

EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)

MINUTES OF THE BOARD OF DIRECTORS MEETING OF April 23, 2024

A regular meeting of the Board of Directors of ERMA was held on April 23, 2024, at the Napa Valley Marriott Hotel, 3425 Solano Ave, Napa, CA 94558

BOARD MEMBERS PRESENT:

Jason Castleberry, BCJPIA
Beth Lyons, PERMA
Bryan Whitemyer, Vice President, CSJVRMA
Jeremy Wittie, Treasurer, VCJPA
John Gillison, President, CIRA
Linda Cox, MPA
Paul Wood, MBASIA
Robert Thompson, CalTIP

BOARD MEMBERS ABSENT:

Charlene Calica, CCCHA
Drew Felder, (OHA)
Muriel Howarth Terrell, SCORE
Kevin Bryant, PLAN
Thomas Watson, ERMAC

ALTERNATE MEMBERS PRESENT:

Amy Conley, CIRA
Becky Padron, CSJVRMA
Nataline Jindoian, CCCHA

ALTERNATE MEMBERS ABSENT:

George Fink, CalTIP
George Rodericks, PLAN
Jamie Scott, VCJPA
Jon Maginot, BCJPIA
Steve Adams, MBASIA
Sukari Beshears, MPA
Yumi Augustus, PERMA
Wendy Howard, SCORE

OTHERS PRESENT:

Aaron Slater, Beauchaine Consulting (Virtual)
Chee Xiong, Finance Manager
Doug Alliston, Board Counsel
Derek Burkhalter, Bickmore Acturarial
Elizabeth Arce, Liebert Cassidy Whitmore
Eric Dahlen, PLAN
Jaesa Cusimano, BCJPIA
Jared Bryan, Jackson Lewis, P.C.
Jeanette Workman, CSJVRMA

Michelle Minnick, Alliant/SCORE
Rob Kramer, Executive Director
Seth Cole, Alliant
Stacey Sullivan, Litigation Manager
Traci Maxey, iLearning Engines (Virtual)
Will Portello, Sedgwick Litigation Director
Yvette Flama, Board Secretary

1. CALL TO ORDER; INTRODUCTIONS

The April 23, 2024, Board of Directors Meeting was called to order at 10:02 a.m. by President John Gillison.

2. APPROVAL OF AGENDA AS POSTED (OR AMENDED)

Linda Cox moved, seconded by Bryan Whitemeyer, to approve the agenda as amended. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

3. PUBLIC COMMENTS

There were no public comments.

4. CONSENT CALENDAR

President Gillison drew attention to the Consent Calendar and asked if there were any questions regarding any specific items listed on the calendar.

Linda Cox moved, seconded by Jeremy Wittie, to approve the following Consent Calendar items: (A) Minutes of the February 2, 2024, Board of Directors Meeting, (B) Minutes of the October 11, 2023, Underwriting Committee Meeting, (C) General Warrants from January 1, 2024, through March 31, 2024, (D) Claims Payments from January 1, 2024, through March 31, 2024, (E) Approved Financial Stability Plan, (F) Presentation of the CAJPA Accreditation Certificate, (G) ERMA Defense Panel – Updated April 2024, (H) ERMA Engagement Letter – Member SIR Study. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

5. FINANCIAL MATTERS

A. Review of Annual Actuarial Study

Mr. Derek Burkhalter of Bickmore Actuarial gave an overview of the actuarial study conducted for the 2023 calendar year. The actuarial analysis consisted of two main

components. Part one is a review of the estimates of the ultimate liabilities of the program as of June 30, 2024. Part two is the loss forecasting analysis, determining the appropriate contribution rates for the 2024/25 program year. ERMA's ultimate loss estimates for all open program years increased by a modest \$220,000. The 2024/25 program year funding rates are set at the 80% confidence level (CL) and discounted using a 2.0% discount factor interest rate assumption. Staff and ERMA's Treasurer met with the investment advisor and the actuary on January 9, 2024, to review the current and projected earnings rates and discuss whether an adjustment to the discount rate was warranted. The consensus was to increase the discount rate to 2.0% from a 1.50% discount rate based on forecasted investment earnings and market conditions.

The pooling rate required to collect at the 80% CL for the upcoming 2024/25 program year at the \$50,000 self-insured retention is \$0.552, a slight decrease from the prior study.

