

**EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)**

**MINUTES OF THE BOARD OF DIRECTORS  
MEETING OF NOVEMBER 4, 2019**

A regular meeting of the Board of Directors of ERMA was held on November 4, 2019, at the PARSAC office in Sacramento, CA.

- BOARD MEMBERS PRESENT:** John Gillison, President, PARSAC  
Truc Dever, Vice President, GLACVD  
Stuart Schillinger, Treasurer, BCJPIA  
Scott Ellerbrock, PERMA  
Brett Miller, MBASIA  
John Duckett, SCORE  
Charlene Calica, CCCHA  
Artesia Dupree, OHA  
Don White, ERMAC  
Linda Cox, MPA  
Robert Thompson, CalTIP (*arrived at 10:03 am*)
- BOARD MEMBERS ABSENT:** Sean Scully, CSJVRMA
- ALTERNATE MEMBERS PRESENT:** Kin Ong, PARSAC  
Jamie Scott, GLACVD (*arrived at 10:09 am*)
- ALTERNATE MEMBERS ABSENT:** Kerry Trost, PERMA  
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  
Mona Hedin, Analyst & Training Coordinator  
Alana Theiss, Finance Manager  
Kathy Maylin, Litigation Manager  
Mona Nicolae, Litigation Analyst  
Doug Alliston, General Counsel  
Shane Larsen, Jackson Lewis  
Jaesa McCulligan, BCJPIA  
Chrissy Mack, CalTIP/VCJPA  
Connor Boughey, Alliant  
Seth Cole, Alliant  
Jeff Johnston, Sedgwick  
Bill Patterson, Sampson & Sampson (*left at 10:21 am*)  
Paul Keith, City of El Cerrito (*left at 11:33 am*)  
Karen Pinkos, City of El Cerrito (*left at 11:33 am*)

Alexandra Orologas, City of El Cerrito (*left at 11:33 am*)  
Kristen Cunningham, City of El Cerrito (*left at 11:33am*)

1. CALL TO ORDER

The November 4, 2019, Board of Directors meeting was called to order at 10:00 a.m., by President John Gillison.

2. INTRODUCTIONS

A majority of the members were present, constituting a quorum.

3. APPROVAL OF AGENDA AS POSTED (OR AMENDED)

**Truc Dever moved to approve the agenda as posted; seconded by John Duckett. The motion passed unanimously.**

4. PUBLIC COMMENTS

None.

5. CONSENT CALENDAR

**Truc Dever moved to approve the following items A) Minutes of May 17, 2019 Special Board of Directors Meeting and Summary of Actions; B) Minutes of June 11, 2019, Board of Directors Meeting and Summary of Action Items; C) General Warrants from June 1, 2019, through September 30, 2019; D) Claims Payments from June 1, 2019, through September 30, 2019; E) Petty Cash Statements from June 1, 2019, through September 30, 2019; F) Treasurer's Report as of June 30, 2019; G) PFM Quarter Ended June 30, 2019 Review of Investment Portfolio; H) Sedgwick Acquisition of York; I) Murphy, Campbell, Alliston & Quinn Legal Services Agreement; J) AGRiP Fall Forum Report; K) EPL Excess Invoice and Policy. Seconded by Don White. The motion passed unanimously.**

6. FINANCIAL MATTERS

A. Draft Audited Financial Statements for the Fiscal Year Ended June 30, 2019

Bill Patterson, Sampson, Sampson & Patterson, LLP, reviewed the draft audited financial statements for the Fiscal Year ended June 30, 2019. Mr. Patterson reviewed the audit parameters, and the program and financial highlights from the 2018/19 Program Year. He discussed the changes in revenues, expenses, assets, and liabilities, noting total revenues increased by \$1.3 million; expenses increased by \$724,000; assets increased by \$3.9 million and liabilities increased by \$4.6 million over the prior year.

Mr. Patterson then reviewed the Statement of Net Position, presented in comparison format for the current and prior year. He stated the total assets were \$29 million, which was an increase of \$3.9 million mainly due to increases in cash, cash equivalents and investments. Total liabilities were noted at \$17.2 million, which was an increase of \$4.6 million over the prior year. Mr. Patterson stated the increase was largely due to member dividends which had not been paid out until the month of July.

