CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

BOARD OF DIRECTORS WEBEX MEETING
Thursday August 20, 2020 - 9:00 a.m.

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

This meeting is being held in accordance with the Brown Act as currently in effect under the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20 issued on March 17, 2020 that allows attendance by members of the City Council, City staff, and the public to participate and conduct the meeting by teleconference, videoconference, or both.

MEETING LINK:

https://cjprma.my.webex.com/cjprma.my/j.php?MTID=m2ede1e418701474c1903b5e2873aeb4d

MEETING NUMBER: **126 147 5041** **PASSWORD**: **BOD08202020**

JOIN BY PHONE: **1-510-338-9438** **ACCESS CODE**: **126 147 5041**

MINUTES

I. CALL TO ORDER

- **President Greer call the meeting to order at 9:04 A.M.**

II. ROLL CALL

PRESENT

1) Montague Hung, *Alameda*
2) Jamie Cannon, *Chico*
3) Chris Carmona, *Fairfield*
4) Steve Schwartz, *Fremont*
5) Janet Hamilton, *Livermore*
6) Beverly Jensen, *Lodi*
7) Dan Sodergren, *LPFD*
8) Veronica Rodriquez, *NCCSIF*
9) Erika Leahy, *Petaluma*
10) Jacob Baldwin, *Redding*
11) Amy Northam, *REMIF*
12) Kim Greer, *Richmond*
13) David Rawe, *Roseville*
14) Mary Ann Perini, *San Leandro*
15) Shibani Nag, *San Rafael*
16) Dominique Blanquie, *Santa Rosa*
17) Roger Carroll, *SCORE*
18) Gail Kiyomura, *Stockton*
19) Rebecca Moon, *Sunnyvale*
20) GeorgeAnne Meggers-Smith, *Vacaville*
21) Marylin Kelley, *YCPARMIA*

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.

OTHERS PRESENT

22) Byrne Conley, *Board Counsel*
23) Rick Buys, *Risky Business Pros*
24) Yibin Shen, *Alameda*
25) Erika Milton, *Fairfield*
26) Jas Sidhu, *Livermore*
27) Elizabeth Ehrenstrom, *NCCSIF*
28) Joe Nelson, *Petaluma*
29) Laura Marquez, *Richmond*
30) Amanda Tonks, *Santa Rosa*
31) Anias Aquino, *Sunnyvale*
32) Andria Borba, *Vacaville*
33) David Due, *YCPARMIA*
34) Tony Giles, *CJPRMA*
35) Lola Deem, *CJPRMA*
36) Marinda Griese, *CJPRMA*
37) Saima Kumar, *CJPRMA*
38) Marcia Hart, *CJPRMA*
39) Susanna Banuelos, *CJPRMA*

"This CJPRMA Board of Directors meeting was via teleconference, pursuant to California Government Code Section 54953 and Governor Newsom's Executive Order N-25-20. No Directors indicated that they could not clearly hear the proceedings, and no Directors indicated a belief that the other Directors on the teleconference were who they claimed to be."

III. PRESENTATIONS

- None

IV. 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.

V. COMMUNICATIONS

A. Board Members
B. General Manager/Secretary
C. Next Scheduled Meetings: Board of Directors – Closed Session (09/03/20) WebEx
Executive Committee (09/17/2020) WebEx
Board of Directors (12/10/20) WebEx

VI. APPROVAL OF MINUTES

- A motion was made by Director Carroll and seconded by Director Kelley to approve both the consent calendar and the minutes. A roll call vote was taken: Directors Hung, Cannon, Carmona, Schwarz, Hamilton, Jensen, Sodergren, Rodriquez, Leahy, Baldwin, Northam, Greer, Rawe, Perini, Nag, Blanquie, Carroll, Kiyomura, Moon, Meggers-Smith and Kelley approved the motion. Motion passed.

VII. CONSENT CALENDAR

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

2. **Financial Report of CJPRMA as of May 31, 2020 (A)**

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

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

5. **Business Calendar for 2020 and 2021 (I)**

6. **New Directors/ Alternates (I)**

- A motion was made by Director Carroll and seconded by Director Kelley to approve both the consent calendar and the minutes. A roll call vote was taken: Directors Hung, Cannon, Carmona, Schwarz, Hamilton, Jensen, Sodergren, Rodriquez, Northam, Greer, Rawe, Perini, Nag, Blanquie, Carroll, Kiyomura, Moon, Meggers-Smith and Kelley approved the motion. Petaluma and Redding were absent at the time of voting. Motion passed.

