Utah Risk Management Agency

MINUTES

VIRTUAL BOARD MEETING

December 9, 2021, 12:00-2:00 p.m.
Anchor location: URMA Office
502 East 770 North, Orem, UT 84097

This meeting was a virtual only meeting.

Members attending:	*Seth Perrins, Chairman (Spanish Fork); Shane Pace, Vice-Chair (Farmington); Jason Roberts (Brigham City); Paul Bittmenn (Cedar City); Jacob Smith (Centerville); David Dobbins (Draper); Joe Decker (Kanab); Alex Jensen (Layton); Cory Branch (Mapleton); Mark Johnson (Ogden); Jamie Davidson (Orem); Dustin Lewis (South Jordan); Duane Huffman (West Bountiful); Nicole Cottle (West Valley)*
URMA Staff attending:	*David Petersen, Executive Director; Jason Davis; Elizabeth Christensen; Jordan Rapp; Ann Nielsen; Shianne Wadley; Libby Lowther (Lowther & Associates), Dave Sanderson (DS Accounting)*
Others attending:	*Jeff Miles (HBME); Kery Oldroyd, Gary Ogden, Robert Oldroyd (Moreton & Company*

1. **WELCOME –** Seth Perrins, Chairman

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Mr. Perrins welcomed everyone and called the meeting to order at 12:07 p.m.

2. **MOTION -** Approval of Minutes

2.1 MINUTES May 13, 2021 Executive Meeting

2.2 MINUTES July 30, 2021 Board Meeting

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Mr. Perrins asked for questions regarding minutes from the May Executive Committee Meeting and the July Annual Board Meeting. There being no questions, he asked for a motion to approve the minutes.

MOTION

Mr. Pace motioned to approve both minutes, seconded by Mr. Roberts. Mr. Perrins called for a vote. Vote was unanimous by all present. (Mr. Bittmenn and Mr. Jensen were not yet in attendance.)

3. CONSENT AGENDA

3.1 QUARTERLY FINANCIAL REPORT

3.2 ACTUARIAL STUDY FY2021-2022

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Mr. Perrins asked for questions and then a motion to approve the consent agenda.

MOTION

Motion by Mr. Whatcott to approve the consent agenda as posted, seconded by Mr. Pace. Mr. Perrins asked for questions and then a vote. Vote was unanimous by all present.

Mr. Petersen said AON, which has been doing the actuarial study for URMA, has notified URMA that they will not longer provide the study for URMA in the future.

4. SCHEDULED ITEMS

4.1 ANNUAL AUDIT REPORT – Jeff Miles – HBME

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Mr. Jeff Miles referenced the report that was provided. He explained that the audit opinion is now located on the first page of the report which states, the accompanying financial statements present fairly in all material respects respective financial position of the business type activities of the Utah Risk Management Agency as of June 30, 2021; and the respective change of financial position and cash flows there the for the year then ended in accordance with accounting principles generally accepted in the Untied States of America. In review, an increase of $400,000 in assets; liabilities increased about $400,000 mostly due to the reserve study done by AON. He asked for questions. There were none.

He said that there were no internal control deficiencies identified, and URMA has a good segregation of duties for a small organization, with Mr. Sanderson performing outside reconciliation but with no access to assets. No non-compliance issued were identified with regards to the state compliance audit guide.

MOTION

Motion by Mr. Smith to accept the audit report, seconded by Mr. Johnson. Voting was unanimous by all present. Mr. Perrins thanked Mr. Miles, Mr. Miles left the meeting.

4.2 PRESENTATION/DISCUSSION – Insurance Market Update – Moreton & Co

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Mr. Kery Oldroyd said there has been a lot of scrutiny for police, cyber and sexual abuse, but pricing has increased only 9-13%. Underwriters have been looking at police policy and procedures, turnover rates, and the cities' crime rates. Property rates are also increasing but not as much as last year. He said URMA haves the option to reduce increases by accepting more risk in increasing deductibles or restructuring excess insurance.

Mr. Ogden presented options to pool risk within the organization instead of transferring risk to the carrier as a way to save money on premiums, by increasing deductibles and adjusting the repayment. He presented an example that if URMA had increased deductible to $250K over the past nine years, it would have saved $660K in premiums.

