



**CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY**

**BOARD OF DIRECTORS MEETING**

**November 18, 1999 – 9:40 A.M.**

**Holiday Inn  
1350 Holiday Lane  
Fairfield, CA 94533**

**(707) 422-4111**

**Minutes**

**I. CALL TO ORDER:**

President Davis called the meeting to order at 9:40 a.m.

**II. ROLL CALL**

***PRESENT***

- |                                     |   |
|-------------------------------------|---|
| 1) Darrell Handy, <i>Alameda</i>    | 10) Barry Mlinarcik, <i>Redding</i>     |
| 2) Jake O'Malley, <i>CCCMRMIA</i>   | 11) Mary Richardson, <i>San Leandro</i> |
| 3) Linzie Kramer, <i>CSJVRMA</i>    | 12) Sharon Andrus, <i>San Rafael</i>    |
| 4) Robyn Kain, <i>Fairfield</i>     | 13) William Kaslar, <i>Santa Rosa</i>   |
| 5) Patricia Born, <i>Fremont</i>    | 14) Roger Carroll, <i>SCORE</i>         |
| 6) Bill Henderson, <i>Livermore</i> | 15) George Bist, <i>Stockton</i>        |
| 7) Marlon Robbins, <i>Lodi</i>      | 16) Kerry Adamo, <i>Sunnyvale</i>       |
| 8) Rex Miller, <i>NCCSIF</i>        | 17) Paul Wildermuth, <i>Vacaville</i>   |
| 9) Jeff Davis, <i>REMIF</i>         | 18) David Lindquist, <i>Vallejo</i>     |

***ABSENT***

*Chico, Petaluma, Roseville, YCPARMIA*

***OTHERS PRESENT***

- |  |  |
|--|--|
| 1) Steven Glicksman, <i>ARM TECH</i>         | 7) Jim Pinckney, <i>J &amp; H Marsh &amp; McLennan</i>   |
| 2) Elena Chin, <i>CJPRMA</i>                 | 8) Phyllis Sammon, <i>J &amp; H Marsh &amp; McLennan</i> |
| 3) Robert German, <i>CJPRMA</i>              | 9) Scott Maze, <i>Maze &amp; Associates</i>              |
| 4) Caren White, <i>CJPRMA</i>                | 10) Gus Guinan, <i>San Rafael</i>                        |
| 5) Marilyn Kelley, <i>Driver</i>             |  |
| 6) Byrne Conley, <i>Gibbons &amp; Conley</i> |  |

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

- Amended Minutes of the Board of Directors Meeting held on June 17, 1999.

The General Manager said that the only change on the amended minutes for the June 17, 1999 meeting was the addition of Stockton, who had been absent and left off of the original minutes.

- Minutes of the Board of Directors Meeting held on September 20, 1999.

A motion by Director Miller, seconded by Director Kain, to approve the minutes of the September 20, 1999 meeting, passed unanimously.

### **IV. PRESENTATIONS**

- None

### **V. CONSENT CALENDAR**

- 1. Financial Reports of CJPRMA for the periods ending August 31 and September 30, 1999**
- 2. Additional Covered Party Certificates Approved by the General Manager**

Board Counsel said that members naming landlords as additional covered parties should make sure to report the leases on their property policies because there was no liability coverage for property owned, rented or occupied.
- 3. Notification of New Claims Received**
- 4. Notification of Claims Closed**
- 5. Proposed Holiday Schedule for 2000**

Director Henderson said that neither the 1999 or 2000 calendar showed a holiday for New Years Day of 2000. The General Manager said that the office would be closed on December 30 and 31, 1999 for the New Years Eve and New Years Day holidays.

- 6. Proposed Meeting Schedule for 2000**

Director Kain asked if the discussion of Item 14 on the Action Calendar would affect Item 6 on the Consent Calendar.

The General Manager said that it could change based on the outcome of that discussion. He said that the Board should approve the Meeting Schedule as it was currently presented and change it later, if necessary.

## **7. Executive Committee's Budget Authority**

The General Manager said that President Davis had asked that this information be provided after some questions had arisen at the September Meeting. He said that, according to the governing documents, the Executive Committee had the authority to make budget modifications of up to \$25, 000.

Board Counsel said that the reason that this had come up was because Director Koch had inquired about the fact that the contingency fund had been substantially overspent. He said that the General Manager had said that it was for Y2K remediation expenses. He said that there was a question regarding why it hadn't been brought to the Board's attention since it was over the line item amount. He said that there was a discussion about not over spending specific line item amounts. He said that he had pointed out that the Executive Committee had the power to change line item amounts.

The General Manager said that when he had initially discussed this issue with the Board, 7 or 8 years ago, that they had agreed that he had the authority to overspend line items as long as the overall budget was not exceeded. Vice President O'Malley said that he didn't agree and that he thought that the authority only lay with the Executive Committee.

