

EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)

**MINUTES OF THE BOARD OF DIRECTORS
MEETING OF MAY 1, 2018**

A regular meeting of the Board of Directors of ERMA was held on May 1, 2018, at the Bickmore office in Sacramento, CA.

BOARD MEMBERS PRESENT: Scott Ellerbrock, President, PERMA
John Gillison, Vice President, PARSAC
Truc Dever, Treasurer, VCJPA
John Duckett, SCORE
Charlene Calica, CCCHA
Artesia Dupree, OHA (*arrived at 9:30 a.m.*)
Robert Thompson, CalTIP (*arrived at 9:55 a.m.*)

BOARD MEMBERS ABSENT: Don White, ERMAC
Linda Cox, MPA
Jamie Goldstein, MBASIA
Stuart Schillinger, BCJPIA

ALTERNATE MEMBERS PRESENT: Joanne Rennie, PARSAC
Todd Cusimano, BCJPIA
Shannon Esenwein, CSJVRMA

ALTERNATE MEMBERS ABSENT: Kerry Trost, PERMA

Brett Miller, MBASIA
Tracy Robinson, MPA
Roger Carroll, SCORE
Jamie Scott, VCJPA
George Fink, CalTIP
Joseph Villarreal, HACCC
Drew Felder, OHA

OTHERS PRESENT: Jennifer Jobe, Executive Director
Nancy Broadhurst, Finance Manager
Chee Xiong, Senior Accountant
Greg O’Dea, General Counsel
Julia Byrd, Legal Analyst
Rob Kramer, BCJPIA
Jaesa McCulligan, BCJPIA
Micheon Balmer, CalTIP
Jeanette Workman, CSJVRMA
Chrissy Mack, CSJVRMA
Marcus Beverly, SCORE/ERMAC
Derek Burkhalter, Bickmore
Will Portello, Bickmore
Joyce DeVries, Bickmore
Conor Boughey, Alliant Insurance Services

Seth Cole, Alliant Insurance Services
Michael Christian, Jackson Lewis
Geoffrey Sheldon, Liebert Cassidy Whitmore

1. CALL TO ORDER

The May 1, 2018, Board of Directors meeting was called to order at 9:02 a.m. by President Scott Ellerbrock.

2. INTRODUCTIONS

A majority of the members were present constituting a quorum.

3. APPROVAL OF AGENDA AS POSTED (OR AMENDED)

John Gillison, moved to approve the agenda as amended; seconded by Truc Dever. The motion passed unanimously.

4. PUBLIC COMMENTS

None

5. CONSENT CALENDAR

John Gillison moved to approve/accept the following items: A) Minutes of February 9, 2018, Board of Directors Meeting and Summary of Action Items; B) General Warrants from January 1, 2018, through April 15, 2018; C) Claims Payments from January 1, 2018 through, April 30, 2018; D) Petty Cash Statement from January 1, 2018, through April 15, 2018; E) Treasurer's Report as of March 31, 2018; F) Internal Financial Statements as of March 31, 2018; G) Master Program Document for the Pooled Employment Practices Liability Program as Amended, Effective February 10, 2017; H) Rescission of City of Walnut Creek SIR Increase for the 2018/19 Program Year; seconded by Scott Ellerbrock. The motion passed unanimously.

6. ADMINISTRATIVE MATTERS

A. ERMA Nineteenth Annual Workshop

Ms. Jennifer Jobe, Executive Director, reported the proposed dates for the 2019 Annual Workshop will be Thursday, February 7, and Friday, February 8. Staff solicited a proposal from the Dream Inn, as the Board has been pleased with both the venue and the services. The proposed 2019 rates remained static, with room rates at \$199. Ms. Jobe solicited feedback from the Board as to whether additional proposals should be solicited from alternate venues. President Ellerbrock noted the Board was pleased with the Dream Inn and directed staff to

execute a contract with the Dream Inn for the 2019 Annual Workshop.