Linda Cox moved, seconded by Bryan Whitemyer, to receive and file the Actuarial Study. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

B. Excess Coverage and Marketing Update for the 2024/25 Program Year

Mr. Seth Cole with Alliant provided an overview of the market and the potential renewal with RSUI and Ascot, ERMA's excess insurance carriers. Mr. Cole reported that the excess carriers will offer a renewal consistent with the previous renewal from a structural rating perspective. Mr. Cole informed the Board they plan on targeting a flat rate renewal. Mr. Cole went on to inform the Board he will have a final renewal policy for the Board to review at the June 3, 2024 Board of Directors meeting.

The Board took no formal action.

C. Review of Preliminary Administrative and Operating Budget for the 2024/25 Program Year

Mrs. Chee Xiong, Finance Manager for ERMA, presented the preliminary budget for the 2024/25 program year. Mrs. Xiong pointed out the preliminary budget reflects the estimated funding for losses, excess insurance costs, loss prevention and training, and administrative expenses for the 2024/25 program year. Mrs. Xiong informed the Board at this meeting the Board will review the changes to individual entity contributions and cost drivers in the budget. Mrs. Xiong recommend the Board set the funding rates at the 80% CL and utilize a discount factor of 2.0%. She pointed out the prior year's budget was approved at the 80% CL and discounted at 1.50%. Mrs. Xiong said ERMA's operating costs are estimated to be almost \$1.6 million, a 3.0% increase over the expiring year program year. The increase is based on standard contract increases and anticipated costs of several non-contractual expenses. The budget includes a line item for the member retained limit study to be conducted by Bickmore Actuarial as directed by the Board. Mrs. Xiong informed the Board Actual calendar year 2023 payroll, which determines member contributions, increased by 9.0% over the prior year.

The Board took no formal action.

D. Review of Annual Retrospective Adjustment Calculation

Mrs. Chee Xiong, Finance Manager for ERMA, informed the Board in accordance with the Financial Stability Plan (Plan), the retrospective adjustment calculation is reviewed annually by the Board of Directors. The Plan allows for a Retrospective Adjustment Process to occur and dividend to be declared if certain conditions are met. Mrs. Xiong presented a preliminary calculation utilizing the financial statements as of December 31, 2023, restated, and based upon the estimated ultimate losses determined via the actuarial study presented under agenda item 5. A. Mrs. Xiong went on to inform the Board of the results of the preliminary calculation indicate a net position available for distribution of \$3.5 million as of December 31, 2023, at the 90% confidence level. Based on the preliminary calculation, it is reasonable to return a dividend to the members as ERMA does not have too many open claims, especially in the 2014/15, 2016/17, and 2017/18 program years.

Mrs. Xiong informed the Board she will have the final calculation ready for the Board to review at the June 3, 2024 Board of Directors meeting.

The Board took no formal action.

6. ADMINISTRATIVE MATTERS

A. Discuss and Review the Strategic Goals and Initiatives for the 2024/25 Program Year

Mr. Rob Kramer, Executive Director of ERMA, presented the strategic goals and initiatives the Board decided on at the Annual Workshop on February 1, 2024, in Napa, CA. Mr. Kramer drew attention to the governance initiatives, including forming an Executive Committee. Mr. Kramer informed the Board that they have decided to focus on reevaluating ERMA's risk-sharing and attaching to the commercial market at a higher SIR as part of the financial stability initiatives. Additionally, the Board has decided to reevaluate the ERMA underlying member SIR options, with the potential of removing the \$25k option for members.

Mr. Kramer informed the Board that they have decided to enhance member services by implementing the ERMA Policy and Procedures Review Program, mandating Elected Officials Training, and adding Diversity and Inclusion training to the existing lineup of trainings offered to members. Additionally, Mr. Kramer shared with the Board the resources that the Staff had put together to support members in meeting the new SB 553 Workplace Violence training requirements.

Mr. Kramer discussed the revaluation of the Investigators Panel and the upcoming forum that Mrs. Stacey Sullivan, Litigation Manager, is preparing to host in the coming months. Finally, Mr. Kramer mentioned the initiative to offer refresher training on Collective Risk Management Teams and the Employee Protection Line.

Mr. Kramer informed the Board they decided to review how ERMA gathers and collects Loss

and Underwriting data to determine trends and pro-active risk management solutions. Mr. Kramer suggested the Board move to approve these as the final strategic goals for the 2024/25 program year.

