

EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)

MINUTES OF THE BOARD OF DIRECTORS MEETING OF APRIL 28, 2020

A regular meeting of the Board of Directors of ERMA was held on April 28, 2020, all portions of this meeting were conducted via Webex in accordance with Government Code Section 54953(b). The meeting was conducted under Governor Gavin Newsom's Executive Order N-25-20 wherein public noticing of teleconference locations for each meeting participant is suspended.

- BOARD MEMBERS PRESENT:** John Gillison, President, PARSAC
Truc Dever, Vice President, VCJPA
Stuart Schillinger, Treasurer, BCJPIA
Scott Ellerbrock, PERMA
Robert Thompson, CalTIP
Don White, ERMAC
Brett Miller, MBASIA
Linda Cox, MPA
Artesia Dupree, OHA
John Duckett, SCORE
- BOARD MEMBERS ABSENT:** Charlene Calica, CCCHA
Sean Scully, CSJVRMA
- ALTERNATE MEMBERS PRESENT:** Kin Ong, PARSAC
Jamie Scott, VCJPA
Heather Rowden, BCJPIA
Deneen Proctor, CSJVRMA
Nataline Jindoian, CCCHA
Mellissa Guerrero, ERMAC (*Joined at 11:26 am*)
- ALTERNATE MEMBERS ABSENT:** Yumi Augustus, PERMA
George Fink, CalTIP
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
Chee Xiong, Senior Accountant
Doug Alliston, General Counsel
Seth Cole, Alliant
Michael Christian, Jackson Lewis
Geoff Sheldon, Liebert Cassidy Whitmore
Scott Tiedemann, Liebert Cassidy Whitmore
Liz Arce, Liebert Cassidy Whitmore
Derek Burkhalter, Bickmore Actuarial
York Lee, Bickmore Actuarial
Jaesa McCulligan, BCJPIA
Chrissy Mack, CalTIP/VCJPA

Jeanette Workman, CSJVRMA
Marcus Beverly, ERMAC/SCORE
Conor Boughey, MBASIA
Athena Troy, Meyers Fozi & Dwork, LLP.
(Joined 11:50 a.m.; left 12:33 p.m.)
Jamaar Boyd-Weatherby, Meyers Fozi & Dwork, LLP.
(Joined 11:50 a.m.; left 12:12 p.m.)

1. CALL TO ORDER; ROLL CALL

The April 28, 2020, Board of Directors Meeting was called to order at 10:05 a.m., by President John Gillison. Roll call was conducted, and it was determined a quorum was present.

2. APPROVAL OF AGENDA AS POSTED (OR AMENDED)

Scott Ellerbrock moved to approve the Agenda as posted. Seconded by Linda Cox. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Scott Ellerbrock, Robert Thompson, Deneen Proctor, Don White, Brett Miller, Linda Cox, John Duckett, Nataline Jindoain, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

3. PUBLIC COMMENTS

None

4. CONSENT CALENDAR

John Gillison, Board President, noted two items for discussion in the Consent Calendar. Truc Dever, Vice President, requested an amendment to the Agency reference included in the Minutes of the January 21, 2020 Special Board of Directors Meeting. Jennifer Jobe, Executive Director, then directed the Board's attention to the Joint Proposal from Liebert Cassidy Whitmore and Jackson Lewis for a Successor Memorandum of Understanding and reviewed the proposed amendments.