B. Draft Resolution Establishing Meeting Dates for the 2018/19 Program Year

Ms. Jobe presented a Draft Resolution Establishing Proposed Meeting Dates for the 2018/19 Program Year as follows: Monday, November 5, 2018; Thursday and Friday, February 7 & 8, 2019 (Annual Workshop/Board Meeting); Tuesday, April 30, 2019; and Tuesday, June 11, 2019.

Truc Dever moved to approve Draft Resolution Establishing Meeting Dates for the 2018/19 Program Year, as amended due to the change of start time; seconded by Scott Ellerbrock. The motion passed unanimously.

C. Draft Resolution No. 2017-7 Requiring Members to Provide Proof of Compliance with Training Mandated by State Law

Ms. Jobe reported the January 1, 2018 implementation of SB 396 requires the inclusion of gender identity, gender expression and sexual orientation as part of AB 1825 mandated training. Ms. Jobe further stated this language was included and, as well, additional language to include retaliation and all forms of discrimination, not limited solely to sexual discrimination. Ms. Jobe concluded by noting Mr. Greg O’Dea, General Counsel, reviewed and approved the draft resolution.

John Gillison moved to approve Resolution 2017-7 Requiring Members to provide proof of compliance and Training Mandated by State Law; seconded by Todd Cusimano. The motion passed unanimously.

D. Proposed Revisions to the Financial Stability Plan

Ms. Nancy Broadhurst, Finance Manager, stated that discussions regarding budget controls have ensued in recent Board meetings. Ms. Broadhurst noted at the February 2018 meeting, an addendum to the Income Statement was added for the purpose of noting any line items that were anticipated to exceed budget during the program year. Ms. Broadhurst further noted that while the Board felt the addendum was useful, staff was asked to bring forward a Budget Control Policy for consideration that would allow the Board to approve variances in spending categories.

Ms. Broadhurst proposed that as the purpose of ERMA’s Financial Stability Plan (Plan) is to “ensure the long-term financial viability and stability of the Employment Risk Management Authority (ERMA)”, it seemed appropriate to include budget control provisions within this policy document that houses all of the Board’s financial programs and policies. As such, Ms. Broadhurst noted the proposed revisions to the Plan were included in red-line strike-out format.

Ms. Broadhurst then presented the proposed budget control provisions included in the revised Plan. Staff will continue to prepare the addendum to the Income Statement each

quarter to report the individual line items expected to exceed budgeted amounts for the program year. In addition, if spending in one of the three major spending categories on the income statement - Claims Expense, Loss Prevention & Training, or General Administration – exceeded the budget, the overage would be presented to the Board for their approval.

An additional proposed change to the Plan states the annual Retrospective Adjustment Calculation will be presented at the June meeting rather than the April meeting, due to the difficulty of completing the calculations on time. Ms. Broadhurst noted indications will continue to be provided to the Board at the April meeting.

Truc Dever moved to approve the proposed revisions to the Financial Stability Plan; seconded by Todd Cusimano. The motion passed unanimously.

E. Consideration of Board Member Attendance at AGRiP Conferences

Ms. Jobe reported that following the Board's approval to join the Association of Governmental Risk Pools (AGRiP), staff was directed to develop an estimate of costs for a Board Member or staff attendance at the three AGRiP conferences conducted on an annual basis. Ms. Jobe reviewed the estimated costs which include registration, transportation based on the locations as identified for the 2018/19 year, and other miscellaneous costs. Ms. Jobe reminded the Board of the discussion at the February, 2018 meeting noting several of the primary pools are already members of AGRiP and, as such, some Board Members may attend AGRiP conferences through their primary pool. With respect to staff, Ms. Jobe noted she attends AGRiP conferences through Bickmore. Ms. Jobe concluded by stating the Memberships and Conferences line item in the preliminary 2018/19 Program Year Budget had been augmented by \$5,000 to account for the costs associated with two Board Member's attendance at an AGRiP conference. Discussion ensued regarding the importance of the availability of funds for Board Members to access. The Board concluded the budget line item increase was appropriate and directed staff to provide updates as to overall usage and continued need moving forward.