The General Manager said that, in their prior discussions, the Board had agreed that the budget would be looked at as a whole.

Vice President O'Malley said that the question was whether or not there was a policy. The response had been that the General Manager had the authority and that that was why it was suggested that the Governing Documents be brought to the next meeting. He said that it was important to note that there already was a policy in place in the By-Laws.

Board Counsel said that, in 1992, the General Manager had said to the Board that his budget philosophy was that he had the authority to overspend any line item as long as the budget as a whole didn't exceed the amount authorized. He said that that was never put to a vote, but that the Board had let stand in the minutes that the General Manager was able to overspend individual line items. He said that, if the Board didn't agree with that, then it should be brought back as an action item for the Board to address.

The General Manager said that it was something that he and the Board had agreed to at the first meeting in 1992.

Director Born said that she thought that only the Executive Committee had the authority needed to make changes to line items, up to \$25,000 and that the General Manager couldn't do it himself.

The General Manager said that the By-Laws granted the Executive Committee the authority to make budget modifications up to \$25,000 but that it didn't specifically designate whether that was for individual line items or the budget as a whole.

President Davis agreed that those were the discussions that the Board had had when the General Manager was first hired. He said that if the Board wanted to change the policy, it needed to be put on the agenda. He said that it was an unwritten policy.

The General Manager explained that it had been a philosophical discussion. He said that he had been asked how he approached the budget and that he had said that his philosophy was that as long as he didn't overspend the budget, as a whole, that it was his right to go over on some items as long as he stayed under on others. He said that the Board had not disagreed with him.

Director Robbins asked if the \$25,000 amount was an aggregate or if it was \$25,000 per item. Board Counsel said that he understood it to be \$25,000 on any one item to cover any emergency costs that arose. President Davis said that the idea had been that it would be easier to get the Executive Committee together than the entire Board.

Vice President O'Malley said that he thought that the practice was in conflict with the governing documents. He said that if the Board wanted to follow the negotiated terms, they should amend the By-Laws.

Board Counsel said that the question had been whether "included and approved by adoption of the budget" referred to each line item or to the budget as a whole. He said that the General Manager had said that that meant the budget as a whole and that that was reflected in the minutes. He said that the Board had always had the authority to control funds in any manner that they wanted. He said that he saw the practice not as a conflict but as the Board's interpretation of the language.

President Davis said that they could bring the issue back for further discussion at the January meeting. He said that that didn't change the Consent Calendar, though, because that was just a clarification of the By-Laws.

A motion by Director Born, seconded by Director Wildermuth, 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**

- No one addressed the Board of Directors

**VII. ACTION CALENDAR**

**8. Proposed Amendment to PERS Contract**

President Davis said that, at the June 17, 1999 meeting, the Board decided to improve the retirement program by changing it from 2% at age 60 to 2% at age 55 and that he had instructed the General Manager to handle that.

The General Manager said that the increase in the 1959 Survivor Benefits from the Third Level to the Fourth Level went from \$7.50 per month to \$11.20 per month. He said that the rate charged by PERS in 1997 had been 5.583%; in 1998 it was 4.578%; and it had dropped to 1.505% in 1999 for 2% at age 60 and Three-Year Average Compensation. He said that the new program would have a rate of 5.355% for 2% at age 55 and for One Year Final Compensation. The increase for the whole organization would be \$8000 per year. He said that he didn't know why the rates fluctuated that much.

Director Kain said that the rate fluctuations had occurred with many cities. She said that it was the result of PERS earnings from investments and actuarial assumptions. She said that the Personnel Committee had met in June and that these amendments were a reflection of their recommendation.

President Davis said that in June, the Board had approved changing the plan to 2% at age 55 and examined increasing the 1959 Survivor Benefit to the Fourth Level for 2001. He said that he had asked the General Manager to provide the amendment to the Board to complete their recommendations from June. President Davis asked the Board to approve the change to 2% at age 55 based on what he remembered from the discussion at the June meeting.

Director Kain asked if the amendment was for all three changes, 2% at age 55, One-Year Final Compensation and Fourth Level 1959 Survivor Benefits. She asked if One-Year Final Compensation was being added.

Board Counsel said that it could all be made as one motion. He said that they would have to approve the motion again at the January meeting according to the letter from PERS.

Director Kain said that, according to the attached contract, three items were being amended, adding 2% at age 55 in Item 5, and Fourth Level 1959 Survivor Benefits and One-Year Final Compensation in Item 6.

It was pointed out that the reduced contribution rate for 1999-2000 was only guaranteed for those years and that the rate could go back up after that, so the Board should know that it was adding possible future costs.

A motion by Director Kaslar, seconded by Director Kain, to amend the PERS contract as indicated, passed unanimously.

## **9. 1999 Financial Audit**

Scott Maze, of Maze & Associates, presented the financial audit.

