

# **EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)**

## **MINUTES OF THE BOARD OF DIRECTORS MEETING OF JUNE 11, 2019**

A regular meeting of the Board of Directors of ERMA was held on June 11, 2019, at the PARSAC office in Sacramento, 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  
Brett Miller, MBASIA  
John Duckett, SCORE  
Charlene Calica, CCCHA  
Artesia Dupree, OHA

**BOARD MEMBERS ABSENT:** Don White, ERMAC  
Linda Cox, MPA

**ALTERNATE MEMBERS PRESENT:** Kin Ong, PARSAC

**ALTERNATE MEMBERS ABSENT:** Kerry Trost, PERMA  
Jamie Scott, VCJPA  
Todd Cusimano, BCJPIA  
George Fink, CalTIP  
Deneen Proctor, CSJVRMA  
Jamie Goldstein, MBASIA  
Tracy Robinson, MPA  
Drew Felder, OHA  
Roger Carroll, SCORE  
Nataline Jindoian, CCCHA

**OTHERS PRESENT:** Jennifer Jobe, Executive Director  
Nancy Broadhurst, Finance Manager  
Kathy Maylin, Litigation Manager  
Mona Nicolae, Litigation Analyst  
Greg O'Dea, General Counsel  
Mike Christian, Jackson Lewis  
Suzanne Solomon, Liebert Cassidy Whitmore  
Jaesa McCulligan, BCJPIA  
Chrissy Mack, CalTIP/VCJPA  
Jeanette Workman, CSJVRMA  
Mike Simmons, Alliant Insurance Services  
Tim Farley, Farley Consulting Services  
Alana Theiss, York

Katie Achterberg, York  
Katie O'Brien, York  
Jeff Johnston, York

1. CALL TO ORDER

The June 11, 2019, Board of Directors meeting was called to order at 10:00 a.m., by President Scott Ellerbrock.

2. INTRODUCTIONS

A majority of the members were present constituting a quorum.

3. STAFFING UPDATE

Jennifer Jobe, Executive Director, advised a new Analyst & Training Coordinator, Mona Hedin, will be joining ERMA staff, effective Monday, June 17, 2019. Ms. Jobe also stated Nancy Broadhurst will be retiring June 15, 2019, and Alana Theiss will replace

Ms. Broadhurst as ERMA's Finance Manager, effective immediately.

4. APPROVAL OF AGENDA AS POSTED (OR AMENDED)

**John Gillison moved to approve the agenda as posted; seconded by Brett Miller. The motion passed unanimously.**

5. PUBLIC COMMENTS

None.

6. CONSENT CALENDAR

**Truc Dever moved to approve the following items A) Minutes of April 30, 2019 Board of Directors Meeting and Summary of Actions; B) General Warrants from April 16, 2019, through May 31, 2019; C) Claims Payments from April 16, 2019, through May 31, 2019; D) Petty Cash Statements from April 16, 2019, through May 31, 2019; E) Treasurer's Report as of March 31, 2019; F) Internal Financial Statements as of March 31, 2019; G) AGRiP Governance & Leadership Conference Report; H) Memorandum of Coverage for the 2019/20 Program Year; seconded by Brett Miller. The motion passed unanimously.**

7. CLAIMS MATTERS

A. Closed Session Pursuant to Government Code Section 54956.95(a) to Discuss Claims

Pursuant to Government Code Section 54956.95(a), the Board recessed to closed session at 10:03 a.m. to discuss the following claims:

- Aldoud v. City of Adelanto
- Tisdale v. City of Adelanto
- Newman v. City Of Rialto

B. Report from Closed Session

The Board reconvened to open session at 10:11 a.m. The Board met to discuss the claims listed above.

8. ELECTION OF OFFICERS FOR THE 2019/20 and 2020/21 PROGRAM YEARS

Ms. Jobe advised the current terms for the President, Vice President and Treasurer will expire June 30, 2019. Ms. Jobe stated President Scott Ellerbrock has elected to step down and as such, a recommendation for the succeeding slate of Officers was presented to include the following:

John Gillison, President; Truc Dever, Vice President; and Stuart Schillinger, Treasurer.

**Sean Scully moved to elect John Gillison as President, Truc Dever as Vice President and Stuart Schillinger as Treasurer for a two-year term, effective July 1, 2019; seconded by John Duckett. The motion passed unanimously.**

9. ADMINISTRATIVE MATTERS

A. 2019/20 Goals and Objectives Update

Ms. Jobe provided an update regarding the goals and objectives established by the Board at the February workshop.

