

EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)

**MINUTES OF THE BOARD OF DIRECTORS
MEETING OF FEBRUARY 8, 2019**

A regular meeting of the Board of Directors of ERMA was held on February 8, 2019, at Wine & Roses in Lodi, CA.

BOARD MEMBERS PRESENT: Scott Ellerbrock, President, PERMA
John Gillison, Vice President, PARSAC
Truc Dever, Treasurer, VCJPA
Stuart Schillinger, BCJPIA
Robert Thompson, CalTIP
Sean Scully, CSJVRMA
Charlene Calica, CCCHA
Brett Miller, MBASIA
Linda Cox, MPA
Artesia Dupree, OHA
John Duckett, SCORE

BOARD MEMBERS ABSENT: Don White, ERMAC

ALTERNATE MEMBERS PRESENT: Todd Cusimano, BCJPIA
Nataline Jindoian, CCCHA
Shannon Esenwein, CSJVRMA
Kin Ong, PARSAC
Jamie Scott, VCJPA

ALTERNATE MEMBERS ABSENT: George Fink, CalTIP
Jamie Goldstein, MBASIA
Tracy Robinson, MPA
Drew Felder, OHA
Kerry Trost, PERMA
Roger Carroll, SCORE

OTHERS PRESENT: Jennifer Jobe, Executive Director
Nancy Broadhurst, Finance Manager
Kathy Maylin, Litigation Manager
Greg O'Dea, General Counsel
Jaesa McCulligan, BCJPIA
Jeanette Workman, CSJVRMA
Chrissy Mack, CalTIP/VCJPA
Marcus Beverly, ERMAC/SCORE
Lesley Murphy, Public Financial Management, Inc.
Michael Christian, Jackson Lewis
Seth Cole, Alliant Insurance Services
Jeff Johnston, York
Yahaira Martinez, York

1. CALL TO ORDER

The February 8, 2019, Board of Directors meeting was called to order at 9:02 a.m., by President Scott Ellerbrock.

2. INTRODUCTIONS

All of the members were present constituting a quorum.

3. APPROVAL OF AGENDA AS POSTED (OR AMENDED)

John Gillison moved to approve the Agenda as posted. Seconded by John Duckett. The motion passed unanimously.

4. PUBLIC COMMENTS

None

5. CONSENT CALENDAR

Linda Cox moved to approve the Consent Calendar as follows: A) Minutes of December 12, 2018, Special Meeting of the Board of Directors; B) General Warrants from October 1, 2018, through December 31, 2018; C) Claims Payments from October 1, 2018, through December 31, 2018; D) Petty Cash Statement from October 1, 2018, through December 31, 2018; E) Treasurer's Reports as of September 30, 2018, and December 31, 2018; F) Financial Statement for the Quarter Ended December 31, 2018; and G) Notice of Intent to Withdraw – City of West Hollywood. Seconded by John Gillison. The motion passed unanimously.

6. GOALS AND OBJECTIVES

A. Review and Approval of ERMA Goals and Objectives Established at the 2019 Annual Workshop

Ms. Jennifer Jobe, Executive Director, directed the Board's attention to the list of Goals and Objectives determined by the Board at the February 7th Workshop. The three listed goals and objectives identified as priorities for the 2019/20 Program Year are as follows:

- 1) Ad Hoc Training Committee to focus upon tasks as identified by the Board relative to:
 - Management, distribution and addition of Capital Contribution Fund monies.
 - Development of guidelines to identify and aid member agencies with personnel policy updates and human resources training.
 - Development and implementation of an ERMA Management Academy.
- 2) Complete proposed revisions and amendments to ERMA governing documents.
- 3) Identify eDiscovery vendor options.

Linda Cox moved to approve the 2019 Goals and Objectives as presented; seconded by Brett Miller. The motion passed unanimously.

7. LITIGATION MANAGEMENT

A. Report from Kathy Maylin, Litigation Manager

Ms. Kathy Maylin, Litigation Manager, provided an update regarding litigation management matters. Ms. Maylin stated of particular note are concerning new trends in which plaintiffs are less amenable to mediation; and when they do accept, unreasonable, unrealistic demands are often brought forth.