Mr. Maze said that there were some changes in the financial audit this year, including coverage of the Y2K issue. He said that the report included a paragraph explaining that the auditors couldn't express a clear opinion on any report because of the uncertainty of what would happen, but that they did report on the efforts to prepare for Y2K. He said that the Y2K preparedness at CJPRMA was about the best that he had seen, except for REMIF, which had used the same company. He said that pages 2 and 3 were the balance sheet and statement of income. He said that there was a \$3.4 million loss this year due to the previous year's reserve for losses. He said that deferred compensation plan assets were no longer CJPRMA's responsibility and that they were now owned by a separate trust. He said that the notes to the financial statement were similar to those of previous years. He said that there were recommendations but that they would be seen later. President Davis said that they would be dealt with after the closed session.

A motion by Director Miller, seconded by Director Bist, to approve the financial audit, passed unanimously.

## **10. Notice of Reservation of Right to Withdraw from CSJVRMA**

The General Manager said that he, President Davis, and Board Counsel had met with CSJVRMA's Administrative and Finance Committee. He said that, after that meeting, he had received a letter from Jeanette Workman, at Bickmore & Associates, requesting an extension of the deadline to March 31, 2000 for CSJVRMA to make their decision regarding whether or not to withdraw from CJPRMA. He said that the governing documents didn't allow for that, but that in 1991, the Board had granted SBAJPIA a similar extension. He said that, based on that prior accommodation and the fact that there would be no damage to CJPRMA if the extension were granted, he would recommend granting CSJVRMA until March 31, 2000 to rescind their notice of withdrawal. He said that his recommendation would be the same for CCCMRMIA under Item #11.

Director Born asked if that policy could be made broader, allowing any member until March 31 to withdraw. The General Manager said that the Board should probably change the governing documents if it wanted to do that.

Board Counsel said that the Board could make any exceptions they wanted to. He said that the JPA agreement said that “A *member entity* may withdraw from the Automobile/General Liability Program, which will result in automatic withdrawal from all other *pooled coverage programs* and from the *Authority*, by giving written notice of such withdrawal no later than six months prior to the conclusion of the *program year* in which the *member entity's* noncancellable commitment is completed, or any subsequent *program year*...Any *member entity* which withdraws as a participant of any *pooled coverage program* or as a party to this Agreement, shall not be re-admitted except upon the affirmative vote of two-thirds of the participants of such *pooled coverage program* or the *Authority*.”

He said that CSJVRMA had wanted to send a conditional notice of withdrawal, investigate other options and make a final decision by March 31, 2000. He said that in 1991, he had told the Board that they could decide if it was in their best interest to grant SBAJPIA an extension. He said that, in the case of CSJVRMA, the actuary had said that allowing the extension to March 31 would not change the rates, but that beyond that date, it could. He said that if they granted every member that extension, it would make the pool less stable for the purpose of determining rates.

President Davis said that the reinsurance rate was based upon payroll, so that if payroll dropped, then the premium would drop. Jim Pinckney, of J & H Marsh & McLennan, agreed.

Director Kaslar asked why CSJVRMA and CCCMRMIA needed the extra time.

Director Kramer said that most JPAs require that notice of withdrawal be given by December 31 but that other insurance alternatives were unable to provide quotes before February or March. He said that, in his other organizations, the deadline was only for a notice of withdrawal and that a member had not really withdrawn until the premium was not paid for the following year. He said that there really was no way to examine all alternatives by December 31 and that an extension should be adopted.

President Davis said that he felt that if a member gave their notice of withdrawal, then they were out of the pool. He said that there was a mechanism for reentry and that that was by a 2/3 vote of the Board.

Director Bist asked if it was Board Counsel's opinion that CSJVRMA intended to withdraw. Board Counsel said that CSJVRMA had sent a letter stating that they were giving notice of their intent to withdraw and that their Board Counsel did not feel that notice was effective for withdrawal. He said that he felt that if a letter was sent saying that a member intended to withdraw, that that was a withdrawal and that a 2/3 vote would be necessary to reverse that. He said that the 6-month requirement for notice of withdrawal and the 2/3 vote to be readmitted were included in the governing documents to provide stability to the pool. He said that, in this case, the actuary indicated that the extension would not affect the stability of the rates and that it was a policy question for the Board to decide.

Director Bist said that, if there would not be a negative financial or long-term planning impact, he would be in favor of the extension. He said that he agreed with Director Born that the governing documents should be changed if they were always going to grant extensions.

Board Counsel pointed out that they had switched to reinsurance this year and that CSJVRMA hadn't agreed with that decision. He said that the decision was made in June when it was too late for CSJVRMA to withdraw.

Director Lindquist asked if the final mechanism for withdrawing was simply not paying the premium. Board Counsel said that if a notice was sent before December, then the member withdrawal was effective in July.

