by a pool and an additional insured endorsement, the pooled coverage was not considered “other insurance” for purposes of the “other insurance” clause. He said that the first thing to do was to get contractual indemnity from the contractor and the second thing was to get an additional insured endorsement. He said it would be even better to get an additional insured endorsement with language that made that coverage primary. He said that there was a proposed statute in the legislature that could interfere with getting contractual indemnity for public agencies, but that he didn’t know the current status of it. He said that, as it was now written, a public agency with a construction contract could not get indemnity for acts of negligence nor could they require insurance to cover acts of negligence. He said that the proposed statute would turn it into a comparative fault system.

Director Davis said that they needed to decide whether or not the members could accept coverage without asking for primary language. He said that he had seen policies that stated that there was no coverage for the additional insured if the lawsuit contained an allegation of negligence or negligent behavior on the part of the additional insured. He said that he was also seeing carriers that were saying they didn’t have contractual liability coverage and just pulling it out. He said that he was also seeing policies with property damage coverage limits of \$10,000.

Director Davis said that he had had a case under the Bane Act and that they should be aware of problems associated with it.

VII. ACTION CALENDAR

11. Report from Investment Manager

Ms. Kay Chandler, of Chandler Asset Management, was present to review CJPRMA’s investment portfolio. She discussed the overall economic environment, its effect on interest rates, the investment objectives for CJPRMA’s portfolio, sector distribution of the CJPRMA portfolio, and the

performance of the CJPRMA portfolio.

Director Tonks asked if the 2004/2005 liability contributions were included in the totals in the investment report. The Financial Analyst said that they were not. Director Tonks asked if they could include a chart that compared the value of the investment accounts over an entire year. The General Manager said that they could.

Director Kain asked why the balance in the long-term growth account had decreased between August and March. Ms. Chandler said that it related to market movement.

Director Handy asked how the investment performance compared with the increase in the cost of claims and how likely it was that they would have to use their principal to pay claims. The General Manager said that they had been very fortunate over the years, but that they would eventually need to spend some of their principal. He said that part of that had to do with the purchase of commercial reinsurance.

12. 2004 Financial Audit

Ms. Amy Meyer, of Maze & Associates, was present to discuss the results of the 2004 Financial Audit. She said that they were giving CJPRMA a clean opinion.

Marylin Kelley asked if they were closing cases at lower values than they were reserved for. The General Manager said that they usually settled claims for less than they were reserved.

A motion by Vice President Wildermuth, seconded by Director Davis, to approve the 2004 Financial Audit, passed unanimously.

13. 2004 Actuarial Study

Mr. Guy Avagliano, of Milliman USA, was present to discuss the results of the 2004 Actuarial Study and the proposed rates and redistribution. He said that the study reflected proposed rates of \$1.027 per \$100 of payroll for those members with a \$500,000 SIR and \$.758 per \$100 of payroll for those members with a \$1 million SIR. He also said that the study contained a proposed redistribution of approximately \$5.5 million.

Director Blanquie asked what the redistribution was a return on. Mr. Avagliano said that it was a return on the excess assets of prior years,

meaning the initial premium plus any investment income minus any claims or other expenses. The General Manager said that it was divided between the members based on the pro rata basis of contributions paid.

Vice President Ellerbrock asked why there was a negative balance in Pool D in the 2003-2004 program year. The Financial Analyst said that there was a negative equity balance in Pool D in the 2003-2004 program year as the result of the rate being lower than necessary for operating expenses. She said that, in order to net that out, she moved equity from one pool to another.

The General Manager asked why there was a discrepancy in the rates between the actuarial study and the presentation chart. The Financial Analyst said that the \$1.012 rate in the chart was the undiscounted rate at the expected value and that the \$1.027 rate was the discounted at 70% rate.

Director Davis asked how it affected the rates when members did not report their payroll accurately. Mr. Avagliano said that it did not affect the rate if the payroll growth was only off by a few percent. The General Manager said that there was a problem every year with some members not providing payroll data when requested.

A motion by Director Handy, to accept the 2004 Actuarial Study, the proposed rate of \$1.027 per \$100 of payroll for the 2005-2006 program year, and the proposed redistribution of \$5,530,767, seconded by Vice President Ellerbrock, passed unanimously.

14. Proposed Membership Addition to PERMA

The General Manager said that this matter had been agendized at the request of Vice President Ellerbrock. He said that the Mount San Jacinto Winter Park Authority had made application to PERMA. He said that they operated the Palm Springs Aerial Tramway, had a 7 member board and had approximately \$2.5 million in annual payroll. He said that CJRPMA had the option of denying coverage for a period of three years to any new members of a JPA that joined after April 28, 1992. He said that MSJWPA's loss history consisted mostly of slip and fall cases with the biggest loss in the last 7 years costing approximately \$56,000. He said that the big exposure with MSJWPA was a catastrophic loss based on the nature of their operations. He said that AmRe had been consulted and that they were willing to take on the risk based on catastrophic coverage instead of a payroll-based rate, with a total coverage limit of \$15 million. He said that AmRe would charge a set premium of approximately \$120,000 annually, broken down to approximately \$80,000 for the \$5 million excess of \$5 million layer and \$40,000 for the \$5 million excess of \$10 million

layer. He proposed that CJPRMA do the same thing for the \$4 million excess of \$1 million layer, using the same formula to determine the premium, which would be approximately \$128,000 annually, prorated to \$85,333 to reflect the November 1, 2004 entry date. He asked the board if they were willing to take on this kind of risk and if they agreed with this type of premium calculation. He said that they would do further research to determine a formula for premium calculation in the future.