Linda Cox moved, seconded by Jeremy Wittie, approve the Strategic Goals and Initiatives for the 2024/25 Program Year. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

B. Review and Discussion of Draft ERMA By-Laws and Master Program Document

Mr. Kramer informed the Board that Staff and Board Counsel reviewed the By-Laws and there was already a provision for an Executive Committee but there were items Staff needed the Board to discuss, such as how many people should be on the Committee. Mr. Kramer advised Staff will bring the item back at the June 3, 2024 meeting, after the 30 day notice period for formal vote.

Mr. Doug Alliston, Board Counsel, informed the Board that the provision for an Executive Committee includes ten (10) members. He suggested that having ten members on the committee is unnecessary and recommended having five (5) members instead. Three (3) of these members would be officers, and the remaining two (2) would be elected at large. Each member would serve two (2) terms. Additionally, Mr. Alliston recommended that the Executive Committee hold virtual meetings and split the four (4) meetings between the Board and the Committee. Mr. Kramer noted that the Executive Committee can meet as often as needed throughout the year. The by-laws require the Board to meet at least once per year.

Mr. Alliston pointed out additional revisions about interest on delinquent payments of seven percent (7%) and a minute book that should be distributed in fifteen (15) days following a Board meeting.

Mr. John Gillison, President, motioned to grant the Executive Committee full settlement authority with the Board of Directors meeting two times per year, remove the provision for the minute book, and decrease the interest on delinquent payments from seven percent (7%) to two percent (2%).

Jeremy Wittie moved, seconded by Bryan Whitemyer, to amend the By-Laws and Master Program Document as discussed by removing the provision for a minute book, and decrease the interest on delinquent payments from seven percent to two percent. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

C. Review and Consideration of Proposals for Claims Auditing Services

At the Board of Directors meeting on February 2, 2024, the Board instructed the Staff to issue a Request for Proposal (RFP) for claims auditing services. Following this instruction, the Staff contacted several companies to gauge their interest in submitting proposals. Staff

presented the five companies who answered the request. The Board reviewed each proposal and cost. The Board agreed Praxis Claim Consulting was the best fit for ERMA.

John Gillison moved, seconded by Paul Woods, to approve Praxis Claim Consulting. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

D. Draft Resolution 2023-2, Establishing Meeting Dates for the 2024/25 Program Year

Mr. Kramer informed the Board that they needed to establish the meeting dates for the next program year. He called attention to the provided Staff report, which listed the potential dates. Mr. John Gillison stated that the February dates for the Annual Workshop and Board meeting would not work. There was an agreement among members to that point. The Board suggested moving the workshop and Board meeting to the end of January.

Additionally, following item 6.B., the dates would have to be amended to include Executive Committee meeting dates. Mr. Kramer suggested Staff bring this item back at the June 3, 2024 Board of Directors meeting.

The Board took no formal action.

E. Consideration of Amendment 2 to the Contract for Administration, Finance, and Litigation Management Services Agreement between ERMA and Sedgwick

Mr. Kramer informed the Board in June of 2023, that the renewal agreement between ERMA and Sedgwick was reviewed and approved by the Board of Directors. Since then, Staff has noted a needed clarification in the annual calculation of the Annual Base Contract Price (ABCP). Sedgwick, Board Counsel, and President John Gillison collaborated to clarify the language in the attached Amendment Two to the Agreement for Administrative, Litigation Management, and Financial Services.

Linda Cox moved, seconded by Amy Conley, to approve the Administration, Finance, and Litigation Management Services Agreement between ERMA and Sedgwick. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

7. MEMBERSHIP MATTERS

A. Tahoe Transportation District (CalTIP JPA) Change EPL Coverage SIR from \$50k to \$25k

Mr. Kramer informed the Board Staff received notice on January 25, 2024, that the Tahoe Transportation District (CalTIP JPA) is interested in potentially reducing its self-insured retention (SIR) limit from \$50k to \$25k. Mr. Kramer went on to inform the Board the District has one open claim and they reported a payroll of \$3M for the 2022 fiscal year.

Mr. Kramer asked for direction from the Board following an open discussion. It was agreed

amongst the Board members that the study should be conducted first before making this decision.

