

EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)

MINUTES OF THE BOARD OF DIRECTORS MEETING OF FEBRUARY 11, 2021

A regular meeting of the Board of Directors of ERMA was held on February 11, 2021, all portions of this meeting were conducted via Zoom 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
Robert Thompson, CalTIP
Sean Scully, CSJVRMA
Brett Miller, MBASIA
Linda Cox, MPA
Beth Lyons, PERMA
Kevin Bryant, PLAN
John Duckett, SCORE
Charlene Calica, CCCHA
Artesia Dupree, OHA

BOARD MEMBERS ABSENT: *None*

ALTERNATE MEMBERS PRESENT: Kin Ong, PARSAC
Jamie Scott, VCJPA
Heather Rowden, BCJPIA
Tina Friend, MBASIA
Yumi Augustus, PERMA

ALTERNATE MEMBERS ABSENT: Heather Rowden, BCJPIA
George Fink, CalTIP
Deneen Proctor, CSJVRMA
Mellissa Guerrero, ERMAC
Reina Schwartz, MPA
George Rodericks, PLAN
Drew Felder, OHA
Roger Carroll, SCORE
Nataline Jindoian, CCCHA

OTHERS PRESENT: Jennifer Jobe, Executive Director
Mona Hedin, Analyst/Training Coordinator
Kathy Maylin, Litigation Manager
Ligia Nicolae, Litigation Analyst
Jim Elledge, Interim Finance Manager
Doug Alliston, General Counsel
Michael Christian, Jackson Lewis
Geoff Sheldon, Liebert Cassidy Whitmore
Elizabeth Arce, Liebert Cassidy Whitmore
Seth Cole, Alliant
Lesley Murphy, PFM, LLC
Jaesa McCulligan, BCJPIA
Chrissy Mack, CalTIP/VCJPA

Jeanette Workman, CSJVRMA
Marcus Beverly, ERMAC
Jon Paulsen, PLAN
Susan DeNardo, Sedgwick
Tina Hamel, Sunline Transit Agency *(Arrived during Item 5.B.)*
Tamara Miles, Sunline Transit Agency *(Arrived during Item 5.B.)*
Vanessa Mora, Sunline Transit Agency *(Arrived during Item 5.B.)*

1. CALL TO ORDER/ROLL CALL

The February 11, 2021, Board of Directors Meeting was called to order at 1:04 p.m., by President John Gillison.

2. APPROVAL OF AGENDA AS POSTED (OR AMENDED)

Brett Miller moved to approve the Agenda as posted. Seconded by Linda Cox. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Beth Lyons, Robert Thompson, Sean Scully, Brett Miller, Linda Cox, John Duckett, Charlene Calica, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

3. PUBLIC COMMENTS

None

4. CONSENT CALENDAR

Jennifer Jobe, Executive Director, highlighted several items of note included on the Consent Calendar:

- Item 4.F. Annual Review and Approval of Investment Policy
Ms. Jobe noted the review and approval of the Investment Policy is included in the Consent Calendar as proposed modifications are minor. She confirmed both ERMA's Treasurer, Stuart Schillinger, and ERMA's Interim Finance Manager, Jim Elledge, have reviewed the Policy.
- Item 4.G. PARSAC Reimbursement for Overpayment in Contribution
Ms. Jobe advised staff requests approval of a reimbursement to PARSAC for an inaccurate application of PARSAC's participation credit for the 2018/19 and 2020/21 program years.
- 4.J. Excess Coverage and Marketing Strategy for the 2021/22 Program Year
Ms. Jobe stated the excess coverage and marketing strategy was included on the Consent Calendar as Seth Cole, Alliant, discussed ERMA's excess renewal strategy during his presentation provided at the Workshop.

- 4.M. Resolution No. 2021-1, Establishing Criteria for Adding and Removing Defense Counsel
Ms. Jobe confirmed the Resolution required an update in the exhibit which includes ERMA's defense panel approved hourly rates.