Ms. Maylin stated ERMA's most effective tool in decreasing claims are the live trainings presented by ERMA's partner attorney firms, Jackson Lewis and Liebert Cassidy Whitmore. Ms. Maylin encouraged the Board to ensure their underlying members' managers are receiving proper training and support. Additionally, she advised documentation is important as more claims are arising out of lack of documentation when probationary or temporary employees are released from employment. She stated lax documentation is an antiquated practice as just because an employee is temporary or probationary, does not mean the reasons for letting that person go should not be properly documented.

8. CLAIMS MATTERS

A. Closed Session – Pursuant to Government Code Section 54956(a), the Board of Directors recessed to closed session at 9:18 a.m. to discuss the following claims:

- Aldaoud, et al. v. Adelanto
- Alvarez v. Delano
- Johnson v. Kingsburg
- Escobar v. Parlier
- Ornellas v. Piedmont
- Myers v. Pleasanton

B. Report from Closed Session

The Board reconvened to open session at 10:03 a.m., and no reportable action was taken.

9. MEMBERSHIP MATTERS

A. City of Adelanto Performance Improvement Plan

Ms. Jobe advised as of June 30, 2017, staff determined via target ratio calculations, the City of Adelanto (PERMA) significantly exceeded the maximums allowed for the three parameters tracked by ERMA: claim severity, claim frequency and loss ratio. As a result, the Board directed Ms. Maylin to conduct a risk assessment in December 2017. The Board discussed the City's continued participation at its November 2018 meeting and unanimously voted to terminate the City's participation, effective July 1, 2019. ERMA later received a notice from the City appealing the Board's decision to terminate coverage.

In response to the appeal, staff presented a Performance Improvement Plan (Plan) developed by staff for the City's consideration, which outlined requirements that must be met by the City in

order for the Board to consider rescission of the notice of termination. City representatives including Tom Madruga and Victor Pronto, City Attorneys; Jessie Flores, City Manager; Geriann Kingslan, Human Resources; Teri Nelson, Risk Manager, and Brenda Lopez, City Clerk, met via teleconference on January 22, 2019, with Ms. Jobe and Ms. Maylin to review and discuss the Plan. The Plan was accepted by Adelanto's City Council at a regularly scheduled meeting on January 23, 2019.

Ms. Jobe advised staff will provide an update at the April Board meeting regarding the status of the Plan.

John Gillison moved to accept the Performance Improvement Plan as presented and directed staff to proceed with the terms as outlined in the Agreement. Seconded by Truc Dever. The motion passed unanimously.

B. Review of Prospective New Member Application – Town of Fort Jones (SCORE)

Ms. Jobe reported the Underwriting Committee met on January 14, 2019, and reviewed the Town of Fort Jones' application for membership in ERMA as an underlying member of SCORE. She reviewed the Town's application stating the Town reports two full-time and five part-time employees, has incurred no EPL-related claims within the previous seven fiscal years and issued a letter attesting to "No Known Losses". Ms. Jobe also noted the information provided in the application indicates the Town has written personnel policies in place; however, it has been many years since a thorough review was conducted. The Town has a small fire department comprised of two part-time employees and 20 volunteers and utilizes the services of a contracted City Attorney.

She advised the Underwriting Committee and staff recommended approval of the Town's participation in ERMA at a \$25,000 self-insured retention (SIR), as requested by the Town, effective January 1, 2019, with the express condition the Town update its personnel policies and procedures and provide evidence of such by January 1, 2020.

Truc Dever moved to approve the Town of Fort Jones as an underlying member of SCORE at a \$25,000 SIR, effective January 1, 2019, with the express condition the Town update its personnel policies and procedures and provide evidence of such by January 1, 2020. Seconded by Linda Cox. The motion passed unanimously.

10. ADMINISTRATIVE MATTERS

A. Resolution 2018-1 of the Board of Directors of the Employment Risk Management Authority Establishing a Litigation Management Program

Ms. Jobe reported ERMA's Resolution 2014-3, Establishing a Litigation Management Program (LMP), has not been reviewed or revised since 2015, and staff determined the guidelines contained within the LMP, though generally sufficient, should be updated. The proposed updated LMP will more clearly inform panel counsel of 1) ERMA requirements and 2) information required by the Litigation Manager in order to more effectively manage claims.