Mr. Patterson reviewed Operating Revenues which were \$7,197,032, an increase of \$278,000, stating this was a result of an increase in payroll, the addition of several new members and an increase in the fee for Pooling and Funding Rates. Operating Expenses were \$6,118,827, an increase of \$724,000, most of which related to claims paid and an increase in claims liabilities.

Mr. Patterson concluded his report, noting there were no deficiencies in ERMA's internal controls.

**Scott Ellerbrock moved to approve the Draft Audited Financial Statements for the Fiscal Year Ended June 30, 2019; seconded by Truc Dever. The motion passed unanimously.**

B. Financial Status Report for the Fiscal Year Ended June 30, 2019

Alana Theiss, Finance Manager, requested feedback from the Board to determine the level of detail with which she should discuss the Report. The Board determined the report presented by Mr. Patterson provided sufficient detail and stated they did not require an additional review.

**Scott Ellerbrock moved to approve the Internal Financial Statements for the Fiscal Year Ended June 30, 2019, and JPA Performance Report, as of June 30, 2019; seconded by Brett Miller. The motion passed unanimously.**

7. ADMINISTRATIVE MATTERS

A. Appointment of Mona Hedin as Board Secretary

Jennifer Jobe, Executive Director, stated that in order to aid in the execution of ERMA's administrative obligations and responsibilities, a member of staff is designated to serve as Board Secretary. She further noted that due to recent staffing changes, the Board Secretary position has been vacant since March 2018.

Ms. Jobe introduced Mona Hedin, stating she joined Bickmore in September 2013, and has served as ERMA's Analyst & Training Coordinator since June 2019. Ms. Jobe added that Ms. Hedin currently serves as the Board Secretary for another Sedgwick-administered JPA, the California Rural Water Risk Management Authority.

**Truc Dever moved to appoint Mona Hedin as ERMA’s Board Secretary; seconded by John Duckett. The motion passed unanimously.**

B. Draft Resolution No. 2019-3, Requiring Members to Provide Proof of Compliance with Training Mandated by State Law

Ms. Jobe advised the Board that Governor Gavin Newsom approved Senate Bill 778, an act amending Section 12950.1 of the Government Code, on August 30, 2019.

She provided the Board with an overview of SB 778, which requires employers with five or more employees to provide harassment prevention training and education to all employees by January 1, 2021, and thereafter once, every two years. The statute also requires non-supervisory employees to be provided training within six months of hire and new supervisory employees to be provided training within six months of assumption of their position. The statute further specifies that an employer who has provided training and education in 2019 is not required to provide it again until two years thereafter.

Discussion ensued regarding the inclusion of additional Resolution language to note compliance tracking of training by ERMA staff via a self-certification process, which will begin in January 2021.

Ms. Dever requested the proposed Resolution be amended to include “elected officials” in the two-hour training requirement for supervisory employees and that a copy of the revised Resolution be provided to the Board along with the draft minutes.

**Scott Ellerbrock moved to approve Draft Resolution No. 2019-3, Requiring Members to Provide Proof of Compliance with Training Mandated by State Law, as amended; seconded by Artesia Dupree. The motion passed unanimously.**

C. Review of the 20<sup>th</sup> Annual Workshop Agenda

Ms. Jobe reported the 20<sup>th</sup> Annual Workshop will be held February 6-7, 2020, at the Dream Inn in Santa Cruz, California. The Board reviewed the proposed 20<sup>th</sup> Annual Workshop and Board meeting agendas.

**Artesia Dupree moved to direct staff to work with the President to finalize the workshop agenda; seconded by Brett Miller. The motion passed unanimously.**

8. MEMBERSHIP MATTERS

A. Review of Prospective New Member Application – City of Rancho Mirage (PERMA)

Ms. Jobe reported the City of Rancho Mirage applied for membership in ERMA as an underlying member of PERMA and has requested a \$50,000 self-insured retention (SIR). She

stated that based upon the City's reported payroll of \$7,250,967, the requested SIR is in accordance with Underwriting Guidelines and the City has requested an effective date of coverage of January 1, 2020.

Ms. Jobe advised the City reports 90 full-time and 29 part-time employees and has one reported, closed EPL claim within the previous seven program years with no incurred loss. She further advised the City has written personnel policies in place, however, as it has been many years since a thorough review was conducted, the City has engaged Liebert Cassidy Whitmore (LCW) to assist with an update.