John Duckett moved to approve the Consent Calendar as follows: A) Minutes of November 2, 2020 Meeting of the Board of Directors and Summary of Action Items; B) General Warrants from October 1, 2020, through December 31, 2020; C) Claims Payments from October 1, 2020, through December 31, 2020; D) Treasurer's Report as of September 30, 2020 and December 31, 2020; E) Internal Financial Statement for the Quarter Ended December 31, 2020; F) Annual Review and Approval of Investment Policy; G) PARSAC Reimbursement for Overpayment for Contribution; H) ERMA Benchmarking Ratio Results as of June 30, 2020; I) EPL Excess Invoice and Policy; J) Excess Coverage and Marketing Strategy for the 2021/22 Program Year; K) Notice of Intent to Withdraw: Oroville Mosquito Abatement District (VCJPA); L) ERMA Board Document Review Schedule; M) Resolution No. 2021-1, Establishing Criteria for Adding and Removing Defense Counsel; and N) CAJPA Re-Accreditation. Seconded by Truc Dever. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Beth Lyons, Robert Thompson, Sean Scully, Brett Miller, Linda Cox, John Duckett, Charlene Calica, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

5. ADMINISTRATIVE MATTERS

A. Staffing Update

Ms. Jobe advised the Board that Alana Theiss, ERMA's Finance Manager, resigned from her position with Sedgwick in late December 2020. She continued by stating that Jim Elledge, a long-tenured finance manager and program administrator, will serve as the Interim Finance Manager as Sedgwick continues to recruit for Ms. Theiss' successor. Chee Xiong, Senior Accountant and Liz Kokhanets, Staff Accountant, both of whom have served ERMA for many years, will support Mr. Elledge.

Ms. Jobe reminded the Board that Kathy Maylin, ERMA's Litigation Manager, announced her retirement, effective September 30, 2021. Ms. Jobe acknowledged the significance of the Litigation Manager position to the ERMA program and confirmed Ms. Maylin has agreed to assist Sedgwick in the recruitment of her successor to ensure a smooth transition.

Members of the Board of Directors expressed their gratitude to Ms. Maylin for her years of service as ERMA's Litigation Manager.

B. Appointment of Assistant Treasurer

Ms. Jobe reported that in accordance with established policies and procedures, ERMA authorizes the President, Vice President, Treasurer and Assistant Treasurer to aid in pool financial matters, including the management of funds held in the Local Agency Investment Fund (LAIF).

She noted LAIF transactions are typically overseen by ERMA's Finance Manager, however, as the Finance Manager position is currently vacant, staff recommends Katie O'Brien, Director, Pool Accounting, be designated as ERMA's Assistant Treasurer. Ms. Jobe confirmed all future LAIF transactions will be directed jointly by ERMA's Finance Manager and Ms. O'Brien.

Truc Dever moved to approve the Appointment of Katie O'Brien as Assistant Treasurer. Seconded by Stuart Schillinger. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Beth Lyons, Robert Thompson, Sean Scully, Brett Miller, Linda Cox, John Duckett, Charlene Calica, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

C. Review and Approval of Goals and Objectives Established at the 2021 Annual Workshop

Ms. Jobe presented the goals and objectives established by the Board at the 2021 Annual Workshop for the 2021/22 Program Year:

1. Review claim "type" categories:
 - a. Gender/Sex Discrimination & Harassment
 - b. Retaliation/Whistleblower
2. Financial Position:
 - a. Identify and conduct net position stress test
 - b. Review possibility of longer-term investing
3. Review Investigator Panel:
 - a. Investigation Process & Procedures
 - b. Rates
4. Review expansion of coverage to include defense costs associated with wage and hour claims with an applied sub-limit.
5. Develop Certificate Program in recognition of agency implementation of recommended policies, procedures and training, pertaining to:
 - a. Electronic Communications
 - b. Return-to-work
 - c. Vaccination
 - d. Hotline

Artesia Dupree moved to approve the Goals and Objectives Established at the 2021 Annual Workshop. Seconded by John Duckett. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Beth Lyons, Robert Thompson, Sean Scully, Brett Miller, Linda Cox, John Duckett, Charlene Calica, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

D. Consideration of Additional Self-Insured Retention Option

Ms. Jobe advised the Board that ERMA members currently have six options to select as a self-insured retention (SIR), including: \$25,000; \$50,000; \$75,000; \$100,000; \$250,000; and \$500,000.