VIII. ACTION (A) AND INFORMATION (I) CALENDAR

7. **Election of Officers and Appointment of Executive Committee Members (A)**

Election of Board Members to serve as President and Vice President for a two-year term was held. Pursuant to the bylaws, there are three Executive Committee vacancies effective July 1, 2020 to be filled from the rotation list. The following candidates were nominated for the officer positions: President – Kim Greer (Richmond) and David Rawe (Roseville); Vice President Kim Greer (Richmond), David Rawe (Roseville) and Gail Kiyomura (Stockton).

Article III of the Bylaws states:

"The candidate receiving the greatest plurality of votes will be elected to that position. In the event of a tie, those not involved in the tie will be eliminated and the remaining candidates will be the subject to a runoff election. If unsuccessful after the runoff, the election for that office will start again with all the candidates eligible."

The outcome of the election for officers determines who rotates onto the Executive Committee.

The General Manager, Tony Giles and Board Counsel, Byrne Conley held voting for President. The directors were instructed to email their votes to ballots@cjprma.org. The general manager and board counsel tallied the votes for President. David Rawe, Roseville received majority of the votes. The directors were instructed to follow the same procedures for voting for vice president. The general manger and board counsel tallied the votes for vice president. Gail Kiyomura, Stockton received the majority of the votes.

The following Directors were appointed to the Executive Committee from the rotation list: Dan Sodergren, LPFD, JPAs, Chris Carmona, Fairfield, Large Cities (population of 100,000 or more), and Janet Hamilton, Livermore, Small Cities (population of less than 100,000).

- A motion was made by Director Northam and seconded by Director Jensen to approve the appointment of Directors Sodergren, Carmona and Hamilton to the Executive Committee from the rotation list. A roll call vote was taken: Directors Hung, Cannon, Carmona, Schwarz, Hamilton, Jensen, Sodergren, Rodriquez, Baldwin, Northam, Greer, Rawe, Perini, Nag, Blanquie, Carroll, Kiyomura, Moon, Meggers-Smith and Kelley approved the motion. Petaluma was absent at the time of voting. Motion passed.

8. Reappointment of the Treasurer (A)

The general manager recommended that the Board of Directors vote to reappoint Director Roger Carroll, SCORE as the Treasurer for a two-year term. Article III of the By-laws requires that the Treasurer be reappointed in even numbered years. The appointment is for a two-year term.

Article III states:

"The Treasurer will be appointed, by a majority of the entire Board, and shall serve at the pleasure of the Board. The term of Treasurer shall be two years, with appointments being made in the even number years, subject to the pleasure of the Board. The Treasurer may vote on matters before the Board, Executive or other appointed committees only if he/she is also a director serving in the appropriate capacity."

- A motion was made by Director Perini and seconded by Director Northam to reappoint Director Carroll (SCORE) as Board Treasurer. A roll call vote was taken: Directors Hung, Cannon, Carmona, Schwarz, Hamilton, Jensen, Sodergren, Baldwin, Northam, Greer, Rawe, Perini, Nag, Blanquie, Carroll, Kiyomura, Moon and Meggers-Smith approved the motion. NCCSIF, Petaluma and YCPARMIA were absent at the time of voting. Motion passed.

9. Approval of the 2020 Claims Audit (A)

Rick Buys conducted the 2020 Excess Claims Audit, and was present at the meeting to discuss the results and recommendations of his audit.

Mr. Buys examined a total of 150 files reported to CJPRMA for this audit. Included were 110 open files and 40 files that were either closing or recently closed. The audit work included site claims review and remote video meetings and phone calls with members, TPAs and CJPRMA. Due to the COVID-19 pandemic, no onsite visits were completed.

A final summary of audit findings was presented to the Board of Directors. Individual Member

Claim Audit Reports have been provided to the members. Mr. Buys' Executive Summary reported:

- *Audit results show that CJPRMA continues efforts to improve overall communication between its Members and their service providers. Monitoring and communication have also improved on employment practices claims.*
- *Members continue to adhere to reporting requirements at an improved level from 2016 and 2017, with few exceptions.*
- *The number of EPL claims decreased again this year, from 29 in 2019, to 23 this year (compared to the highest number at 30 in 2017).*
- *In 2019, all 14 open Watch List files were audited. Total number of open Watch List files at the start of the 2019 audit dropped to 9. For 2020, only 4 Watch List files were audited, largely due to the lack of any significant changes or issues on the remaining open Watch List files.*

Mr. Buys identified some recommendations made over the last several years that continue to be valid issues:

- *For claims that qualify for reporting to CJPRMA, reserve changes must be provided by Members, at least quarterly. Many Members still are not presenting the requested quarterly reserve updates on reported files and this must be addressed by CJPRMA and its Members.*
- *Quarterly captioned status reports are required on all Watch List cases, regardless of whether outside or in-house counsel is involved. There is still room for improvement, especially on Watch List files, since they create the greatest exposure to the Member and CJPRMA.*
- *When changes occur in a Member's Risk Management staff, lapses in meeting excess reporting requirements can occur. CJPRMA meets with the new Member staff, to assure clarity exists regarding reporting requirements and other program policies and procedures, to assure clear lines of communication exist between CJPRMA and the Members.*

Mr. Buys made several conclusions resulting from his audit review of CJPRMA files. The following key items were noted in the report:

- *Overall industry wide trends show that severity and frequency of losses are clearly on the rise.*
- *The number of Watch List claims dropped from 26 in 2016 to 9 in 2020, a major drop over that period. (The fact that the number of Watch List cases has dropped in recent years includes Members and CJPRMA both working hard to resolve cases, where appropriate.)*
- *The audit found 60 claims, or 40% of the audited claims are "Critical Incident" claims, up from 50% in 2019 (Critical Incident cases always have the potential to evolve into Watch List files, or create other, special difficulties in managing those cases).*
- *The climate for taking public entity claims to trial continues as riskier than in the recent*

past, especially police claims, some of which are worse than others.

- *With national trends of continued increasing frequency and severity of claims, escalating verdict results, and current financial and social trends, the need for effective communication between the Members, all their stakeholders, and CJPRMA is more critical than ever to the successful resolution of claims.*

Mr. Buys' observation and findings are attached. Mr. Buys' report contains the following positive statements regarding CJPRMA:

- *I can report that CJPRMA continues to meet or exceed standards for litigation management that result in proper resolution of claims at the excess level*
- *Staffing appears appropriate*
- *CMIS software continues to improve*
- *Communication with reinsurers is good and there are clear efforts to keep all the Members appropriately involved in the process.*
- *My discussions with the Members during the audit process clearly demonstrate their commitment to this overall process.*
- *In conclusion, CJPRMA continues as a well-managed and effective claim-handing operation.*

    - A motion was made by Director Hamilton and seconded by Director Cannon to approve the 2020 Claims Audit. A roll call vote was taken: Directors Hung, Cannon, Carmona, Schwarz, Hamilton, Jensen, Sodergren, Ehrenstrom, Leahy, Baldwin, Northam, Greer, Rawe, Perini, Nag, Blanquie, Carroll, Kiyomura, Moon, Meggers-Smith and Kelley approved the motion. Motion passed.

10. Report Out from Claims Committee (I)

The CJPRMA claims committee met on July 9, 2020. They discussed some lessons learned from those discussions.

The claims administrator Marinda Griese prepared a report of six closed claims and lessons that could be learned from them.

Bev Jensen of Lodi would like for the Claims Committee to look at Use of Force policies and brought up #blacklivesmatter #8can'twait. Jas Sidhu of Livermore reported more than one Black Lives Matter protests occurring at the police department, demanding that policies be turned over. Bev Jensen pointed out that useofforceproject.org has a significant number of police departments' policies online now. Andria Borba of Vacaville agreed and would like to have the Claims Committee evaluate what a legally sufficient use of force review looks like and appropriate disciplinary actions for violations. She suggests collecting and reviewing model policies and developing best practices around use of force for CJPRMA.

- This was for information only. No action was taken.

11. Approval of CJPRMA Conflict of Interest Code (A)

Pursuant to FPPC regulations, in even numbered years, every multi-county agency must file a biennial notice stating that it has reviewed its conflict of interest code and indicate any changes that have been made. The current Conflict of Interest Code was reviewed and no changes were recommended.

- A motion was made by Director Carmona and seconded by Director Carroll to approve the CJPRMA Conflict of Interest Code. A roll call vote was taken: Directors Hung, Cannon, Carmona, Schwarz, Hamilton, Jensen, Sodergren, Ehrenstrom, Leahy, Baldwin, Northam, Greer, Rawe, Perini, Nag, Blanquie, Carroll, Kiyomura, Moon, Meggers-Smith and Kelley approved the motion. Motion passed.

12. Approval of Annual Review of Member Loss History (A)

Board of Directors Policy B25 (Annual Review of Members Loss History) requires an annual review of member loss history that utilizes the ten-year rolling average claims experience that is currently used for the development of annual contributions. The policy evaluates all members and compares total contributions for the ten-year window and total CJPRMA incurred losses. If a member has a loss ratio that exceeds 200%, the policy provides the Board of Directors with five options to increase that member's self-insured retention. One of the options is to defer action and implement retention increase.