Ms. Maylin reviewed the proposed changes to the LMP with the Board noting much of the language contained within the LMP is now directly relatable to public entity processes in the management of claims rather than private sector processes and language that does not apply to public entities.

Artesia Dupree moved to approve Resolution 2018-1, incorporating changes/updates to Resolution 2014-3, Resolution of the Board of Directors of the Employment Risk Management Authority Establishing a Litigation Management Program. Seconded by Brett Miller. The motion passed unanimously.

11. TRAINING/LOSS PREVENTION MATTERS

A. Training for the 2018/19 Program Year

Ms. Jobe reported on an annual basis, ERMA conducts 47 live, regional and individual trainings throughout the State. Of the 47 allocated trainings, 25 are conducted by York under the pool administration contract and 22 are conducted by ERMA's attorney partner firms, Jackson Lewis and Liebert Cassidy Whitmore, or another approved vendor.

To date, 40 of the 47 budgeted trainings have taken place or are scheduled. With the implementation of SB 1343 on January 1, 2019, staff has received numerous requests for additional trainings from member agencies seeking to comply with the expanded sexual harassment training requirements. Ms. Jobe advised it is anticipated that due to the expanded training requirements, ERMA will exceed the allocated number of trainings established for the 2018/19 program year. Therefore, staff recommended adding an additional 20 trainings. It was requested an update be provided to the Board in April so they may determine whether additional trainings are required.

Ms. Jobe stated in2vate will have a one-hour online training available by the end of the first quarter of 2019 that meets the expanded training requirements, and will provide the Board with an update at the April meeting.

John Gillison moved to approve the addition of 20 ERMA trainings to the 2018/19 program year. Seconded by Truc Dever. The motion passed unanimously.

12. COVERAGE MATTERS

A. Proposed Revisions to the Memorandum of Coverage for the 2018/19 Program Year, Effective January 1, 2019

In response to the #MeToo movement, a number of bills intended to protect employees from workplace harassment and retaliation under the Fair Employment Housing Act (FEHA) took effect on January 1, 2019. At staff's request, Mr. Greg O'Dea, Board Counsel, reviewed and provided recommended changes to the Memorandum of Coverage (MOC) for the 2018/19 program year, effective January 1, 2019.

In addition to the amendments proposed by Mr. O'Dea, additional amendments were made to Endorsement #1 to reflect new members as covered parties effective January 1, 2019: Central

Marin Fire Authority (BCJPIA) - \$250,000 SIR; the City of Santa Maria (ERMAC) - \$500,000 SIR; and the Town of Fort Jones (SCORE) - \$25,000 SIR.

The Coverage Committee met on January 14, 2019, to review the proposed revisions and recommended the Board approve the MOC for the 2018/19 program year, effective January 1, 2019, as presented.

Linda Cox moved to approve the all revisions to the Memorandum of Coverage for the 2018/19 Program Year, effective January 1, 2019, as presented. Seconded by John Duckett. The motion passed unanimously.

B. Excess Coverage and Marketing Strategy for 2018/19

Mr. Seth Cole, Alliant, reported following eight consecutive years with RSUI, in 2018, the Board directed Alliant to work with staff to ensure current pricing and coverage were in line with the market for the 2018/19 Program Year excess coverage renewal.

As a result of marketing efforts the prior year, the 2018/19 Program Year Each Claim Per Member limit increased from \$1 million to \$2 million, the Per Member Aggregate Limit increased from \$2 million to \$4 million, and the Policy Aggregate Limit remained at \$10 million. He advised RSUI is committed to a long-term partnership with ERMA, and barring any significant change in market conditions, a meaningful price increase at renewal is not expected. Mr. Cole recommended ERMA renew coverage with RSUI for the 2019/20 program year, and stated as ERMA continues to grow its membership, ERMA should continue to explore increased limits and possibly the program aggregate.

C. City of Barstow (Trujillo) Appeal of Denial of Coverage

Ms. Maylin reported the City of Barstow untimely reported an Equal Employment Opportunity Commission (EEOC) claim dated October 15, 2018, and in accordance with ERMA's MOC, the claim was subsequently denied. She reviewed the MOC guidelines for accepting claims and the late reporting clause.

