

**EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)**

**MINUTES OF THE BOARD OF DIRECTORS MEETING  
OF FEBRUARY 7, 2020**

A regular meeting of the Board of Directors of ERMA was held on February 7, 2020, at the Dream Inn in Santa Cruz, CA.

**BOARD MEMBERS PRESENT:** John Gillison, President, PARSAC  
Truc Dever, Vice President, VCJPA  
Stuart Schillinger, Treasurer, BCJPIA  
Robert Thompson, CalTIP  
Charlene Calica, CCCHA  
Brett Miller, MBASIA  
Artesia Dupree, OHA  
John Duckett, SCORE

**BOARD MEMBERS ABSENT:** Scott Ellerbrock, PERMA  
Sean Scully, CSJVRMA  
Don White, ERMAC  
Linda Cox, MPA

**ALTERNATE MEMBERS PRESENT:** Jamie Scott, VCJPA  
Deneen Proctor, CSJVRMA  
Nataline Jindoian, CCCHA

**ALTERNATE MEMBERS ABSENT:** Kin Ong, PARSAC  
Heather Rowden, BCJPIA  
Kerry Trost, PERMA  
George Fink, CalTIP  
Mellissa Guerrero, ERMAC  
Jamie Goldstein, MBASIA  
Reina Schwartz, MPA  
Drew Felder, OHA  
Roger Carroll, SCORE

**OTHERS PRESENT:** Jennifer Jobe, Executive Director  
Mona Hedin, Analyst/Training Coordinator  
Alana Theiss, Finance Manager  
Kathy Maylin, Litigation Manager  
Ligia Nicolae, Litigation Analyst  
Doug Alliston, General Counsel  
Seth Cole, Alliant  
Michael Simmons, Alliant  
Jaesa McCulligan, BCJPIA  
Chrissy Mack, CalTIP/VCJPA  
Jeanette Workman, CSJVRMA  
Marcus Beverly, ERMAC/SCORE  
Michael Christian, Jackson Lewis  
David Ritchie, Jackson Lewis  
Geoff Sheldon, Liebert Cassidy Whitmore  
Scott Tiedemann, Liebert Cassidy Whitmore

**OTHERS PRESENT (Continued):** Liz Arce, Liebert Cassidy Whitmore  
Lesley Murphy, PFM  
Jon Paulsen, PLAN  
Susan DeNardo, Sedgwick  
Alexandria Orologas, City of El Cerrito  
Paul Keith, City of El Cerrito

1. CALL TO ORDER

The February 6, 2020, Board of Directors Meeting was called to order at 9:00 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

**John Duckett moved to approve the Consent Calendar as follows: A) Minutes of November 4, 2019, Meeting of the Board of Directors and Summary of Action Items; B) General Warrants from October 1, 2019, through December 31, 2019; C) Claims Payments from October 1, 2019, through December 31, 2019; D) Petty Cash Statement from October 1, 2019, through December 31, 2019; E) Treasurer's Reports as of September 30, 2019, and December 31, 2019; F) Internal Financial Statement for the Quarter Ended December 31, 2019; G) Revised Coverage Effective Date: City of Rancho Mirage (PERMA), effective December 31, 2019, at a \$50,000 SIR; H) New Member: City of Dunsmuir (SCORE), effective January 1, 2020, at a \$50,000 SIR; I) Notice of Intent to Withdraw: City of Merced (CSJVRMA), City of Stanton (PERMA), Town of Fort Jones (SCORE); J) ERMA Benchmarking Ratio Results as of June 30, 2019; and K) JPA Performance Report. Seconded by Artesia Dupree. The motion passed unanimously.**

6. GOALS AND OBJECTIVES

A. Review and Approval of ERMA Goals and Objectives Established at the 2020 Annual Workshop

Ms. Jennifer Jobe, Executive Director, presented the Goals and Objectives determined by the Board at the February 6, 2020, Annual Workshop for the 2020/21 Program Year:

- 1) Create “Marketing/Growth” Committee to develop outline to determine desire to:
  - a. Expand ERMA membership;
  - b. Re-evaluate payroll participation thresholds; and
  - c. Review governance structure
- 2) Continue expansion of ERMA training efforts to include implementation of a Model Policy Library and the Training & Risk Management Consortium
- 3) Review Target Equity Benchmarking/Ratios

**Deneen Proctor moved to adopt the goals and objectives established at the February 6, 2020, Annual Workshop. Seconded by John Duckett. The motion passed unanimously.**

7. LITIGATION MANAGEMENT

A. Report from Kathy Maylin, Litigation Manager

Ms. Kathy Maylin, Litigation Manager, discussed the need for the Board to address the frequency and severity of claims as they relate to police department exposures within the ERMA Program.