A $2.5 million cap is applied to all individual losses incurred by members. This cap eliminates the impact of a significant individual loss that would impact a member's overall loss history for multiple program years. The Member Loss Experience Rating 10 Year Rolling Average for PY 07/08 – 16/17 is attached to this agenda bill. (Exhibit 1)

The City of Stockton currently has a capped loss ratio of 292%. Board Policy B25 calls for the Board to take action based on this. The general manager recommended modifications to Board Policy B25. Since changes are forthcoming due to the changes in self-insured retentions, the general manager proposed that the Board of Directors decide on action at the December 2020 Board of Directors meeting. Any action taken would not be implemented until the next program year effective July 1, 2021.

In addition to Stockton, there are two other members with uncapped loss ratios greater than 200%. Those two members have capped loss ratios of 170% or more. A total of ten members have uncapped loss ratios greater than 100%, and nine members have loss capped loss ratios greater than 100%.

- A motion was made by Director Northam and seconded by Director Cannon to approve and accept the members' loss history report and decide at the December 2020 meeting what action to take on City of Stockton. A roll call vote was taken: Directors Hung, Cannon, Carmona, Schwarz, Hamilton, Jensen, Sodergren, Ehrenstrom, Leahy, Baldwin, Northam, Greer, Rawe, Perini, Nag, Blanquie, Carroll, Kiyomura, Moon, Meggers-Smith and Kelley approved the motion. Motion passed.

13. Approval of Modifications to Board Policy B25 "Review of Members Loss History" (A)

In 2017, the Board of Directors approved the policy on Annual Review of Members Loss History in order to address members that have a loss history that is significantly different from the rest of the pool. When the policy was developed, CJPRMA had only two retention options $500,000 and $1,000,000. The pool currently offers four retention options; $500,000, $750,000, $1,000,000 and $1,250,000.

The options detailed in the Board policy are related to changes in retention, and need to be updated to reflect the current four retentions. To simplify this option, the general manager recommended that the Board would double the retention of a member that exceeds the specified loss ratio (currently 200%), but its annual contribution would continue to be based on the original retention. With this method, the policy would not have to specify individual retentions. If the pool adds additional retention options in the future, this methodology can remain the same.

The policy retains the option for the Board to defer action.

The general manager discussed with the Board other potential modifications to this policy. The general manager asked the Board to consider whether the 200% loss ratio is the best trigger for Board action. The general manager asked the Board to consider whether it continues to make sense to cap losses at $2,500,000.

- No action was taken on this item, The Board of Directors has asked the General Manager to bring further revisions of this policy to the Executive Committee meeting in September, then the December 2020 Board of Directors meeting for Board review.

14. Approve Modifications to Liability Memorandum of Coverage Related to Duties of Covered Parties (A)

Section VII (Conditions), Paragraph (1) (Covered party's Duties in the Event of Occurrence, Claim or Suit) includes the following requirements:

"The covered party shall notify the Authority within 30 days upon receipt of notice of a claim, or the setting of a reserve on any claim or suit including multiple claims or suits arising out of one occurrence, such claim or reserve amounting to fifty percent or more of the retained limit; Title 42 USC 1983 cases in which a complaint has been served and the plaintiff is represented by legal counsel or with reserves of twenty-five percent or more of the retained limit;

Information goes here."

Staff recommended modifying the requirement to report Title 42 USC 1983 cases to be fifty percent or more of the retained limit. The modified language would read:

The covered party shall notify the Authority within 30 days upon receipt of notice of a claim, or the setting of a reserve on any claim or suit including multiple claims or suits arising out of one occurrence, such claim or reserve amounting to fifty percent or more of the retained limit; Title 42 USC 1983 cases in which a complaint has been served and the plaintiff is represented by legal counsel or with reserves of ~~twenty-five~~ fifty percent or more of the retained limit;

Most civil rights cases with no attorney do not develop into serious exposure for the pool. This will reduce one element of reporting responsibility for members. This would not change the requirement to report all Title 42 USC 1983 cases when plaintiff is represented by legal counsel. Staff does not anticipate any negative impact to the pool.

The Executive Committee reviewed and approved these revisions at its June 18, 2020 meeting.

- A motion was made by Director Carmona and seconded by Director Hung to approve modifying the liability Memorandum of Coverage section VII (1) Covered party's Duties requirement to report Title 42 USC 1983 cases to be fifty percent or more of the retained limit instead of twenty-five percent. A roll call vote was taken: Directors Hung, Cannon, Carmona, Schwarz, Hamilton, Jensen, Sodergren, Ehrenstrom, Leahy, Baldwin, Northam, Greer, Rawe, Perini, Nag, Blanquie, Carroll, Kiyomura, Moon, Meggers-Smith and Kelley approved the motion. Motion passed.