Mr. Pace asked what individual cities would have saved. Mr. Ogden said the calculation was an aggregate, not run for individual cities.

Mr. Ogden said URMA pays Chubb $716K. He presented the following options to consider going forward, forecasted based on conversation with Chubb:

- *If all cities' retention was increased to $1 million, URMA would save 10% in premiums, $62K.*
- *Some carriers are requiring attachment points to increase. If the attachment point was increased to $2 million, URMA could save $265K in premiums annually. He suggested that URMA could keep the attachment point and repayment deductibles the cities currently have, but use capitol to fund the losses.*
- *If URMA increased the retention to $2 million and quota-shared 75% (Chubb)/25% (URMA) up to $4 million, it could save 50% of the premium, $365K annually.*
- *If all members' retention was increased to $1 million, and reinsurance limit was increased to $10 million, the premium increase would be $180,000.*

Mr. Ogden said URMA has not increased its limits for several years, and it has had enough coverage in the past, but there is concern that claims amounts and judgements in the courts have increased quite a bit. Most larger cities are buying $10 million. Moving to higher retention is something that the URMA Board should strongly consider. URMA is perfectly positioned with the money they have saved to use it to give some premium relief to members. Mr. Ogden asked for questions.

Mr. Johnson said his first responsibility is to Ogden City, and he would like to see the impact on his city first. He would like to see examples per claim and long term.

Mr. Kery Oldroyd said what is being suggested is that URMA put some of its $13 million at risk against larger claims. He said (for example) South Jordan is not going to want to *take a hit on a $2 million liability claim, but URMA has shown they don't have those types of claims, and could take a big deductible funded by the money it has banked and share the losses.*

Mr. Perrins said he agreed to a point, but each city has a claim on the reserves, so even though we're talking about URMA taking on the risk, it really is each city.

Mr. Kery Oldroyd said URMA has been very conservative, but to move to the next level, rather than transferring the risk to an insurance company and paying a premium for it, consider transferring it to URMA and use URMA assets to take care of some of the claims; then manage repayment and deductible internally.

Mr. Perrins asked if these are strategic options for the future or if the market is forcing it now and asked about URMA history of tapping into excess insurance.

Mr. Rob Oldroyd said the presentation was directed at premium savings, and Moreton suggested putting a committee together to study the questions for future decisions.

Mrs. Lowther said during the time she has worked with URMA there have only been two very small recoveries from excess insurance. Mr. Petersen confirmed there have only been three times URMA has had a claim go to excess insurance, in the life of URMA.

Mr. Perrins asked Mr. Oldroyd about the basis for his assessment that the market was not as bad as was initially feared. Mr. Oldroyd said it was based on their January renewal rates. He said property was less than expected but cyber was out of sight. And regarding underwriting, insurance companies are wanting more information regarding police, general activities, turnover rate, crime rate, which is an indication of tightening. He said he doesn't believe police coverage will continue to be readily available.

Mr. Bittmenn asked about the influence of turnover rate. Mr. Kery Oldroyd said there is a correlation between short term or new employees and how they handle issues with employment, especially with public works, new employees driving large trucks, and police, how young the staff is, and that it is more difficult to fill positions.

Mr. Perrins thanked Moreton for their report, and told those that volunteered in the chat box to be on a committee, would be contacted.

4.3 OSHA COVID 19 ETS INFORMATION – David Petersen

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Mr. Petersen referenced the cover memo he sent out regarding the OSHA vaccination requirements and the requirements he has identified thus far, and said they change almost daily. About 85% of the requirements are already in the OSHA standard in CFR 1910 122, and it is not likely that those will not be applicable. Most of the requirements are for entities of greater than 100 employees, but there are five different times where OSHA reserves the right to implement the requirements on entities with less than 100 *employees. He suggested cities get a group of employees together to discuss the impacts.*

4.4 PRESENTATION/DISCUSSION – Land Use Coverage – David Petersen & Seth Perrins

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Mr. Petersen said in the recent JPP update, the only unresolved issue was land use coverage; and the coverage language is confusing and arguably ambiguous. A task group was formed. Land use coverage history in URMA was examined and found to be inconsistent. At one point excess coverage was available for land use claims and it was canceled. Currently Moreton says that coverage cannot be purchased. URMA has had 236 land use claims since 1986, with average 6.75 claims per year – the highest year was 16, and average payout of $35K in claims costs and seven claims in excess of $500K in URMA's history.