Director Born said that CSJVRMA's letter, dated November 10, requested the extension for any member but that the motion was specific to CSJVRMA. Director Kramer said that the letter was not specific to CSJVRMA.

Director Henderson said that there were two issues. The first was that CSJVRMA's letter asked for clarification and a change in the withdrawal deadline. The second issue was the discussion of the agenda bill which requested an extension of time, within which to rescind their notice of withdrawal, to March 31. He said that neither issue stated that CSJVRMA wanted to withdraw.

Vice President O'Malley said that CCCMRMIA would ask for the same accommodation if CSJVRMA were granted until March 31 to rescind their notice. He said that the By-Laws allowed for reentry after December 31 by a 2/3 vote. He said that he didn't have a problem with following the By-Laws.

Director Kramer said that the letter from Ms. Workman asked the Board to provide any member who gives notice by December 31 until March 31 to examine their options and rescind their notice if they wanted to without requiring a vote.

President Davis said that he agreed with Vice President O'Malley that changing the policy dropped the threshold because a simple majority vote could then change the policy rather than the 2/3 vote currently required.

Board Counsel said that they had given SBAJPIA until March to decide whether or not to withdraw, but that if they had given notice to withdraw before March 31, a 2/3 vote would have been required to reverse that.

Director Mlinarcik asked if there was a limit to the number of exceptions that could be made without rewriting the governing documents.

Board Counsel said that this was a notice provision intended for the protection of the pool and that, when SBAJPIA wanted to withdraw, it was up to the Board to decide if it was in their best interest to allow the extension. He said that the Board voted to allow that extension in 1991 and that that was the precedent. He said that if the Board thought that it was a bad rule, they should vote against it.

Director Kain said that making a policy to allow members until March 31 to rescind notice of withdrawal troubled her. She said that they knew now that there would be no financial impact if they allowed the extension but that they didn't know what the future held. She said that they needed to keep the solvency of CJPRMA as a high priority. She said that she was in favor of the motion on the table but that it should be done on a case by case basis.

Director Kramer said that his organizations interpreted the language differently. He said that one group put a provision in their governing documents that said that once a notice of withdrawal had been given, that the Board did not have to permit rescission of that notice.

President Davis said that there was currently a motion before the Board specific to CSJVRMA. Director Kramer said that the motion was also specific to the agenda bill and not the letter from Jeanette Workman. The General Manager said that the agenda bill was specific to his telephone conversation with Ms. Workman. He said that she had asked CJPRMA to give CSJVRMA until March 31 to rescind their notice and that he had asked her to send him a letter stating that. He said that when the letter came in, it was different from the conversation they had had.

The General Manager said that his recommendation was that, since an exception had been made in the past for SBAJPIA, the Board should make the same exception for CSJVRMA.

Director Lindquist asked, if the motion was approved, would March 31 be a true drop-dead date for withdrawal. Board Counsel said that, if they asked to be readmitted after March 31, it would require a 2/3 vote.

Director Born asked if allowing the exception a second time would set a precedent to allow a third or fourth. Board Counsel explained that SBAJPIA was about to break up and that they didn't know if they would be able to pay the premium. He said that that was an unusual situation. He said that this situation was different and that the question was whether the Board wanted to accommodate CSJVRMA's request.

Director Born said that she agreed with Director Kramer that giving notice in December didn't allow enough time to look at other options. She said that if they required a conditional notice by December 31, with a drop-dead date of March 31, that it would provide the Board with time to protect itself and the member with time to explore other options.

Director Bist said that the agenda bill stated that the fiscal impact was to be determined. He said that he thought that he had heard in the discussion that there would be no fiscal impact. The General Manager said that rates would not change. He said that there would be a reduction in premium and that the spread of risk would be smaller, but that the risk exposure would also be smaller. Board Counsel pointed out that, last year, CSJVRMA had paid a premium of \$1,088,000 and that their share of general and administrative expenses had been \$67,000. He said that that \$67,000 would be spread over the remaining members if CSJVRMA withdrew. He said that there was no change in the fiscal impact whether they withdrew in December or March.

Director Bist asked why they hadn't explored their options earlier. The General Manager said that the problem was that insurance companies would not give quotes six months in advance. He said that the earliest that they would give quotes was usually 2 to 3 months in advance. He said that, if a member gave notice in December, they could not confirm that they had somewhere else to go unless they were joining another pool. Director Born said that that applied to other available options, as well.

Director Kain said that CSJVRMA was a large group and that each of their members would need to approve any changes. She said that that would require time and that allowing them three months to rescind the notice was necessary. She said that it would be necessary for any member who wanted to withdraw.

Vice President O'Malley said that it was of benefit to CJPRMA to retain members. He said that he thought it was in the best interest of CJPRMA to make accommodations to retain CSJVRMA and CCCMRMIA.

President Davis said that, in his estimation and that of CSJVRMA's Board Counsel, CSJVRMA had not given a proper notice of withdrawal.