15. Adopt a Resolution on the Interpretation of the Definition of Occurrence for Sexual Abuse and Molestation Claims (A)

In October 2019, Governor Newsom signed Assembly Bill 218, which became effective January 1, 2020.

AB 218 significantly changed the law related to childhood sexual abuse claims:

- Makes the statute of limitations for childhood sexual assault claims 22 years after reaching the age of majority (i.e., when claimant turns 40 years old) OR five years from when the victim discovers or reasonably should have discovered that psychological injury or illness occurred after the age of majority because of childhood sexual assault, whichever comes later (a certificate of merit is required for delayed discovery claims);
- Extends the limitations period for not just the molester, but extends it for others who had a duty to the victim and through a negligent or wrongful act were a "legal cause" of the

molestation, or others who did not have a duty but committed an intentional act that was the legal cause ( ); and

- Extends the limitations period for ANY claim described above, regardless of the 40 years old/5 years from discovery limits, for three years from January 1, 2020, regardless of the victim's current age or date of discovery;
- Provides treble damages against anyone who covered up a childhood sexual assault, defined as "a concerted effort to hide evidence relating to childhood sexual assault."
- Finally, the Government Code is amended to delete the requirement of filing a government claim for any claim encompassed within the Bill (the assailant or other party who is a legal cause), repealing prior law that limited this to assaults after 1/1/2009.

The extended statute of limitations creates significant additional exposure to CJPRMA – exposure that the pool has not prepared for.

The CJPRMA Memorandum of Coverage for Program Year 2019/20 defines an "occurrence" to mean:

> *"(a) with respect to bodily injury or property damage: an accident, <u>including continuous or repeated exposure to substantially the same generally harmful conditions</u>, which results in bodily injury or property damage neither expected nor intended from the standpoint of the covered party. Property damage that is loss of use of tangible property that is not physically injured shall be deemed to occur at the time of the occurrence that caused it."*

Staff recommended approval of a Board resolution to affirm the manner in which "occurrence" will be interpreted for all coverage years. This is important because we are unable to change coverage language for previous program years. However we are able to memorialize that the Board's intent is, and always has been, that the "Occurrence" of negligent hiring/retention of the assailant is considered a single Occurrence, thus triggering only one Retained Limit and one Limit of Coverage, even if there are multiple victims and/or multiple events involved over a period of time. The proposed resolution was provided.

The Executive Committee reviewed and approved the resolution language at its June 18, 2020 meeting with a recommendation that the Board of Directors approve the resolution.

- A motion was made by Director Carroll and seconded by Director Northam to adopt a resolution on the interpretation of occurrence for sexual abuse and molestation claims. A roll call vote was taken: Hung, Cannon, Carmona, Schwarz, Hamilton, Jensen, Sodergren, Ehrenstrom, Leahy, Baldwin, Northam, Greer, Rawe, Perini, Nag, Blanquie, Carroll, Kiyomura, Moon, Meggers-Smith and Kelley approved the motion. Motion passed.

16. Recommend Approval of a Board Policy on the Treatment of Flat Fee Costs for Third Party Administrators (A)

The CJPRMA Memorandum of Coverage (MOC) defines ultimate net loss to include defense costs, and defense costs are defined to include *"adjusting expenses of a third party claims administrator which are specifically identifiable with a claim subject to this coverage."*

Many CJPRMA members use third-party administrators (TPAs) to investigate and adjust their liability claims. When the contracts are on a time and expense basis, it is easy for the TPA and the member to track the adjusting expenses associated with a specific claim. However, when a contract is on a flat fee basis, it is more difficult to know how much money was spent adjusting the claim.

In 2018, a TPA working for a CJPRMA member approached CJPRMA with a recommendation to informally address the issue of flat fee contracts. For members with flat fee contracts, the TPA would track the hours spent on a specific claim, and CJPRMA would allow an agreed upon hourly rate be used to determine the cost of the adjusting expenses. The general manager at the time agreed to this informally. Board Counsel has recommended that this practice be formalized via Board policy.

A draft policy proposed to use $100 per hour as the agreed upon hourly rate.

The Executive Committee reviewed this policy at its June 18, 2020 meeting and approved it to move forward to the Board of Directors with its recommendation for approval.