Paul Wood moved, seconded by Beth Lyons, to deny Tahoe Transportation District the reduction in SIR from \$50k to \$25k. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

B. Update of Member Participation Conditions for Forest Hill Fire District, City of Tracy, City of Colton, and San Joaquin RTD

Mr. Kramer informed the Board that according to the ERMA Underwriting Guidelines, membership approval is subject to the formal submission of required documents for review by the Underwriting Committee (Committee). The members listed in this item were conditionally approved, with the condition that their policies and procedures be updated, reviewed by legal counsel, and adopted by July 1, 2024. These members needed more time to have their policies adopted. The Board openly discussed the matter and decided to delegate to Mr. Gillison the authority to determine whether the members should be granted extensions, with a report back to the Board at the June 3, 2024 meeting.

The Board took no formal action.

C. Review of Prospective New Member Application – Town of Los Gatos (PLAN JPA)

Mr. Kramer informed the Board the Underwriting Committee met on April 12, 2024 and reviewed the application for the Town of Los Gatos. Mr. Kramer informed the Board Staff and the Underwriting Committee recommend the Town be approved unconditionally at a SIR of \$75k, effective July 1, 2024.

Bryan Whitemyer moved, seconded by Amy Conley, to approve the Town of Los Gatos effective July 1, 2024. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

D. Consideration of Newly Formed Underlying Members of ERMA JPA Members

Mr. Kramer reported to the Board at the Underwriting Committee meeting on April 12, 2024, that the Committee discussed the application process for newly formed underlying members of existing Joint Power Authorities (JPAs). It was determined by the Committee these newly formed agencies do not need to complete the usual application packet. Two potential new members, The City of Mountain House (MPA JPA) and The Pajaro Regional Flood Management Agency (PRFMA) (CIRA JPA), were presented to the Board. The Committee recommended that the agencies be approved with a SIR of no less than \$50k, and with the condition that their Employment Practices, policies, and procedures be reviewed by a qualified law firm within 24 months of membership.

Linda Cox moved, seconded by Nataline Jindoian, to approve the Newly Formed

Underlying Members of ERMA JPA Members. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

8. TRAINING AND LOSS PREVENTION MATTERS

A. Report from Ad Hoc Training Committee

Mr. Kramer informed the Board Staff met with the ERMA Ad Hoc Training Committee on Tuesday, April 2, 2024, to discuss and review the various items provided to the Board in the agenda packet for this meeting. Mr. Kramer updated the Board on the resources Staff had determined were suitable for members to meet the new SB 553 Workplace Violence requirement and the new ERMA Contact Update Form where members can easily update their information with ERMA Staff.

Mrs. Traci Maxi from iLearning Engines was present via Zoom and provided an ERMAnet update to the Board regarding the changes requested at the February 2, 2024 Board of Directors meeting.

The Board took no formal action.

B. Formal Review and Consideration of Employment Practices Personnel Policies and Procedures Survey and Support Program

On Tuesday, April 2, 2024, ERMA Staff met with the ERMA Ad Hoc Training Committee to discuss and review the finalization of the Employment Practices Personnel Policies and Procedures Survey and Support Program. He acknowledged all the vendor partners who were working diligently with ERMA Staff on the survey program. Mr. Kramer also informed the Board that Liebert Cassidy Whitmore would be conducting all attorney reviews of the member's policies and procedures instead of Jackson Lewis. Additionally, he introduced Mr. Aaron Slater of Beauchaine Consulting Group, LLC via Zoom as the HR consultant who will be collaborating with ERMA Staff and Liebert Cassidy Whitmore. Mr. Kramer also presented the Employment Policies and Procedures Support Fund Application to the Board and discussed how members would be able to access additional funds through the ERMA Capital Contribution Fund to update their policies and procedures.

Linda Cox moved, seconded by Bryan Whitemyer, to approve Employment Practices Personnel Policies and Procedures Survey and Support Program. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

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 12:15 p.m. to discuss the following claims:

- Repp v. City of Pleasanton (BCJPIA JPA)
- Garcia v. Sunline Transit Agency (PERMA JPA)

The Board reconvened to Open Session at 12:36 a.m. by Doug Alliston, Board Counsel, advised no reportable action was taken in Closed Session.

10. CLOSING COMMENTS

A. Board of Directors

None

B. Staff

None.

11. ADJOURNMENT

The April 23, 2024, ERMA Board of Directors Meeting adjourned at 12:38 a.m. by general consent.

Yvette Flama

Yvette Flama, Board Secretary