She reminded the Board of the Public Agency Risk Sharing Authority of California (PARSAC)'s and the Redwood Empire Municipal Insurance Fund (REMIF)'s intent to merge

and form the California Intergovernmental Risk Sharing Authority (CIRA), beginning July 1, 2021, and their interest in applying for participation in ERMA. She continued by noting that due to CIRA's planned coverage structure, it was requested that ERMA consider an additional SIR option of \$350,000.

Ms. Jobe reviewed PARSAC members' SIRs and confirmed all will move to the \$350,000 SIR, if approved.

She stated that should the Board approve the additional SIR, ERMA's actuary, Bickmore Actuarial, would be directed to develop the corresponding rate and include it in the 2021 actuarial study.

Ms. Jobe concluded by noting the Coverage Committee considered the SIR request at its meeting on January 21, 2021, and recommended approval by the Board of Directors.

Linda Cox moved to approve an additional self-insured retention option of \$350,000, effective July 1, 2021. Seconded by Truc Dever. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Beth Lyons, Robert Thompson, Sean Scully, Brett Miller, Linda Cox, John Duckett, Charlene Calica, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

E. Resolution No. 2021-3, Requiring Members to Provide Proof of Compliance with Training Mandated by State Law

Ms. Jobe discussed Training Resolution 2020-1, Requiring Members to Provide Proof of Compliance with Training Mandated by State Law, and advised the Coverage Committee met to review the Resolution due to recent legislative updates. She reviewed the first item discussed, including the reference to "substantial compliance" stated on page 2 of the Resolution:

"For any Claim, as such term is defined in ERMA's Memorandum of Coverage, that is submitted to ERMA by an underlying member which relates to the subject matter of California Government Code §12950.1, each underlying member is required to provide ERMA with documentation evidencing they have substantially complied with as the training requirements mandated by said code section. Substantial compliance is defined as having 90% of all employees and elected officials trained in compliance with §12950.1 as of the date of occurrence of the Claim."

Ms. Jobe confirmed the Committee determined the use of the term "substantial compliance" as defined as 90% compliance of all employees and elected officials, was appropriate.

Ms. Jobe continued by discussing the penalty imposed for non-compliance as stated on page 2 of the Resolution:

"Any underlying member that fails to comply with the mandated sexual harassment training or fails to provide ERMA with documentation evidencing compliance will have its retained limit increased by 100% for the submitted claim."

She stated the Committee discussed the negative financial impact to a member under the existing penalty structure. The Committee concurred a penalty for non-compliance with training mandates should apply, however, recommended the existing penalty structure for late reporting of claims be applied to non-compliance with training mandates. Ms. Jobe also noted the Committee directed staff to develop an expanded penalty structure for the Committee's future consideration.

Discussion ensued clarifying the process wherein a member confirms compliance with training mandates. Ms. Jobe noted the self-certification survey which went into effect January 1, 2021, requires members to confirm compliance on an annual basis. She further advised compliance is also obtained from the member upon receipt of a claim.

Beth Lyons moved to approve Resolution No. 2021-3, Requiring Members to Provide Proof of Compliance with Training Mandated by State Law. Seconded by Artesia Dupree. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Beth Lyons, Robert Thompson, Sean Scully, Brett Miller, Linda Cox, John Duckett, Charlene Calica, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

F. Proposed Revisions to the Memorandum of Coverage for the 2020/21 Program Year, Effective January 1, 2021

Ms. Jobe advised that with the approval of Resolution No. 2021-3, Requiring Members to Provide Proof of Compliance with Training Mandated by State Law, a review of the Memorandum of Coverage (MOC) was required. She continued by reviewing Section VII, Conditions, Article 1 (F) of the MOC with the Board:

"If the Covered Party is not in substantial compliance with the requirements of Government Code §12950.1 (AB 1825) during the Coverage Period for an Occurrence related to that code section, the Covered Party's Retained Limit shall be doubled for such claim. Proof of substantial compliance shall be provided at the request of the Authority and in the form set forth in Resolution No. 2010-2, or any superseding Resolution, which requires documentation to confirm compliance with the sexual harassment training mandated by State law."