- A motion was made by Director Hung and seconded by Director Cannon to approve the Board policy on the treatment of flat fee costs for third party administrators. A roll call vote was taken: Directors Hung, Cannon, Carmona, Hamilton, Jensen, Sodergren, Ehrenstrom, Baldwin, Northam, Rawe, Perini, Nag, Blanquie, Carroll, Kiyomura, Moon, and Kelley approved the motion. Fremont, Petaluma, Richmond, San Rafael and Vacaville were not present at the time of voting. Motion passed

17. Authorize General Manager to Conduct a Request for Proposal (RFP) for Broker Services (A)

CJPRMA last conducted an RFP for broker services in 2010. At that time, Aon Risk Services was selected to be the broker of record for all coverage programs. Starting with the 2016/17 program year, CJPRMA began using Alliant Insurance Services for property and ancillary coverages. Alliant was selected without conducting an RFP.

In order to ensure that CJPRMA is getting best value in terms of service and price, the general manager recommended conducting a RFP for broker services. Responding brokers would be required to provide proposals for the excess liability program, the property program or both. CJPRMA will reserve the right to select a separate broker of record for liability and property or select a single broker for both, based on the proposals that are submitted. Proposers will also be asked to provide proposals for additional coverages such as auto physical damage, cyber liability, pollution liability, boiler and machinery and deadly weapon (active shooter).

If approved, the general manager proposes the following schedule:

- Issue RFP by 8/30/2020
- Proposal due by 9/30/2020
- Review proposals by 10/31/2020
- Conduct interviews and select broker(s) by 11/30/2020
- Approve broker(s) at 12/10/2020 Board of Directors meeting
- Broker service agreements to be effective 7/1/2021

The general manager asked the Board President to appoint an ad hoc committee of Directors to help review the proposals and interview the final candidates.

- A motion was made by Director Cannon and seconded by Director Carmona to authorize the general manger to issue a request for proposal for broker services. A roll call vote was taken: Directors Hung, Cannon, Carmona, Hamilton, Jensen, Sodergren, Ehrenstrom, Leahy, Baldwin, Northam, Rawe, Perini, Nag, Blanquie, Carroll, Kiyomura, Moon, and Kelley approved the motion. Fremont, Richmond, San Rafael and Vacaville were not present at the time of voting. Motion passed.

18. Approval of Salary Schedule for Fiscal Year 2020-21 (A)

Staff had been advised by CalPERS that pursuant to California Code of Regulation (C.C.R.) 570.5 a formal salary schedule must be adopted and made available for public inspection for not less than five years.

The Board of Directors adopted a policy in 2004 whereby staff, excluding the general manager, would be entitled to a cost of living adjustment once every two years. The 2020/21 salary schedule requires an adjustment based upon the Urban Wage Earners and Clerical Workers cost of living report dated June 2020. The report was provided and stated that the CPI adjustment for the period was 1.6%. The 2020/21 salary schedule was provided and reflected a 1.6% increase for top step and bottom step of each salary range.

The salary range for the general manager is adjusted based on Board of Directors adoption of a formal salary survey, and would not be adjusted at this time.

Staff recommends the Board of Directors adopt the salary schedule for 2020/21 which includes the 1.6% cost of living adjustment for staff.

- A motion was made by Director Cannon and seconded by Director Hung to approve the salary schedule for fiscal year 2020-2021. A roll call vote was taken: Directors Hung, Cannon, Carmona, Hamilton, Jensen, Sodergren, Ehrenstrom, Leahy, Baldwin, Northam, Rawe, Perini, Nag, Blanquie, Carroll, Kiyomura, Moon, and Kelley approved the motion.

Fremont, Richmond, San Rafael and Vacaville were not present at the time of voting. Motion passed.

19. Discussion of CJPRMA Net Position and Proposals for Improvement (I)

CJPRMA's finance policy on Minimum Standard for Net Equity states that the minimum level of net equity maintained by CJPRMA will be $22.5 million. According to the most recent Consolidated Annual Financial Report (CAFR), as of June 30, 2019, the CJPRMA liability program net equity was $3,648,342. The net equity as of May 31, 2020 is $6,688,949. Net equity is the pool's assets minus its liabilities. Net equity is also referred to as "net position," "member equity" or "surplus." Net equity is one measurement of the financial strength of a pool.

As of June 30, 2009, CJPRMA had net equity of $47,101,438. As the recession started after the 2008 financial crisis, the Board of Directors took two actions to help reduce the cost of premiums. One was to implement a ten-year rolling average for the pool's actuarial study, and one was to use investment income to reduce premium. Also, during this period, the pool was paying redistributions to the members. From program year 2008/09 to program year 2017/18, $38.5 million was used to fund premiums. From program year 2008/09 to program year 2016/17, $35.7 million was returned to members as redistributions of equity.