Director Kramer said that CSJVRMA's Executive Committee was meeting that day to decide whether to send a notice of withdrawal. President Davis asked Director Kramer if he had any idea what the result of that meeting might be. Director Kramer said that he didn't.

Director Born asked if an action item was necessary to make the policy more global. Board Counsel said that the motion could be broadened to include all members or that a second motion could be made. Director Henderson said that a second motion should be made.

President Davis said that the motion on the table was specific to CSJVRMA.

A motion by Director Henderson, seconded by Director Kain, to grant CSJVRMA until March 31, 2000 to rescind their notice of withdrawal, passed by a majority. REMIF opposed the motion.

The General Manager said that he thought that Director Born was recommending a policy. Board Counsel said that he thought that they should change the JPA Agreement if they were going to make a standing rule to allow members to withdraw by a different date than what is currently stated.

Director Kramer said that he didn't think that the JPA agreement needed to be changed because it was an issue of interpretation. He said that the By-Laws were sufficient to address the interpretation and that they could be amended to clarify the language.

Board Counsel said that they could put the interpretation of the JPA Agreement in the By-Laws. The General Manager said that if they were going to amend the By-Laws, they had to give 30 days notice. Board Counsel said that that would be a better procedure.

Director Kramer said that the JPA Agreement provided that a member *may* withdraw by giving notice prior to December 31 and that it didn't say that the member *was* withdrawn. He said that this should be applied with a final deadline of March 31 to allow time to explore other options. He said that the By-Laws could be amended to clarify that interpretation. He also said that the amendment should include a provision that provided the Board with the ability to refuse a withdrawing member's notice of recision, if it so chose.

Director Henderson said that the JPA Agreement said that if a member gave written notice of withdrawal, they had, in fact, withdrawn.

Director Kramer said that that language was included to give the pool sufficient notice. He said that many other pools had not interpreted that to mean that if a member gives notice prior to December 31 that they were out on July 1. He said that other pools interpreted that as a precaution.

Director Kaslar said that the JPA Agreement was written to say that if a member gave written notice by December 31, they were out of the pool on July 1 and that it took a 2/3 vote to get back in.

Director Born said that, if they were going to make exceptions for two members, they should amend the By-Laws to allow it for all members.

Director Kain said that the By-Laws did not address rescission of withdrawal. She said that they had allowed exceptions by policy. She said that that exception should be made on a case by case basis because they didn't know what the future held for the organization.

President Davis asked Board Counsel if a future change to the By-Laws, to allow until March 31 to rescind, would negate the decision already made for CSJVRMA. Board Counsel said that it would supersede any decisions already made. He said that they had made a specific exception to the notice provision. He said that if they wanted to make a policy that would apply to all members, they should amend the By-Laws.

Director Mlinarcik asked if including their interpretation of the language in the minutes would serve to memorialize it. President Davis said that that was one way to do it. Board Counsel said that they should put it in the By-Laws so that it was in a permanent document.

Jim Pinckney said that there were other programs that would be affected by allowing until March 31 to withdraw. He said that when the reinsurance policies expired in 2 ½ years, they probably wouldn't have the same in and out benefits.

Alternate Guinan said that if the By-Laws were changed to provide that an entity had to give notice by December 31 that they were out on July 1, but that up until March 31, they could request rescission, subject to a majority vote of the Board, that that would give the Board more control.

Director Robbins said that March 31 fell between two meetings, so that if they adopted something similar to Alternate Guinan's suggestion, the vote should be taken at the March meeting.

Director Born amended her motion to change the date to March 1.

Marilyn Kelley said that she was going to suggest the same thing because it would better accommodate the reinsurance market.

Vice President O'Malley seconded the amended motion.

Director Born said that it was her understanding that the Property Program stood alone and that members could withdraw from it at any time. Board Counsel said that the withdrawal deadline for the Property Program was also December 31.

Director Born said that they didn't want to lose any members, and that during past strategic planning meetings, they had decided to be more open to members' needs and that this change would accomplish that.

President Davis asked if the amended motion superseded the extended deadline give to CSJVRMA. Board Counsel said that the new motion would allow all members until March 1 to rescind a notice of withdrawal. He said that they had given CSJVRMA specifically until March 31.

Director Bist said that he agreed with flexibility, but that they already had that. He said that he didn't want to lose any members, but that the By-Laws indicated that if notice was given by December 31 that the member was out. He said that the flexibility was that they could come back to the Board to be voted back in if they changed their mind about withdrawing.

Director Henderson said that the paragraph that let members back in to the pool did not contain a deadline for taking such a vote.

Director Kramer asked Board Counsel if an entity was still considered a full member until July 1 if they gave notice to withdraw before December 31. Board Counsel said that they were. He said that if they allowed a member to rescind their notice of withdrawal, then the provision notice in the JPA Agreement was meaningless.