Ms. Jobe noted the changes to the MOC are proposed to take effect on January 1, 2021, and stated the revised language effectively expands members' coverage. She concluded by noting Board Counsel and the Coverage Committee reviewed the proposed changes and recommend approval of the MOC, as presented.

Truc Dever moved to approve the Proposed Revisions to the Memorandum of Coverage for the 2020/21 Program Year, effective January 1, 2021. Seconded by Brett Miller. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Beth Lyons, Robert Thompson, Sean Scully, Brett Miller, Linda Cox, John Duckett, Charlene Calica, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

6. FINANCIAL MATTERS

A. Resolution No. 2021-2, Establishing All Bank Accounts and Authorized Signers

Jim Elledge, Interim Finance Manager, discussed Resolution No. 2021-2, Establishing All Bank Accounts and Authorized Signers. He addressed the Board's desire to include additional language clarifying internal controls, as expressed at the November 2020 meeting. Mr. Elledge also reviewed additional proposed changes that memorialize and increase the efficiencies of ERMA's banking procedures.

Artesia Dupree moved to approve Resolution No. 2021-2, Establishing All Bank Accounts and Authorized Signers. Seconded by Linda Cox. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Beth Lyons, Robert Thompson, Sean Scully, Brett Miller, Linda Cox, John Duckett, Charlene Calica, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

B. Investment Performance Review – PFM Asset Management, LLC

Lesley Murphy, Senior Managing Consultant, Public Financial Management, LLC, (PFM), provided an update on ERMA's investment portfolio.

Ms. Murphy noted in the prior year, the Board reviewed her presentation while the market was at the tail end of the longest economic expansion on record. She contributed the downturn of the economy to the onset of the Coronavirus (COVID-19) pandemic.

Ms. Murphy continued by discussing the impact of COVID-19 on ERMA's investment portfolio. She noted that although the U.S. Treasury Yield Curve has dramatically decreased over the last year, market valuations of existing holdings have increased significantly.

Ms. Murphy reported PFM continued to utilize a disciplined portfolio management strategy with ERMA's portfolio. She advised in the fourth quarter, PFM maintained a neutral duration positioning, maintained broad diversification across permitted investment sectors and monitored and managed the risks associated with the economic recovery.

Ms. Murphy concluded by noting ERMA's portfolio is in compliance with California Government Code and ERMA's Investment Policy.

7. COVERAGE MATTERS

A. Sunline Transit Agency (PERMA) Appeal of Denial of Coverage

Ms. Maylin presented Sunline Transit Agency's appeal of denial of coverage and provided the Board with background information related to the denial.

Ms. Maylin stated the Agency took reasonable steps in response to the complaint and that the late reported claim will not result in financial or other prejudice to the ERMA Program. She further stated discussions with the Agency took place clarifying reporting requirements and the need for the timely reporting of all claims.

Yumi Augustus, PERMA Liability Claims Manager, provided the Board with details related to the Agency's actions. Sunline Transit Agency representatives addressed the Board and requested additional consideration of a waiver of the late reporting penalty.

Discussion ensued regarding the Agency's request. Mr. Alliston advised the Board that the language in the MOC requires application of the penalty.

Artesia Dupree moved to grant Sunline Transit Agency's appeal of denial of coverage with a 25% increase to the SIR from \$50,000 to \$62,500. Seconded by Linda Cox. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Beth Lyons, Robert Thompson, Sean Scully, Brett Miller, Linda Cox, John Duckett, Charlene Calica, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

8. CLAIMS MATTERS

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

Mr. Gillison advised there was no longer a need to discuss the Claims listed on the agenda.

- Hernandez v. City of Lathrop
- Estarziau v. City of Manteca
- Soriano v. City of Twentynine Palms
- Bollinger/Wood v. City of Susanville

B. Report from Closed Session

None

9. CLOSING COMMENTS

A. Board of Directors

None

B. Staff

None

10. ADJOURNMENT

The February 11, 2021, ERMA Board of Directors Meeting adjourned at 3:00 p.m. by general consent.

Mona Hedin

Mona Hedin, Board Secretary