Starting in program year 2015/16, the amount the pool paid out in claims began to increase significantly. The pool paid $9.5 million in claims in 2015/16, $13.2 million in 2016/17, $20.1 million in 2017/18 and $22.3 million in 2018/19. Prior to 2015/16, the pool had never paid out more than $9 million in claims in a single program year. Several factors, including social inflation and a change in the public's perception of law enforcement have put upward pressure on judgment and settlement values throughout the industry contributed to the reduction of net equity. Since program year 2017/18, the pool has not paid any redistributions to members. Since program year 2018/19, investment income has not been used to reduce the cost of premiums. These steps, while important, have not been sufficient to address the increasing cost of claims.

To comply with Board policy and to preserve the financial health of CJPRMA, the Board of Directors will need to take actions to collect adequate premium and improve the pool's net position. Failure to act poses an existential threat to CJPRMA. Assessments could be required, and the pool could lose members if this is not addressed.

Action is needed to bring the net equity into compliance with policy and also to establish ongoing funding that ensures the continued financial viability of the pool. There are several approaches that the Board can implement to accomplish these goals, and it might make sense to implement more than one at a time.

Since program year 2008/09, CJPRMA has used ten years of trended, developed losses to determine funding for the liability program ("10-year rolling average"). This has been used to smooth rate fluctuations in lieu of a conventional actuarial method. However, as funding requirements increase, this method is slow to react to a rapidly changing environment. One option for the Board to consider is a return using the conventional actuarial method to determine funding. This will help to ensure that the correct premium is being charged for the pool's outstanding losses.

CJPRMA currently funds the liability program at a 70% confidence level. This means that 70% of the time, the premium collected will be sufficient to pay for the outstanding losses. The Board should consider increasing the confidence level to 80%. This will increase the likelihood that the collected premium will be sufficient to pay for the pool's losses in any given year, helping build the net equity and planning for the future financial stability of the program.

Assumptions used by the actuary impact the amount of premium required. Currently, the actuary uses a 4% trend for payroll projection and a 2% trend for loss rate. If either of these are increased, CJPRMA will collect more premium. Also, funding is currently discounted to present value using a 2% discount rate (to account for investment growth). If the discount rate is reduced, more funding will be required as the projected value of investment income will be reduced.

Finally, the Board should consider a four-year plan to bring net equity to $22.5 million as required by Board policy. In addition to any other steps implemented to improve the continuing collection of premium, this would involve the collection of additional premium in each of four consecutive years in order to achieve a net position of $22.5 million. The simplest way to achieve this would be through a surcharge above the premium determined by the actuary.

In summary, the following options were discussed in this agenda bill:

- Use the conventional actuarial method rather than the 10-year rolling average.
- Fund the liability program at an 80% confidence level.
- Modify the percentage for payroll projection.
- Modify the percentage for loss projection.
- Modify the discount rate.
- Adopt of four-year program of additional contributions until net equity is at $22.5 million.

The general manager discussed with the Board of Directors the relative merits of each of the approaches in order to bring a proposal to the Board for approval at the December 2020 Board of Directors meeting.

- This was an information only item. No action was taken.

20. Discussion of Premium Allocation and Exposure Base (I)

Funding for the CJPRMA liability program is determined by an actuarial study. Once overall funding is determined, premium is allocated to individual members based on the total payroll of the members. Members pay a percentage of premium that is equal to their percentage of the overall payroll reported to CJPRMA.

In this situation, payroll is the “exposure base” that is used determine premiums. The exposure base represents a member’s exposure to loss. “Premium allocation” is the process by which premiums are appropriately allocated to each of the member of the pool. CJPRMA has always used payroll as the only means of allocating premium and has not considered other risk exposures or loss history.

Exposure Base

This is the way that CJPRMA has always done it, but it is not the only way to approach exposure or premium allocation. For an example, a pool comprised of schools could choose to use average daily attendance as its exposure base and a retail operation might use sales. For municipalities, there is wide variety of measures that could be used for exposure base. The following is a non-exhaustive list of possibilities:

- Does the agency have a police department?
- Number of police officers.
- Does the agency have a SWAT team?
- Does the agency have a fire department?
- Miles of sewer lines.
- Miles of sidewalks.
- Miles of road.
- Does the agency have a liability shifting ordinance for trees, sidewalks or both?
- Number of vehicles owned.
- Number of miles driven annually.
- Does the agency run daycare programs?

If CJRPMA were to make a change to its exposure base, it would need to evaluate which of the many available measures to use and how to apply them. The Board could also evaluate a hybrid approach that uses payroll and other exposure bases.

One reason for making a change to the exposure base would be to more accurately capture the loss risk that an individual member presents to the pool and charge premium based on that risk. Payroll has served as a proxy for this. In commercial insurance, the ISO standard underwriting still uses payroll as one of the most important premium bases for general liability. If an agency has more employees, it will have a higher payroll. Having more employees can be indicative of more roads, sewer, trees, etc. Also, if an agency has police, it would likely be reflected in a higher payroll. The advantages of using payroll as the exposure base is that data are easily obtainable and simple to understand.