F. Excess Coverage Marketing Update for the 2018/19 Program Year

Mr. Seth Cole, Alliant, presented the Board with an update on the excess coverage marketing efforts. Mr. Cole advised that RSUI offered the renewal at the expiring renewal rate of \$1,000,000 each claim per member with a \$2,000,000 per member aggregate and a \$10,000,000 policy aggregate. In addition, RSUI provided various other options that included increased per claim, per member and policy aggregate limits.

Mr. Cole advised six markets were solicited, including Markel, Hartford, Ironshore, Chubb, AIG, Beazley, and Hartford and a full report will be provided to the Board at the June 12, meeting.

The Board inquired as to what percentage of historical claims has exceeded \$1,000,000. Ms.

Jobe advised ERMA has incurred three claims in excess of \$1,000,000; however, the total has been less than \$4,000,000, and 18 in excess of \$500,000.

7. TRAINING/LOSS PREVENTION MATTERS

A. City of Adelanto (PERMA) Risk Assessment Update

Mr. Will Portello, Bickmore, reported that in November, 2017, the City of Adelanto was identified for a risk assessment based upon target ratio calculations. Ms. Kathy Maylin, Litigation Manager, in the course of conducting the risk assessment, met with Adelanto's City Manager, interim City Manager, and City Counsel. Ms. Maylin also attended City Council meetings and discussed with the Council, pending claim allegations. Specialized City Council training was conducted for the City in addition to numerous offers to provide assistance and guidance relative to the on-going administrative issues.

B. Review of Training Program for 2018/19 Program Year

Ms. Jobe reported on an annual basis, ERMA conducts 47 live, regional and individual trainings throughout the State. Ms. Jobe stated that of the 47 allocated trainings, 25 are conducted by Bickmore under the pool administration contract and 22 are conducted by ERMA's attorney partner firms, Jackson Lewis, and Liebert Cassidy Whitmore (LCW), or another approved vendor.

Ms. Jobe advised following review and discussion amongst staff, LCW, Jackson Lewis, and 34th Street Consulting the following proposed slate of training workshop topics were presented for the Board's review and consideration:

1. **AB 1825**: Prevention of Harassment, Discrimination, and Retaliation
2. **Term or Not to Term**: A step-by-step guide to employee discipline in the public sector.
3. **Performance Management**: How to prepare and write performance evaluations and performance improvement plans.
4. **Sexual Harassment Prevention and Workplace Standards**: A 3-hour program including 2 hours of AB 1825 compliance with a broader discussion of respect and professionalism in the workplace.
5. **Prevention of Workplace, Harassment, Discrimination, Retaliation, and Bullying**: Provide guidance on managing day-to-day interactions to prevent unlawful discriminatory harassment and retaliation and meets requirements of AB 1825 and AB 2053.
6. **Bias in the Workplace**: How to recognize and acknowledge your own biases and how to make objective, unbiased decisions. Discussions regarding how commonplace language and behaviors might communicate hostility to others (micro-aggressions), as well as strategies for having difficult conversations around bias.
7. **Human Resources for Non-HR Managers**: Train supervisors to effectively and

appropriately respond to situations that place the agency at risk by offering real-life scenarios and recommendations for dealing with a myriad of legal and interpersonal issues in the workplace.

8. **Making the Most of Your Multi-Generational Workforce**: Assist agencies in making the most of their generationally-diverse workforce – from Traditionalists born before 1945 to Gen Z.
9. **Leading the Charge to Change**: Identify the process of changing a culture, the common pitfalls that organizations face in change management, the role of leaders in the process, and the tools needed by leaders to shepherd the change from its inception to its sustained implementation.

The Board requested the full slate of trainings be made available to the membership. Ms. Jobe advised a solicitation email would be distributed to the membership in order to schedule trainings for member agencies interested in serving as host sites. Staff will provide a calendar of scheduled training dates to the membership by July 1.

Todd Cusimano moved to approve the proposed Training Program for the 2018/19 Program Year; seconded by John Duckett. The motion passed unanimously.