Truc Dever moved to approve the Consent Calendar as follows: A) Minutes of January 21, 2020, Special Meeting of the Board of Directors; B) Minutes of February 7, 2020 Meeting of the Board of Directors and Summary of Action Items; C) General Warrants from January 1, 2020, through March 31, 2020; D) Claims Payments from January 1, 2020, through March 31, 2020; E) Petty Cash Statement from January 1, 2020, through March 31, 2020; F) Adjustment of ERMA Annual Base Contract Price for 2019/20 Program Year; G) City of Merced: Request to Rescind Notice of Intent of Withdrawal from ERMA; H) Memo from PFM: Recent Market Volatility and CAMP's Commitment to Safety of Public Fund Investments; I) Joint Proposal from Liebert Cassidy Whitmore and Jackson Lewis for Successor Memorandum of Understanding. Seconded by Scott Ellerbrock. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Scott Ellerbrock, Robert Thompson, Deneen Proctor, Don White, Brett Miller, Linda Cox, John Duckett, Nataline Jindoain, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

5. FINANCIAL MATTERS

A. Actuarial Study and Rates for the 2020/21 Program Year

Derek Burkhalter, Bickmore Actuarial, presented the actuarial study, specifically noting two components: 1) review of the ultimate loss estimates as of June 30, 2020; and 2) forecasting analysis to determine the funding rates for the 2020/21 program year.

Mr. Burkhalter noted the following in his presentation:

- The total estimated liability for outstanding claims is \$17,356,000 as of June 30, 2020;
- Actual incurred development was \$523,000 greater than anticipated since the prior report, mainly due to greater development than expected in two of the most recent accident years; and
- The 2020/21 loss rate projection at 80% confidence level is 12.7% higher than 2019/20.

Linda Cox moved to accept and file the actuarial study, as presented. Seconded by Artesia Dupree. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Scott Ellerbrock, Robert Thompson, Deneen Proctor, Don White, Brett Miller, Linda Cox, John Duckett, Nataline Jindoain, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

B. Review of Annual Retrospective Adjustment Calculation

Alana Theiss, Finance Manager, reviewed the methodology applied to calculate the retrospective adjustment, and recommended a dividend release up to the full amount available. Ms. Jobe reminded the Board that review of the dividend release annually occurs during the June Board of Directors meeting. She advised the Board staff felt it pertinent to review a potential dividend release prior to review of the preliminary budget due to the increase in the pooled layer funding rate as noted in the actuarial study presented earlier in the meeting.

Discussion ensued regarding the mechanism used to release funds to members, and the interest of some members in receiving a direct payment of the applicable dividend in lieu of an invoice offset. Ms. Theiss advised the Board that dividends would be released to each of the primary members, allowing them to distribute funds to the individual members in a manner of their choosing. She further advised a detailed accounting would be provided by staff which allocates funding for each individual member.

The Board expressed a desire to review the Preliminary Administrative and Operating Budget for the 2020/21 Program Year prior to determining any release of dividends. Mr. Gillison requested staff proceed with the review of the Preliminary Budget and stated the Board would then determine necessary action regarding the Annual Retrospective Adjustment Calculation.

C. Review of Preliminary Administrative and Operating Budget for the 2020/21 Program Year

Ms. Jobe reminded the Board of the Pooled Liability Assurance Network JPA's (PLAN) interest in joining ERMA. She noted payroll for each of PLAN's underlying members is included in the Preliminary Operating Budget.

Ms. Theiss stated staff recommends the Board continue to fund for losses at the 80% confidence

level with a 2% discount rate and apply dividends to the budget in order to offset the proposed rate increase. Ms. Theiss presented the budget via two models for review and consideration. She presented budget model number one which represents a full dividend release in the amount of \$1,775,470 and budget model number two which represents a $\frac{2}{3}$ or 67% release of dividends.

Ms. Jobe reminded the Board of their historically conservative approach declaring dividend releases and restated staff's concerns related to the projected economic downturn as an effect of Coronavirus (COVID-19).

Board discussion ensued regarding the presentation of budget model number two for review at the June Board Meeting.

Don White moved to accept the Preliminary Administrative and Operating Budget for the 2020/21 Program Year - Budget Model Two. Seconded by Linda Cox. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Scott Ellerbrock, Robert Thompson, Deneen Proctor, Don White, Brett Miller, Linda Cox, John Duckett, Nataline Jindoain, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

Mr. Gillison directed the Board's attention back to the Annual Retrospective Adjustment Calculation. Ms. Jobe reminded the Board that as with previous practice, the dividend release will be provided to the members with a detailed accounting by individual member.