The Board discussed ways in which member agencies might be educated regarding policy and reporting requirements:

- Training - Provide training and education regarding reporting requirements and appropriate relationships;
- Culture - Include police associations and other stakeholders as participants in training development/facilitation;
- Discipline – Ensure appropriate penalties are implemented when policies are not followed;
- Documentation - Possible utilization of “love contracts” for individuals to acknowledge consensual relationships; and
- Communication - Encourage open communication across departments in order to encourage environment wherein employees are comfortable disclosing relationships.

B. Defense Panel Updates

Ms. Maylin reviewed revisions to the Defense Panel presented to the Board for consideration at the February 6<sup>th</sup> Workshop.

Ms. Maylin summarized her recommendation for the addition of three firms to be added on the panel, including Skane Wilcox; Bertrand, Fox, Elliott, Osman and Wenzel; and the Casey Law Group. She further recommended removing four firms due to a lack of regular assignments. These included Kronick, Moskovitz, Tiedemann & Girard, Allen, Glaessner, Hazelwood & Werth, Leone & Alberts, and Sacks, Ricketts & Case.

**Brett Miller moved to approve the recommended updates to the ERMA Defense Panel, effective February 7, 2020. Seconded by Artesia Dupree. The motion passed unanimously.**

8. ADMINISTRATION MATTERS

A. Consideration of Proposed Actuarial Services Agreement from Bickmore Actuarial

Ms. Jobe advised ERMA's contract with Bickmore Actuarial concluded with the presentation of the 2019 actuarial study. A proposal was solicited from Bickmore Actuarial with the option to renew the agreement for a one, two or three year terms. Ms. Jobe stated that should the Board wish to consider another vendor, staff would issue requests for proposal and/or pricing from other identified firms.

**Truc Dever moved to approve the Actuarial Services Agreement from Bickmore Actuarial for a three year term ending Program Year 2021/22. Seconded by John Duckett. The motion passed unanimously.**

B. Draft Resolution No. 2020-1, Requiring Members to Provide Proof of Compliance with Training Mandated by State Law

Ms. Jobe discussed recent legislative changes to Government Code §12950.1 and the passing of Senate Bill 778 (SB 778), approved by Governor Newsome on August 30, 2019. She advised the draft resolution extended the date of compliance imposed upon employers with five or more employees to provide training to all employees by January 1, 2021, and thereafter once every two years. She further outlined non-supervisory employees are to be provided training within six months of hire and new supervisory employees to be provided training within six months of assumption of a supervisory position. She explained the statute also specifies that an employer who has provided training and education in 2019 is not required to provide it again until two years thereafter.

Mr. Doug Allison, Board Counsel, reviewed proposed language to include "harassment based upon gender identity, gender expression and sexual orientation."

Ms. Jobe advised in an effort to ensure member compliance with state-mandated training, staff will implement a self-certification process effective January 1, 2021.

**Artesia Dupree moved to approve Draft Resolution No. 2020-1, Requiring Members to Provide Proof of Compliance with Training Mandated by State Law. Seconded by Brett Miller. The motion passed unanimously.**

C. Consideration of Statement Regarding Further Assurances by ERMA to Pooled Liability Assurances Network

Ms. Jobe advised the Pooled Liability Assurances Network (PLAN) has indicated interest in ERMA for coverage effective July 1, 2020. Ms. Jobe stated that while evaluating their intended participation in ERMA, the PLAN Board noted concerns related to the assumption of pension liabilities and sought assurance from ERMA that the Board does not have any near term desire to restructure its current staffing model by acquiring personnel and thereby assuming pension liabilities. Ms. Jobe noted the appropriate assurances could be provided to the PLAN Board via a formal statement attesting to the fact the ERMA Board has not considered an out-sourced staffing model and has intent to do so in the foreseeable future. A draft Statement of Assurances was presented to the Board for review and consideration.