Director Kramer said that language was needed in the By-Laws to clarify the issue in order to avoid legal problems in the future. Director Born asked if the JPA Agreement was written the way that it was because they didn't expect members who withdrew to want to come back in 6 months. President Davis said that the original intent was that the pool needed to know in advance who was leaving and what the financial impact would be.

President Davis said that there was a motion to permit all members, except CSJVRMA, to rescind a notice of withdrawal by March 1. Board Counsel said that if it passed, he wanted the Board to bring it back as a By-Laws amendment.

Director Bist asked if the motion would amend the By-Laws. Board Counsel said that they would need to propose the language and circulate it 30 days in advance in order to amend the By-Laws. He said that it could be taken up at the January meeting.

Director Bist asked if Director Born's motion would supersede the By-Laws if it passed. Board Counsel said that it wouldn't supersede the By-Laws because the By-Laws didn't say anything about rescission.

The General Manager said that Director Born could amend her motion to say that she would like the language proposed at the next meeting as an amendment to the By-Laws and that they could vote on it in January. He said that it would be effective immediately upon being added to the By-Laws.

President Davis said that there was a motion to adopt a policy that would permit members to rescind their notice of withdrawal by March 1.

A motion by Director Born, seconded by Vice President O'Malley, to provide any member who gives notice of withdrawal by December 31 until March 1 of the following year to rescind that notice, failed by a vote of 9 to 9.

#### **11. Notice of Possible Withdrawal from CCCMRMIA**

President Davis asked if there was a motion to grant CCCMRMIA the same courtesy that had been extended to CSJVRMA.

Vice President O'Malley pointed out that CCCMRMIA had not specifically requested the extension. He said that he had no problem following the By-Laws, but that this would make it easier for them to make their final decision.

A motion by Director Kaslar, seconded by Director Adamo, to allow CCCMRMIA until March 31 to rescind a notice of withdrawal, passed by a majority. REMIF opposed the motion.

President Davis said that if CSJVRMA or CCCMRMIA submitted their notice of withdrawal before December 31, 1999, and didn't rescind that notice before March 31, 2000, that they would be out of the pool. He said that if they didn't send a notice of withdrawal, then it would be a moot point.

#### **12. 1999 Actuarial Study**

Mr. Steven Glicksman of ARM TECH, presented the results of the 1999 Actuarial Study.

Mr. Glicksman said that this year's study was different than those of previous years. He said that the Pool had almost \$37 million in liabilities, which was about \$9 million more than the prior year due to a surprise claim. He said that there was almost \$20 million in equity, which was about \$9 million less than last year due to that same claim. He said that the recommended refund was a negative number due to the large claim from the 1997-98 program year. He then explained the formula used to determine those figures.

The General Manager said that his recommendation was that four program years, 1986-87, 1987-88, 1988-89 and 1990-91, be closed and that a \$3.6 million redistribution be made to the members. He said that they still carried reserves on those years even though all of the cases had been closed. He said that it was highly unlikely that any more cases would arise from them.

President Davis said that he and Board Counsel had discussed the matter and that many cases had been closed since the information had been provided to the actuary.

Board Counsel said that the Actuarial Study was accurate as of June 30, 1999, but that due to the closure of some cases since then, that \$1,950,000 in reserves could be released. He said that reserves for five cases had gone down, that one had gone up, but that the net was a reduction. He said that with reinsurance, they had reduced the possibility of a catastrophic loss above \$5 million. He said that that didn't affect the prior years but that it was one less thing to set aside equity for in the future. He said that the new 2-year statute of limitations made older program years safe from late claims. He said that the governing documents allowed for the transfer of funds from one program year to another to cover debts, but that it required repayment with interest. He said that if the Gallardo case settled for more than what had been collected in premiums in that program year, then they would have to borrow from other program years or take funds from potential redistributions. He said that he agreed with the Actuarial Study and that, in the past, they had had redistributions even though there was less equity available than now.

Vice President O'Malley asked if they were closer to expected equity than in the past. Mr. Glicksman said that they had usually given back money when they had had good loss experience. He said that the large negative case could be a once-in-a-lifetime thing and that if they were confident of that, then it was all right to redistribute the \$3.6 million. He said that if they weren't sure that a large claim would only happen once, then they should wait to redistribute.

Director Born asked why the equity numbers in the Actuarial Study varied from those in the General Manager's report. Mr. Glicksman said that the General Manager's report showed actual funds in the bank and that the Actuarial Study showed actual funds less liabilities. Director Born asked what Mr. Glicksman would recommend regarding the closure of the four years suggested by the General Manager.

Mr. Glicksman said that his assumption had been that the 1997-98 program year could eventually need to borrow money from other years. He said that he didn't see a problem with a redistribution of some equity, but that he felt that \$3.6 million might be too much.