Premium Allocation

In addition to using exposure base to allocate premium, loss history can also be used. The idea behind using loss history to allocate premium is to allocate more cost to those agencies that experience greater loss. For some, this creates a sense of fairness within a pool, and it is also hoped that experience modifiers provide incentives and disincentives to change member behavior and ultimately reduce the frequency and severity of losses.

A common method of using loss history to allocate premium is through the use of experience modification rates. When the required funding is determined by the actuary, the average loss history is also determined. Members at or near the average loss history pay the actuarially determined premium rate. Those with a better than average loss history pay a reduced rate based on a modifier, and those with a worse than average loss history pay an increased rate based on a modifier. The amount of total premium collected is unaffected by experience modification.

Another approach is to apply a premium surcharge to members who have losses greater than a defined percentage compared to the pool's average or that have a defined number of losses beyond a certain loss threshold. The pool PRISM uses a model that incorporates both frequency of high value losses (greater than $1 million) along with an evaluation of loss ratio and applies a surcharge based on the two factors. The table below is presented for illustration purposes and is not a proposed solution.

# Claims > $1M	**Loss Ratio**				
	0%-49%	**50%-74%**	**75%-99%**	**100%-249%**	**More than 250%**
0	0%	0%	0%	0%	0%
1	0%	0%	0%	0%	0%
2	2.5%	2.5%	5%	10%	15%
3	5%	7.5%	10%	15%	20%
4	10%	12.5%	15%	20%	25%
5+	15%	17.5%	20%	25%	30%

Currently, CJPRMA has a Board policy that requires annual review of members' loss history and provides for consequences when members exceed a specified loss ratio (currently 200%). This is how CJPRMA has elected to address fairness within the pool. This policy was first adopted in November 2017. From the establishment of the pool until 2017, the pool used payroll as its only measure for both exposure and premium allocation.

The general manager requested that the Board President appoint an ad hoc committee to research the matter and make recommendations to the Board at the December 2020 Board of Directors meeting.

- This was an information only item. No action was taken.

21. Succession Planning for the Finance Officer Position (I)

CJPRMA's finance officer has stated that she is likely to retire in September 2021. The finance officer is a mission-critical position for CJPRMA, and it is important for the pool to do all it can to recruit and hire a high-quality candidate to fill the position when the current finance officer retires.

When the previous general manager retired, the Board of Directors approved hiring an assistant general manager to allow for succession planning by having the general manager and assistant general manager spend some months working together. This facilitated a smooth transition from the previous general manager to the current general manager.

The general manager suggested following a similar model for the recruitment of a new finance officer. CJPRMA has an existing position of finance analyst that could be used as the classification for succession planning purposes. After discussion with the Executive Committee, the goal would be to have a finance analyst begin work by July 1, 2021 allow the finance officer and finance analyst to work together for three months.

- This was an information only item. No action was taken.

22. Risk Management Issues (I)

- There were no risk management issues reported for discussion.

23. Property Program Coverage for Losses due to Coronavirus (I)

The most likely losses that members of the CJPRMA Property Program are likely to suffer due to the coronavirus pandemic of 2020 are business interruption losses and tax revenue interruption losses due to governmental orders to close business at the state and county levels. It is unlikely that there is coverage for either since each of them have a coverage trigger of direct physical loss or damage.

There is, however, an endorsement for Communicable Disease Coverage that includes coverage for business interruption losses when facilities are ordered closed by an authorized government agency.

Alliant Insurance Services has decided to not provide any coverage opinions related to coronavirus and has left decisions on coverage to the insurance carriers. Insurance industry news has been filled with stories of insureds filing suit to get coverage for business interruption and carriers filing suit to prevent coverage. It will likely be years until all litigation around this coverage has been resolved.

All of the property program participants have indicated that they plan to make claims related to business interruption, tax revenue interruption or both, based in both the standard coverage agreement and the communicable disease endorsement. The general manager is working with McLarens on how best to file and document these claims. The general manager will provide additional information to the property program participants at a later date.

This item was presented for the Board of Directors to have a better understanding of the coverage and discuss possible approaches by CJPRMA. Board Counsel, Byrne Conley provided an analysis of the coverage under the CJPRMA property program.

- This was an information only item. No action was taken.

IX. CLOSED SESSION

- None

X. ACTION ON CLOSED SESSION ITEMS

- None

XI. ADJOURNMENT

- President Rawe adjourned the meeting at 2:00 P.M.