**Deneen Proctor moved to approve the Statement Regarding Further Assurances by Employment Risk Management Authority to Pooled Liability Assurance Network, as presented. Seconded by John Duckett. The motion passed unanimously.**

9. FINANCIAL MATTERS

A. Investment Performance Review Presented by PFM Asset Management, LLC

Ms. Lesley Murphy, Senior Managing Consultant, Public Financial Management, Inc. (PFM) provided an update on ERMA's investment portfolio activity. Ms. Murphy discussed market conditions as of the quarter ended December 31, 2019.

Ms. Murphy provided an overview of ERMA's investment portfolio and advised the portfolio is in compliance with both California Government Code and ERMA's Investment Policy, and is well within allocation limits.

B. Annual Review and Approval of Investment Policy

Ms. Murphy reviewed ERMA's Investment Policy and stated it is in compliance with the sections of the California Code governing public funds.

Ms. Murphy advised LAIF's statutory deposit limit had recently increased from \$65 million to \$75 million, and further noted the limit is regularly modified. Ms. Murphy recommended ERMA remove the reference and revise the language to accommodate this change.

**Truc Dever moved to approve the Investment Policy, as presented. Seconded by Deneen Proctor. The motion passed unanimously.**

10. COVERAGE MATTERS

A. Recommended Revisions to the Memorandum of Coverage for the 2020/21 Program Year, Effective July 1, 2020

Mr. Alliston reported that following a review of the current Memorandum of Coverage, the following recommended revisions should be implemented, effective July 1 2020:

- Clarification regarding “Ultimate Net Loss” as defined, to include Damages and Defense Costs;
- Amendments to definition of “Claim” under Section II – Definitions; and
- Amendments regarding Litigation Manager Claim discretion

Discussion ensued regarding the need to clarify claim reporting timeline requirements irrespective of notification being received verbally or in writing. Staff noted additional revisions will be incorporated and presented for the Board’s review at the April 28, 2020 meeting.

B. Recommended Revisions to the Master Program Document for the 2020/21 Program Year, Effective July 1, 2020

Mr. Alliston advised he reviewed the Memorandum of Coverage and recommended revisions relating to the Litigation Manager’s discretion of acceptance of claims to align with the previously discussed amendments proposed for the Memorandum of Coverage.

C. Excess Coverage and Marketing Strategy for the 2020/21 Program Year

Mr. Seth Cole, Alliant, reported ERMA’s excess coverage provided by RSUI expires June 30, 2020. Given ERMA’s recent loss experience, it is anticipated RSUI may offer renewal terms that result in a slight rate increase. Mr. Cole stated that Alliant is prepared to explore the market for alternatives if necessary, and will have a final report for the Board’s consideration at the April 28, 2020 meeting.

11. TRAINING/LOSS PREVENTION MATTERS

A. Training – Ad Hoc Training Committee Update

Ms. Jobe provided the Board with an update regarding the Ad Hoc Training Committee’s efforts to-date. Ms. Jobe stated the Committee, along with staff, developed a proposed Training & Risk Management Consortium which would allow member agencies access to funds available for annual reimbursement in the amount of \$2,500 for expenses related to employment and human resources training and risk management activities.

Ms. Jobe also noted the Committee continues to work to develop a Model Policy Library of personnel policies and procedures most frequently utilized by member agencies. This library will be developed with assistance from ERMA's strategic partner firms, Jackson Lewis and Liebert Cassidy Whitmore.

**Deneen Proctor moved to approve the Training & Risk Management Consortium, allowing member agencies to access up to \$2,500 in reimbursement for expenses related to training and risk management activities, effective July 1, 2020. Seconded by John Duckett. The motion passed unanimously.**

12. 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 10:51 a.m. to discuss the following claims:

- Perez v. City of El Cerrito
- Pina/Aldaoud v. City of Adelanto
- Candelas v. City of Cathedral City
- McAllister v. Los Angeles County West Vector Control District

B. Report from Closed Session

The Board reconvened to open session at 11:23 a.m. The Board met to discuss the claims listed above. Mr. Alliston advised no reportable action was taken in closed session.

13. CLOSING COMMENTS

A. Board of Directors  
None

B. Staff  
None

14. ADJOURNMENT

The February 7, 2020, ERMA Board of Directors meeting adjourned at 11:26 a.m. by general consent.

*Mona Hedin*

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Mona Hedin, Board Secretary