Director Mlinarcik asked how the Y2K issue was figured into the analysis. The General Manager said that Y2K was being treated just like any other type of claim with an organizational aggregate set up for the program year. Director Mlinarcik said that it was a unique exposure and that it was being treated the same as any other exposure. Vice President O'Malley said that it was a new exposure and that they should be conservative about it. Director Mlinarcik said that he wanted to defer any redistribution until they had a better idea of what Y2K would bring.

The General Manager said that they could defer the decision or reduce the amount of redistribution but that his recommendation was to close the four program years and redistribute \$3.6 million.

Marylin Kelley asked about assessments on the 1997-98 program year. The General Manager said that they weren't looking at assessments because there were ways to fund out of proposed redistributions, if necessary.

Director Henderson asked what the effect would be if CSJVRMA or CCCMRMIA decided to withdraw. Mr. Glicksman said that it would not affect this report because it reflected information as of June 30, 1999.

Mr. Glicksman said that it would be possible to look at the CJPRMA claims in March and prepare a report showing current information if that would be helpful in determining any redistribution.

A motion by Director Handy, seconded by Director Lindquist, to defer the consideration of a redistribution until the March meeting, passed unanimously.

Mr. Glicksman said that there was no change in the funding rates. He said that if any members decided to leave, the base rate for losses would not change but the base leverage for administrative expenses would be less. He said that, because of that, remaining members should expect an increase in the administrative portion of the rate.

President Davis asked why Pool D had the same rate even though it was now fully covered. Mr. Glicksman said that the rate in the study was what it would be if it was self-insured. He said that if it was covered by commercial insurance and they didn't want to include it in the rate, they could just leave it out or just collect enough to pay for the commercial insurance.

The General Manager said that the recommended rates were very similar to the prior year's. He said that the year before, the Board had decided to increase the rates because of the uncertainty of EPL claims as well as some

others. He said that they could maintain the same rates or reduce them to the recommended rates.

Director Kain said that if they were paying for the reinsurance out of Pool D, then they should at least charge a rate equivalent to that of the cost of the insurance.

The General Manager said that they had discussed that when they decided to go into reinsurance. He said that they had collected about \$900,000 more than they needed from Pool D and that Pool E had cost about \$300,000 more than expected. He said that the suggested rate for Pool E was close to what was being paid for reinsurance; that they could calculate the actual cost and rate for the reinsurance for Pools D and E; and that the Board could adopt the suggested rates for Pools B and C.

Mr. Glicksman said that he provided the rates so that they would have something to compare with insurance.

Director Mlinarcik said that Mr. Glicksman's report suggested increasing the funding to cover the increase in loss activity. He asked why a decrease in funding was now being recommended.

Mr. Glicksman said that, in the past, they had tried to be at the 80% confidence level before redistributing any equity. He said that he didn't feel that they were at the 80% level when he did the report.

Board Counsel said that the Board changed the confidence level from 90% in 1986-87 to 80% in 1990-91 to 75% in 1992-93 and to 70% in 1994-95 where it has remained.

President Davis said that for this year for Pools B and C they were paying a rate of .907. He said that Mr. Glicksman's recommended rate was .888 but that that included a higher funding level for Pools D and E. He asked if they wanted to cover the cost of the reinsurance with D and E and put in a little extra in case they went back to self insuring in the future. Board Counsel said that the commercial rate for \$10 million excess of \$5 million was .0891.

Director Born asked if any money was being set aside for the future in case they decided to be fully self-insured again. Board Counsel said that they were currently collecting about \$900,000 more than necessary. President Davis said that they had maintained the .907 rate for the past few years to be prudent and that they could go to the .888 rate and still be so.

Vice President O'Malley said that since they paid by program year, there was no reason to build a contingency fund now since they could just increase the rates later.

President Davis said that he would favor splitting the difference between the recommended rate and the actual rate for reinsurance. He recommended a .120 rate for Pools D and E, which would be at the 70% confidence level. He said that the total rate would be .764 for Pools B, C, D and E.

Board Counsel said that that would be higher than 70% because Pools B and C would be funded at a 70% confidence level and they were over-collecting for Pools D and E.

President Davis said that the rates would be .225 for Pool B, .419 for Pool c and .120 for Pools D and E.

Mr. Glicksman said that members who were shopping for alternatives needed to remember that there was equity built into the rates that they would probably get back in future redistributions.

Director Mlinarcik asked if reinsurance was the sole reason for the drop in rates. Mr. Glicksman said that it was.

Director Mlinarcik asked if the Y2K issue was considered in these rates and if funds were included to pay Y2K claims. President Davis said that Y2K would occur in this program year and that it was funded for already. He said that the rates discussed were for the 2000-2001 program year and that the rates built a small contingency fund in case something drastic happened.

A motion by Director Kain, seconded by Director Henderson, to fund at the rate of .764 for Pools B, C, D and E, passed unanimously.