C. Ad Hoc Training Committee Update

Ms. Jobe reported the Ad Hoc Training Committee has not had the opportunity to meet since the last report to the Board in February, 2018. She stated staff has received confirmation from both attorney partner firms that all of the reviews of their assigned member agencies have been conducted and completed. Ms. Jobe stated the data received via the surveys will be utilized to develop a member-wide program that focuses upon identified areas of deficiency. Staff was directed to provide the Committee with an accounting as to the funds expended to-date from within the Capital Contribution Fund. Ms. Jobe advised costs to-date, are below budget.

8. COVERAGE MATTERS

A. Review of the City of Adelanto's (PERMA) Self-Insurance Retention

Mr. Portello reported that following the results of the City of Adelanto's risk assessment, staff recommends the Board consider an increase to the City's self-insured retention (SIR) from \$100,000 to \$250,000, effective July 1, 2018. Ms. Jobe noted the City has participated in ERMA since 2003 and provided the Board with background relative to their historical SIRs. In 2015, the City requested an SIR reduction from \$250,000 to \$25,000; however, as there were significant concerns relative to their fiscal security, the Board approved an SIR reduction to \$100,000. The City has incurred a total of ten claims, six of which were incurred within the last two years. Ms. Jobe also noted the City has been advised the ERMA Board will consider an imposed SIR increase and will provide a recommendation, effective July 1, 2018. Discussion ensued regarding the City's financial ability to manage an increased retained limit. The Board directed staff to advise the City of their decision to increase the SIR

from \$100,000 to \$250,000 and, as well, the Board's intent to review the City's continued participation in ERMA at the November 5, 2018 meeting.

John Gillison moved to increase the City's SIR to \$250,000, effective July 1, 2018. In addition, the Board will add to the Agenda for the November 5, 2018, meeting, discussions regarding the City's continued participation as an ERMA member; seconded by Todd Cusimano. The motion passed unanimously.

B. Request from the City of Murrieta (PERMA) to Reduce Self-Insured Retention from \$250,000 to \$100,000, effective July 1, 2018

President Ellerbrock reported the City of Murrieta has maintained a \$250,000 SIR for a number of years and recently requested a reduction of their SIR to \$100,000.

Truc Dever moved to reduce the City of Murrieta's self-insured retention from \$250,000 to \$100,000, effective July 1, 2018; seconded by Artesia Dupree. The motion passed unanimously.

C. Amendment to Endorsement #1 of the Memorandum of Coverage for Program Years 2016/17 and 2017/18

Ms. Jobe reported the City of Farmersville, an underlying member of CSJVRMA, joined ERMA in 2016 with a \$50,000 retained limit. Ms. Jobe advised staff recently discovered that due to an error, the City has, for the past two program years, contributed at a \$75,000 retained limit. The CSJVRMA met with the City to discuss options which included a retroactive SIR reduction and remittance of the difference in premium, or a retention of a \$75,000 limit. The City advised they wish to retain a \$75,000 SIR. As such, Endorsement #1 to the Memorandum of Coverage for both the 2016/17 and 2017/18 Program Years must be amended to reflect the City's correct SIR.

Truc Dever moved to amend Endorsement #1 of the Memorandum of Coverage for Program Years 2016/17 and 2017/18; seconded by John Duckett. The motion passed unanimously.

9. FINANCIAL MATTERS

A. Actuarial Study and Rates for the 2018/19 Program Year

Mr. Derek Burkhalter, Bickmore, presented the actuarial report and noted the two components: 1) A review of the ultimate loss estimates as of June 30, 2018; and 2) A forecasting analysis to determine the funding rates for the 2018/2019 program year.

Mr. Burkhalter noted the following in his presentation:

- ERMA's Ultimate Loss and Loss Adjustment Expenses for all program years has decreased by \$273,000, or 1.1%;

- At the expected confidence level, ERMA is projected to have a surplus of \$15,253,000 as of June 30, 2018, and a surplus of \$9,654,000 at the 90% confidence level;
- The total estimated liability for outstanding claims is \$13,294,153 as of June 30, 2018;
- Actual incurred development was \$52,000 less than anticipated since the prior report, mainly due to favorable development in all but one of the open accident years; and
- The pooling rate required to collect at the 80% confidence level for the upcoming 2018/19 Program Year at the \$50,000 retention is 0.477; a 4.2% increase from the rate used in the 2017/18 Operating Budget.