John Duckett moved to approve a two-thirds dividend release in the amount of \$1,189,565 to be applied as a credit to the 2020/21 Program Year Budgeted Member Contributions. Seconded by Brett Miller. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Scott Ellerbrock, Robert Thompson, Deneen Proctor, Don White, Brett Miller, Linda Cox, John Duckett, Nataline Jindoain, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

6. LITIGATION MATTERS

A. Report from Kathy Maylin, Litigation Manager

Kathy Maylin, Litigation Manager, provided an overview on recent changes and adjustments to litigation management as a result of COVID-19 public health orders. She advised the Board claim resolution is progressing with the use of technology via remote mediations and depositions. She further noted plaintiffs currently appear to be more amenable to negotiating settlement terms, which has been positive for the ERMA Program.

Michael Christian, Jackson Lewis, discussed expectations of the courts as they begin to re-open. He noted he anticipates the legal system will be overloaded with the interest in closing existing cases delayed due to COVID-19, while also managing emerging claims.

Geoff Sheldon, Liebert Cassidy Whitmore, further noted each court's process varies based on county jurisdiction. He stated he anticipates claims of discrimination and failure to accommodate will emerge as a result of the impact of COVID-19 on employers.

7. ADMINISTRATION MATTERS

A. Excess Coverage Marketing Update for the 2020/21 Program Year

Seth Cole, Alliant, provided an update on the excess coverage renewal efforts. He advised the Royal Specialty Underwriting, Inc. (RSUI) offered a flat rate renewal at expiring terms with limits of \$2M per claim, per member, \$4M per member aggregate and \$10M policy aggregate. Mr. Cole concluded by stating RSUI's final renewal terms will be presented at the June meeting.

8. TRAINING/LOSS PREVENTION MATTERS

A. Update Regarding the Training Program for the 2019/20 Program Year

Ms. Jobe provided the Board with an update regarding the current program year training program. She reviewed with the Board the locations of the live training sessions conducted to-date, as well as trainer assignments.

Ms. Jobe reported to-date, 40 trainings have taken place. She noted sessions scheduled during the months of April and June were cancelled in response to public health orders. Ms. Jobe further stated these orders resulted in an influx of Member Agencies utilizing ERMA's online training resources and noted staff has worked closely with the agencies to assist with use of the online platform, ERMANet.

B. Review of Training Program for the 2020/21 Program Year

Ms. Jobe presented the Board with proposed training sessions for the 2020/21 Program Year. She stated in addition to state-mandated training, additional sessions are proposed including employer guidance regarding the effects of COVID-19, managing privacy and social networking and specialized harassment training for public safety departments.

Ms. Jobe reminded the Board of the increased number of live training sessions from 47 to 67 during the previous program year and noted it proved beneficial for the Member Agencies. She further stated staff plans to begin scheduling training for the 2020/21 Program Year in early May.

Truc Dever moved to approve the proposed slate of training workshop topics for the 2020/21 Program Year. Seconded by Nataline Jindoain. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Scott Ellerbrock, Robert Thompson, Deneen Proctor, Don White, Brett Miller, Linda Cox, John Duckett, Nataline Jindoain, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

9. 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 11:50 a.m. to discuss the following claims:

- Ibanez v. City of California City
- Perez v. City of El Cerrito

B. Report from Closed Session

The Board reconvened to Open Session at 12:40 p.m. The Board met to discuss the claims listed above. Mr. Alliston advised no reportable action was taken in Closed Session.

10. CLOSING COMMENTS

A. Board of Directors

None

B. Staff

None

11. ADJOURNMENT

The April 28, 2020, ERMA Board of Directors meeting adjourned at 12:40 p.m. by general consent.

Mona Hedin

Mona Hedin, Board Secretary