A motion by Director Born, seconded by Director Henderson, to approve the 1999 Actuarial Study, passed unanimously.

### **13. Proposed Changes to Memorandum of Coverage**

Board Counsel said that he had talked to the underwriter from Discover Re and that they were in full agreement with one exception. He said that Discover Re did not approve of their older language regarding the Care, Custody and Control exclusion. He said that it was decided to keep the existing language for up to \$10 million, however, Discover Re would have a \$5 million pool-wide annual aggregate. He said that the language was on page two of his letter, dated October 19, 1999, and that it would be added to exclusion 15. He said that they would still have \$5 million of coverage per occurrence in Pools B and C, which was not subject to an aggregate. He said that the maximum that they would have to pay out of Pool D was \$5 million in any one program year and that that would be completely reinsured. He said

that the language also gave to Board the right to prorate the coverage within Pool D if it looked like it was going to be exhausted.

Director Kain asked what type of claim would fall into that category. Board Counsel said that it would be property damage to property that was rented. He said that that should be covered under the Property Program. He said that property in their care, custody or control should be covered by the Property Program. He also said that there was a Premises Alienated exclusion that was covered by this.

Board Counsel said that the remainder of the October 19 letter contained summaries of things already approved by the Board. He said that the only thing not yet approved was the “Owned Property” language and that it seemed to be a fair compromise because it didn’t increase the premium but still provided the coverage, subject to a \$5 million aggregate.

Director Robbins asked if they had already approved the change in the language from “reasonable probability” to “reasonable possibility.” Board Counsel said that they had.

A motion by Director Born, seconded by Director Henderson, to approve the proposed changes to the Memorandum of Coverage as outlined in Board Counsel’s letter, passed unanimously.

Board Counsel said that the reinsurance certificate had a slight variation in the language from his October 19 letter with regard to the Care, Custody and Control hazard. He asked for a motion to conform the language to that of the reinsurer.

A motion by Vice President O’Malley, seconded by Director Born, to approve the changes in the language, passed unanimously.

#### **14. Proposed Locations for Annual Membership Meeting and Annual Retreat**

The General Manager said that the Board had tasked the Executive Committee with examining this issue. He said that the Executive Committee was recommending that the Annual Retreat continue to be held at the Bodega Bay Lodge and that the Annual Membership Meeting remain at the Embassy Suites in South Lake Tahoe with a change of dates so that it did not coincide with the CAJPA conference. He said that they had recommended October 4, 5 and 6 which was a Wednesday, Thursday, and Friday.

Marylin Kelley asked why a third day was added. President Davis said that they would arrive the evening of the 4<sup>th</sup>, meet all day on the 5<sup>th</sup> and have a half-day on the 6<sup>th</sup>. He said that the Annual Retreat would consist mainly of

long-term planning with a facilitator and a possible presentation by Board Counsel. He said that the Tahoe meeting would be more focused on training. He said that if members had suggestions for training topics that they should give them to the General Manager.

Director Kain suggested that cases that closed with good results could be discussed and that they could share information on what went right.

Director Born suggested that Board members could provide training as well at the regular meetings.

Director Mlinarcik suggested that they have training focused on the intricacies of insurance. Marilyn Kelley said that Driver could do a presentation on that topic.

Director Robbins said that he would like to see the Bodega Bay site replaced by Sacramento in order to save money.

Vice President O'Malley said that two out-of-town meetings were unnecessary and that he would recommend adding a day to the Bodega Bay meeting and elimination of the Tahoe meeting.

Director Mlinarcik asked why the report listed multiple prices for the Bodega Bay Lodge. The General Manager said that some hotels offered different package deals.

A motion by Director Henderson, seconded by Director Bist, to approve the Executive Committee's recommendations, passed by a vote of 12 to 5.

The General Manager said that this changed the Meeting Schedule and that an updated one would be sent out.

## **15. Proposed Policy on Business Expenses**

This item was pulled.

## **VIII. CLOSED SESSION**

### **1. Government Code Section 54956.9(a)** Conference with Legal Counsel—Pending Litigation

**Name of Case:** Gallardo v. City of Dinuba

**Court:** United States District Court for the Eastern District of California

**Case No.:** CIV-F97-6111 OWW DLB

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

**Name of Case:** Murphy v. City of Folsom  
**Court:** Sacramento County Superior Court  
**Case No.:** 98AS00981

This item was pulled.

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

**Name of Case:** Alcorta v. City of Delano  
**Court:** United States District Court, Eastern District of California  
**Case No.:** CV-F-98-5017-SMS

This item was pulled.

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

**Name of Case:** Smith v. City of Walnut Creek  
**Court:** Contra Costa County Superior Court  
**Case No.:** C97-04808

- 5. Government Code Section 54954.5**  
Public Employee Performance Evaluation

**Title:** General Manager

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

- None

## **X. ADJOURNMENT**

The meeting was adjourned at 3:40 p.m.