Director Davis asked why MSJWPA was applying for membership now. Vice President Ellerbrock said that they were currently with commercial insurance and were looking for more coverage, more service, and to save money. They felt that they could get that from PERMA. He said that approval of MSJWPA's application to PERMA was dependent upon CJPRMA's decision.

Vice President Ellerbrock said that MSJWPA used 40-passenger trailers, pulled by tractors, to transport riders from the parking lot to the trams. He said that PERMA has included \$20,000 to conduct annual facilities inspections.

Marylin Kelley asked how old the tramway was and what premium MSJWPA was currently paying. Vice President Ellerbrock said that they were currently paying approximately \$400,000 in premium. He said that the tramway was refurbished and restored in 2000.

Director Davis asked if the tramway was ADA accessible and compliant. Vice President Ellerbrock said that he assumed they were compliant but that he wasn't certain.

Director Tonks said that he didn't have a problem with taking on the risk as long as reinsurance continued to cover the upper layers. The General Manager said that they could issue an endorsement to the Memorandum of Coverage that stated that MSJWPA's coverage was capped at \$15 million, that CJPRMA's portion of that was capped at \$5 million, and that whatever was not covered by reinsurance would not be covered by CJPRMA.

Director Kain asked what other agencies might look to CJPRMA for coverage if they accepted MSJWPA. The General Manager said that the only possibility they had discussed was city-operated ski lifts. He said that he didn't see MSJWPA's operations as that different or any greater a risk than any other member's operations.

Director Davis asked if AmRe was going to write a separate endorsement to the CJPRMA policy. The General Manager said that it would all be

handled separately.

Mr. Pinckney said that because they were limiting the coverage to \$15 million, they were creating stability. He said that he felt that if AmRe took the risk this year that they would continue to take the risk in the future.

A motion by Director Davis, seconded by Director Tonks, to approve the membership of MSJWPA through PERMA, passed by a vote of 20 to 1. San Leandro opposed.

15. Risk Management Issues

The Risk Manager said that he had done park and recreation training in Alameda, Sunnyvale, Santa Rosa, West Sacramento, Pomona and Vacaville. He said that there was additional training scheduled for PERMA members on October 13, and that there were more sessions coming in Stockton, Redding and Fremont. He said that there had also been training sessions on sewer overflows in Livermore and West Sacramento and that there would be another session for PERMA. He said that two police liability training sessions with Randy Means were coming up and still had room available. He said that there would be risk transfer training coming up. He said that he was looking into options for a risk transfer manual. He asked that the members submit any requests for additional insured endorsements that contain new or different language to him.

The Risk Manager discussed some of the issues in the Santa Monica farmers' market incident. He said that a National Transportation Safety Board evaluation recommended that there be some type of permanent bollards or retaining devices installed to prevent this type of accident from occurring and that they said that the existing traffic control plan was inconsistent with events such as the farmers' market. He said that there were a lot of issues to look at.

The Risk Manager said that he had started the first city audit, at Stockton. He said that Petaluma would be the next audit and that they would schedule the rest of the members as time went on.

The General Manager said that the amount of liability insurance being required of towing companies that contract with the cities was not high enough to cover the value of the vehicles they were towing.

Director Coats asked if anyone had trouble with taxi companies whose franchises were issued by cities. She said that she had seen companies that

registered only a few cars and then drove several more as well as providing certificates that expired after a very short time.

VIII. COMMITTEE REPORTS

A) Claims: Darrell Handy, Chair

The Claims Committee had nothing to report.

B) Coverage: Darrell Handy, Chair

The Coverage Committee had nothing to report.

C) Personnel: Scott Ellerbrock, Chair

The Personnel Committee had nothing to report.

D) Communications: Carolyn Lyons, Chair

The Communications Committee had nothing to report.

E) Membership Standards: Jeff Davis, Chair

The Membership Standards Committee had nothing to report.

IX. CLOSED SESSION

- None

X. ACTION ON CLOSED SESSION ITEMS

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: Thornburgh v. City of Auburn

Court: Placer County Superior Court

Case No.: S CV-14683

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

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

Court: United States District Court, Northern District of California

Case No.: C97-3989 VRW

4. **Government Code Section 54954.5**
Public Employee Performance Evaluation

Title: General Manager

XI. ADJOURNMENT