The relief sought by the City in regard to the Trujillo v. Barstow claim is based on the fact that due to an unexpected staffing change in the position of Administrative Services Manager, the new individual in the position was not aware of the claim or ERMA's reporting requirements; and the City attempted to mediate the matter to fully resolve it at no cost to the City. However, following an unsuccessful mediation, the City was advised by the Department of Fair Employment and Housing (DFEH) it had until January 7, 2019, to file a Position Statement.

Following some discussion, the Board approved the City's appeal with a 25% increase to its SIR for the claim, per the penalty structure outlined in the MOC. The City's SIR is \$25,000 and was increased to \$31,250 for this claim.

John Gillison moved to grant the City of Barstow's appeal with a 25% increase to its SIR from \$25,000 to \$31,250. Seconded by Rob Thompson. The motion passed unanimously.

13. FINANCIAL MATTERS

A. Investment Performance Review Presented by PFM Asset Management LLC

Ms. Lesley Murphy, Senior Managing Consultant, Public Financial Management, Inc. (PFM) was in attendance to provide an update on ERMA's investment portfolio activity. Ms. Murphy discussed market conditions as of the quarter ended December 31, 2018.

Ms. Murphy provided an overview of ERMA's portfolio and stated for the past several quarters, PFM has positioned the portfolio with duration less than that of the benchmark. This benefited the portfolio for most of 2018 as the Fed raised rates and yields. However, in the fourth quarter, sudden shifts in market sentiment resulted in a sharp decrease in yields, leading to increases in market valuations of portfolio holdings and strong, positive total return. Ms. Murphy also stated the portfolio's conservatively short duration positioning, relative to the benchmark, somewhat hampered the performance of the portfolio compared to that of its benchmark.

Ms. Murphy further advised given the volatility in the credit markets recently, PFM's strategy over the past several months was to actively reduce exposure to most credit sectors by increasing the portfolio's allocation to U.S. Treasuries which helped cushion relative underperformance versus the benchmark in the quarter.

In closing, Ms. Murphy noted ERMA's portfolio is in compliance with both California Government Code and ERMA's Investment Policy.

B. Annual Review and Approval of Investment Policy

Ms. Murphy advised she had reviewed ERMA's Investment Policy and stated it is in compliance with the California Government Code that mandates the investment of public funds. Ms. Murphy advised AB 1770 revises California Government Code, effective January 1, 2019, to clarify requirements for the purchase of asset-backed securities (ABS) or mortgage-backed securities (MBS) in two respects: 1) the maturity language was clarified to reflect how many investors already interpret this section that they may purchase securities with a maximum remaining maturity of five years or less; and 2) the bill eliminates the requirement that the issuer of these securities be rated "A" or better, as provided by NRSRO. The code still requires the specific security be rated "AA" or better as provided by NRSRO.

Ms. Murphy recommended ERMA revise the language in its Policy to mirror these changes made to the language used in Code, and noted this clarification to the language used in Code and ERMA's Policy does not necessitate a change to the investment procedures already in place for the management of the portfolio.

It was noted staff and ERMA's Treasurer, Ms. Truc Dever, have both reviewed the proposed amendments to the Policy and are in agreement with the suggested changes.

Truc Dever moved to approve the Investment Policy as revised; seconded by Brett Miller. The motion passed unanimously.

C. Review of Target Equity Ratios

President Ellerbrock advised that Ms. Broadhurst provided an in-depth presentation of the Target Equity Ratios to the Board at the 19th Annual Workshop.

Linda Cox moved to approve the Target Equity Benchmarking Ratio calculation as of June 30, 2018; seconded by John Gillison. The motion passed unanimously.

14. CLOSING COMMENTS

A. Board

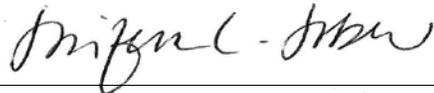
None

B. Staff

None

15. ADJOURNMENT

The February 8, 2019, ERMA Board of Directors meeting adjourned at 11:10 a.m. by general consent.



Jennifer Jobe, Executive Director