John Gillison moved to approve the Actuarial Study and rates for the 2018/19 Program Year; seconded by Todd Cusimano. The motion passed unanimously.

B. Review and Approval of Administrative and Operating Budget for the 2018/19 Program Year

Ms. Broadhurst reviewed the Proposed 2018/19 Budget featuring funding at the 80% confidence level (CL), the same CL as used in the 2017/18 Approved Budget. Ms. Broadhurst advised the 2018/19 Budget represents an overall increase of 7.3%, or \$481,969, over the 2017/18 Approved Budget. She noted two primary drivers to the overall increase; 3.3% in payroll and 4.2% in the funding rate, and reviewed various administration line item and member SIR changes. One change of note was the increase in the Membership and Conferences line item for the inclusion of two attendances at AGRIP conferences.

A question was posed regarding the continued use of the 2% discount rate, and Ms. Broadhurst advised that in her opinion the conservative approach is to maintain the discount rate as low as possible. She noted that she would discuss the issue with Ms. Lesley Murphy, ERMA's investment manager.

Todd Cusimano moved to approve the 2018/19 Proposed Operating Budget at an 80% Confidence Level; seconded by Artesia Dupree. The motion passed unanimously.

C. Review of Annual Retrospective Adjustment Calculation

Ms. Broadhurst presented the Retrospective Adjustment Calculation as of March 31, 2018. She reported that at last year's May 2017 Board meeting, the Board considered an available and eligible dividend in the amount of \$6.49 million, and approved the release of \$3.0 million from which \$150,000 was netted and placed in the Capital Contribution Fund (Fund).

In line with last year's distribution philosophy, Ms. Broadhurst stated that staff was recommending a dividend release in the amount of \$3.0 million, roughly half of the \$7.2 million available, from which \$150,000 would be netted and placed in the Fund. The \$150,000 augmentation would bring the total contributions to the Fund over a four year period to the original desired balance of \$1.0 million for the funding of training and policy

review initiatives. Ms. Broadhurst advised that as with the past three annual contributions to the Fund, the allocation would be determined by each individual member's pro rata share based on 2018/19 premium contributions.

Ms. Broadhurst further recommended the formal closure of program years 2009/10 and 2010/11, as all claims are closed and no IBNR remains.

John Duckett moved to approve a dividend release in the amount of \$3,000,000 in conjunction with a contribution to the Capital Contribution Fund in the amount of \$150,000, which would be netted from the cash dividend, and recommended Program Years 2009/10 and 2010/11 be formally closed; seconded by Truc Dever. The motion passed unanimously.

At 10:33 a.m., the Board recessed for a break and reconvened at 10:45 a.m.

10. LITIGATION MATTERS

No Litigation Report was provided.

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 10:45 a.m. to discuss the following claims:

- Jones/Hice v. City of Rialto
- Minor v. City of Coalinga
- Nekooee v. City of Rialto
- Sibbit/Terwinniger v. City of Pittsburg

B. Report from Closed Session

The Board reconvened to open session at 10:55 a.m. The Board met to discuss the claims listed above. With regard to Jones/Hice v. City of Rialto, Minor v. City of Coalinga, and Nekooee v. City of Rialto, the Board voted unanimously to extend settlement authority to the Litigation Manager. With regard to Sibbit/Terwinniger v. City of Pittsburg, no action was taken.

12. CLOSING COMMENTS

A. Board of Directors

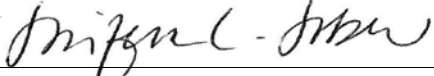
None

B. Staff

None

14. ADJOURNMENT

The May 1, 2018, ERMA Board of Directors meeting adjourned at 10:56 a.m. by general consent.



Jennifer Jobe, Executive Director