In talking with Board members, there appears to be interest in having some kind of land use coverage, but excess insurance is not available to cover them. Four recommendations came from the group:

1) *Do nothing different (which Mr. Petersen discourages).*

2) *Continue to cover land use coverage and fix JPP language to be clear about coverage and identify specific exclusions (such as adverse condemnation) and consult with land use attorneys to get the language right, and purchase excess insurance (which we now know is not available).*

3) *Continue to fix the language in the JPP to have coverage in line with that the Board wants, and limit to a specific dollar amount, $500K or $1 million.*

   Based on URMA history, if land use coverage is at $1 million and capped, and the deductible and repayment program was used as it currently is, 90% of the time this would cover 99.9515% of the claims. If the cap is at $500K coverage, and the deductible and shared loss in the JPP was used, 90% of the time this would cover 99.974% of claims. To continue coverage in the retention, which is what we have been doing, is viable financially and beneficial to members.

4) *Fix the language in the JPP to include coverage for land use and appropriate exclusions that we determine; and then sub-limit different types of land use claims. For a development agreement claim, we could cover $250K, for zoning, $500K. When you sub-limit, it does get confusing as to what the coverage is. It is something to look at, but not the option Mr. Petersen would recommend.*

Mr. Petersen said he thinks it is easier to cover land use with exceptions, and cover to $500K, $700K, or $1 million. The probability model show URMA could do that with its *current reserve and not be significantly impacted. And the Board could revisit that at any time. He said his hope was to get direction from the Board and bring that back to finalize it.*

Mr. Hoffman asked for clarification of the options. Mr. Petersen explained the first option is not recommended. The second option is off the table. So [the new second] option is to fix the language in the JPP, be clear about coverage and exclusions, and set a dollar cap, such as $500K, $700K or $1 million, and the city would be on their own beyond that – and the deductible, shared loss, and repayment would apply. Option [now] three is to fix the language for coverage and claims, treat it like every other claim with deductible, shared loss, repayment, and then sub-limit different types of claims, meaning one claim type may be covered up to $250K, another up to $500K.

Mrs. Lowther said if you look at history, even outside of URMA, almost all the claims were with a particular attorney and almost all the expense is legal. She suggested considering exploring different ways to defend the claims that might be more cost effective, which would control the legal costs to some degree.

Mr. Kery Oldroyd said that they're seeing some attorneys are crafty to throw in something that is covered by insurance, like discrimination, and asked if Mrs. Lowther was seeing that.

Mrs. Lowther said it is cyclical, development companies are going after their development goals and extort them through litigation. She said she thinks a lot can be compromised earlier, and it is generally a motion and hardly ever a trial.

Mr. Huffman said that it is really important to well-define exclusions, and inclusions, and land use attorneys would be helpful defining that.

Mr. Perrins said his interest is in option 3, as long as it's spelled out clearly.

Mr. Pace said he thinks URMA needs to cover land use and all cities have used the coverage at one time or another. It needs to be clarified.

Mr. Perrins asked for opposition to option 3, and there was none.

Mr. Petersen will get with the working group and then get back with limits and dollar amounts.

5. OTHER ITEMS

5.1 DATES for upcoming meetings:

- Board Meeting – April 14, 2022 [*has since been changed*]
- Risk Manager Roundtable – April 21, 2022
- Summer Conference – August 3-5, 2022
  Newpark Resort, 1456 Newpark Blvd., Park City, UT

Newpark Resort

- Board Meeting – August 5, 2022
- Golf Tournament – September 9, 2022 – Lakeside Golf Course
  1201 North 1100 West, West Bountiful, UT

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Mr. Davis reviewed the upcoming events and asked for input on topics and concerns. Mr. Perrins asked anyone who would like to provide input to reach out to Mr. Davis.

6. ADJOURN

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Mr. Perrins thanked everyone and asked for a motion to adjourn.

MOTION

Motion by Mr. Whatcott to adjourn, seconded by Mr. Bittmenn at 13:30.

APPROVED THIS 14th day of APRIL, 2022,

Utah Risk Management Agency

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Seth Perrins, Chairman of the Board

ATTEST:

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Ann Nielsen, Secretary