1. Ad Hoc Training Committee to focus upon tasks 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.

Ms. Jobe advised the ad hoc committee met with staff on May 23, 2019, and will provide an update under a later agenda item.

2. Complete proposed revisions and amendments to ERMA governing

documents.

Ms. Jobe advised a comprehensive review and analysis was completed of the Memorandum of Coverage (MOC), Master Program Document and various resolutions at the February Board meeting. These documents were included on the Consent Calendar and therefore approved with the agenda item.

3. Identify eDiscovery vendor options

Ms. Jobe confirmed this goal is in progress. Staff will research vendor options and provide a report at the November meeting.

B. Claims Audit Prepared by Tim Farley

Tim Farley, Farley Consulting, provided a summary of the Claims Audit report. Mr. Farley conducted an audit employment liability claims incurred by ERMA members. Mr. Farley reported minor deficiencies with diary maintenance and status updates on some claims. Overall, the report shows claims are in excellent condition. Despite significant recent staffing changes, Mr. Farley believes the claims are properly staffed.

Mr. Farley reviewed his background and methodology for the claims selection. The audit was conducted at the York Risk Services office in Sacramento, California on April 9-10, 2019. Mona Nicolae, Litigation Analyst and Kathy Maylin, Litigation Manager, served as Mr. Farley's contacts and provided additional communication on April 12, 2019, and April 15, 2019.

Mr. Farley explained ERMA has a unique process for case reserves which he believes to be appropriate. The separate reserve category, termed Self-Insured Retention (SIR), tracks deterioration of claims and allows Mr. Farley to see how claims are affecting ERMA's layer. No inaccurate reserves were discovered in the audit.

Mr. Farley utilized Resolution No. 2017-8, Establishing Criteria for the Approval of Investigators, during the claims investigations. He reiterated the program's unique qualities and deemed it appropriate that both investigators are attorneys. The audit of the forty claims found no claims investigation deficiencies.

Mr. Farley utilized Resolution No. 2018-1, Establishing a Litigation Management Program, to assist in evaluating litigation management performance. Mr. Farley noted every claim involved litigation, which he deemed appropriate for the program. He noted of the forty claims, four were deficient in showing status updates from defense counsel.

Ms. Maylin responded to the deficiencies found in the audit.

Ms. Maylin agreed that three of the four open claims lacked timely status reports from defense counsel. Ms. Maylin advised procedures have been implemented to ensure

compliance from defense counsel with regard to timely status reports.

Ms. Maylin also commented on inappropriate diary notation. The claim in question was pending defense counsel's response, requiring them to wait to close the claim due to billing needs.

Mr. Ellerbrock stated the deficiencies were minor and believed the audit results were very good.

**Truc Dever moved to accept and file the Employment Practices Liability Claims Audit Report; seconded by Artesia Dupree. The motion passed unanimously.**

C. Request for Proposal for Board and Coverage Counsel Services

Ms. Jobe stated ERMA has engaged the services of Greg O'Dea, Longyear, O'Dea & Lavra, LLP, for Board and Coverage Counsel since September 2013. As a matter of due diligence, staff recommended the Board of Directors review and determine the need for ERMA to issue a Request for Proposal (RFP) for such services. An outline of the RFP process and timeline and list of suggested recipients was provided to the Board for review and consideration.

Discussion ensued regarding pursuit of an RFP. A determination was made to issue an RFP that clearly outlines ERMA's expectations within the scope. An ad hoc committee, comprised of John Gillison, Truc Dever, Stuart Schillinger, and Scott Ellerbrock was established to work with staff to manage the RFP process.

**John Duckett moved to issue a Request for Proposal for Board Coverage and Counsel Services; seconded by Artesia Dupree. The motion passed unanimously.**

10. COVERAGE MATTERS

A. Discussion and Action Regarding Excess Coverage for the 2019/20 Program Year

Mike Simmons, Alliant, presented a renewal proposal for ERMA's optional Excess Employment Practices Liability program, effective July 1, 2019. Mr. Simmons noted as a result of the positive, long-standing relationship with the excess carrier, RSUI, the renewal was presented under the same terms and limits as expiring.

**Artesia Dupree moved to authorize binding excess coverage with RSUI for the 2019/20 Program Year with the same terms and limits as expiring; seconded by Brett Miller. The motion passed unanimously.**

B. Update Regarding the City of Adelanto's (PERMA) Termination of Participation as a Member of ERMA

Mr. Ellerbrock confirmed the City of Adelanto will terminate participation in PERMA,

effective June 30, 2019. As the City will terminate its participation in PERMA, they will cease as members of ERMA.