Ms. Jobe concluded by stating that as the City's current EPL policy is held by a commercial insurance carrier, the premium indication provided to the City included additional premium for "nose" coverage. She noted this additional coverage is necessary to ensure there are no coverage gaps between the commercial claims-made policy and ERMA's occurrence-based Memorandum of Coverage (MOC).

**Linda Cox moved to approve the City of Rancho Mirage as an underlying member of PERMA at a \$50,000 SIR effective January 1, 2020; seconded by John Duckett. The motion passed unanimously.**

9. COVERAGE MATTERS

A. City of Hayward (ERMAC) Appeal of Denial Coverage

Kathy Maylin, Litigation Manager, presented the City of Hayward's appeal of denial of coverage. She advised the City untimely reported both an internal complaint received in late 2018, and a Government Tort Claim filed on May 1, 2019. As ERMA did not receive notice of the tort claim until July 23, 2019, the claim was denied in accordance with ERMA's MOC.

Ms. Maylin advised that although the City does not dispute the claim was reported in an untimely manner, it contends there is no prejudice to ERMA. She stated the City believes they took appropriate and timely steps to investigate the claim and no sustained findings were identified. Ms. Maylin concluded by stating the City has not historically late-reported claims and that should the claim be accepted by the Board, the late report will not cause ERMA financial or other prejudice.

**Don White moved to grant the City of Hayward's appeal of denial of coverage with a 10% increase to the SIR from \$500,000 to \$550,000; seconded by Artesia Dupree. The motion passed unanimously.**

B. City of El Cerrito (MPA) Appeal of Denial Coverage

Doug Alliston, General Counsel, reported the City of El Cerrito, an underlying member of MPA, untimely reported a claim. Mr. Alliston discussed the claim's timeline of events, including the City's internal investigations and initial report to ERMA received on June 19, 2019. Mr. Alliston stated prior complaint history was determined via an internal investigation and, as such, the claim was denied in accordance with ERMA's MOC.

Karen Pinkos, El Cerrito City Manager, and Paul Keith, Police Chief, addressed the Board regarding the appeal and presented additional details regarding the City's actions. They stated the City believes the claim was handled appropriately and reported in a timely manner, given their understanding of ERMA's reporting process.

Following extensive discussion by the Board, Ms. Maylin stated should the Board grant the City's appeal, ERMA may incur significant financial or other prejudice. Linda Cox, MPA's Chief Administrative Officer, spoke in support of the City stating they are an engaged member and believed they reported the claim to ERMA in a timely manner.

Further discussion ensued regarding various additional points of the claim. At the Board's request, Ms. Jobe provided an overview of the Program's guidelines relative to the appeal and arbitration process. She advised that pursuant to the Master Program Document, the Board was obligated to levy a decision during the current meeting and concluded by noting the City's right to request binding arbitration should the coverage denial be upheld.

**Stuart Schillinger moved to deny the City of El Cerrito's appeal; seconded by John Duckett. A roll call was taken. Ayes: Dever, Schillinger, Thompson, White, Miller, Duckett, Calica. Noes: Gillison, Ellerbrock, Cox, Dupree. The motion passed by majority.**

10. TRAINING/LOSS PREVENTION MATTERS

A. 2019 Target Risk Appraisal Recommendations

Ms. Maylin reported staff reviews member's loss performance annually to aid in determining which members will be recommended for a risk assessment. She advised this analysis is conducted annually to determine frequency, severity, and the overall loss ratio for each member, using payroll, premium, number of claims, and total incurred data. ERMA ratios are then compared to each individual member's performance. If a member's ratio exceeds two times ERMA's ratio in any of the three categories, they are reviewed by staff for a possible risk assessment.

Ms. Maylin stated there were no recommendations for members in need of risk assessments at this time.

11. 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 11:35 a.m. to discuss the following claims:

- Guzman v. City of Brentwood
- Stoll v. City of Menifee
- Stordahl v. City of Rialto
- Martinez v. City of Watsonville

B. Report from Closed Session

The Board reconvened to open session at 11:52 a.m. The Board met to discuss the claims listed above. Mr. Alliston advised no reportable action was taken in closed session.

12. CLOSING COMMENTS

A. Board of Directors

None

B. Staff

None

13. ADJOURNMENT

The November 4, 2019, ERMA Board of Directors meeting adjourned at 11:53 a.m. by general consent.

*Mona Hedin*

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Mona Hedin, Board Secretary