C. Request from the Central Marin Fire Authority (BCJPIA) to Reduce Self-Insured Retention

Ms. Jobe advised the Central Marin Fire Authority (CMFA), a member since January 1, 2019, has requested an SIR reduction from \$250,000 to \$100,000, effective July 1, 2019. She stated in November 2018, CMFA provided a letter attesting to “No Known Losses” and have not reported any losses since joining ERMA.

**John Gillison moved to approve the request from the Central Marin Fire Authority to reduce their self-insured retention from \$250,000 to \$100,000, effective July 1, 2019; seconded by Truc Dever. The motion passed unanimously.**

11. FINANCIAL MATTERS

A. Proposed Administrative and Operating Budget for the 2019/20 Program Year

Nancy Broadhurst, Finance Manager, reviewed the Proposed 2019/20 Budget featuring funding at the 80% confidence level (CL), the same CL used in the 2018/19 Approved Budget. Ms. Broadhurst advised the 2019/20 Budget represents an overall increase of 8.6%, or \$615,221 over the 2018/19 Approved Budget. She noted two primary drivers to the overall increase; 6.2% increase in payroll and 5.4% increase in the funding rate. There is a 40.2% increase in the Loss Prevention and Training portion due to 20 new trainings recently approved.

Ms. Broadhurst reviewed various administration line items, which resulted in a 1.3% increase in the Administration portion of the budget.

**Brett Miller moved to approve the 2019/20 Proposed Operating Budget at the 80% Confidence Level; seconded by Artesia Dupree. The motion passed unanimously.**

B. Review of Annual Retrospective Adjustment Calculation

Ms. Broadhurst reviewed the financial position of ERMA and confirmed the program is funded well above the 90% confidence level (CL) and further stated as of March 31, 2019, ERMA’s surplus is \$14,075,239 at the expected CL. Ms. Broadhurst noted based on the March 31, 2019, retained earnings balances, total equity at the 90% CL for all program years result in a surplus of \$8,642,769.

Ms. Broadhurst went on to discuss the Board’s ability to consider issuing dividends for the years 2011/2012 through 2013/2014 and provided a recommendation to the Board to approve a dividend release in the amount of \$3.0M.

**Artesia Dupree moved to approve a dividend release in the amount of \$3,000,000 and formally close Program Year 2011/12; seconded by Truc Dever. The motion passed unanimously.**

12. TRAINING/LOSS PREVENTION MATTERS

A. Risk Assessment Update – Oakland Housing Authority

Ms. Maylin stated as reported at the April Board meeting, the Oakland Housing Authority (Authority) exceeded parameters of ERMA's Target Ratio Calculations and recommends a risk assessment would be beneficial for the Authority.

Ms. Maylin reported the high frequency of claims were a result of dysfunction within a particular department. The manager is no longer at the department and all claims have been resolved.

The Authority has implemented the following steps to better manage their claims:

- Human Resources (HR) is a more utilized and accessible resource;
- Launched a Management University to assist with managing risk in individual agencies;
- Hired an HR Director to address complaints; and
- Updated EEO policies.

B. Ad Hoc Training Committee Update

Ms. Jobe stated the ad hoc committee met with staff at the end of May to outline objectives for the purpose of achieving ERMA's training goals and objectives identified by the Board of Directors.

The Committee developed the following objectives:

- Utilize the survey response data collected by *in2vate*. This data will assist in identifying common issues across the membership. Model policies will be developed to address common issues as well as a catalog of HR and employment related issues;
- Utilize existing resources to leverage training courses;
- Determine a methodology to allocate risk management funds; and
- Develop scope with legal partners for high level executive training.

13. CLOSING COMMENTS

A. Board of Directors

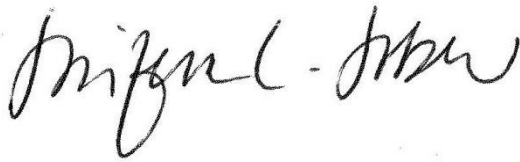
None

B. Staff

None

14. ADJOURNMENT

The June 11, 2019, ERMA Board of Directors meeting adjourned at 11:19 a.m. by general consent.

A handwritten signature in black ink, appearing to read "Jennifer Jobe", written in a cursive style.

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Jennifer Jobe, Executive Director