

**MONTANA STATE FUND
BOARD OF DIRECTORS MEETING
August 17, 2021**

The Montana State Fund (MSF) Board of Directors meeting was held August 17, 2021 via Zoom.

Directors Attending

Richard Miltenberger, Clancy
Jack Owens, Missoula
Karen Fagg, Billings
Dexter Thiel, Sidney

Jan VanRiper, Missoula
John Maxness, Helena
Michael Marsh, Billings

State Fund Staff

Laurence Hubbard, President/CEO
Verna Boucher, Special Asst to Pres/CEO

Kevin Braun, General Counsel
Melissa Iverson, Graphic Artist/Web Specialist

I. Meeting Preliminaries

A. Call to Order

Chair Richard Miltenberger called the meeting to order at 8:02 a.m. and welcomed attendees and noted there was full Board attendance. He stated that the plan was to forego the minutes from the previous meeting and review both the June 18, 2021 and August 17, 2021 minutes at the September 10, 2021 meeting.

II. President/CEO Compensation Review and CEO Succession - Chair

A. Introduction – Notice of Closure of Meeting – Richard Miltenberger, Chair of the Board

Chair Miltenberger said the first order of business was to notify the public of the closure of the meeting. He noted that for any member of the public who was participating by viewing the live stream on YouTube, they could submit questions or comments by text or phone call to the Board via Chair Miltenberger's cell phone (406) 459-0203. He added the reason the meeting would be closed to the public was because the Board would be dealing with a personnel matter which was the annual review and compensation adjustment for MSF's CEO, Laurence Hubbard. He stated if there were no objections from any members of the Board, the meeting would be closed going forward.

B. Meeting Closed to the Public

There were no objections from the Board members and the session closed at 8:09 a.m.

C. President/CEO's Compensation Review

The Board of Directors held a closed meeting to discuss the President/CEO's compensation and Chair Miltenberger took the minutes.

III. President/CEO Compensation

A. Introduction – Richard Miltenberger – Chair of the Board

Chair Miltenberger asked if he needed to gavel back into the meeting.

President Hubbard said for the record, please do and added that MSF standard procedure has been to ask the President/CEO whether or not he waives his right of privacy for the closed session. He said we missed that step and noted to clarify the record, that he did not wish to waive his right of privacy which he said was moot at this point.

Chair Miltenberger reopened the meeting at 8:52 am. He said the Board had a good robust discussion and there were a couple of things that he wanted to share. He offered to have this discussion with just the Board and President Hubbard in another executive session; however, if President Hubbard was good with this little hoop, he said he was fine with it. He said he did not believe there was a big crowd watching and there was not anything negative at all and asked if President Hubbard was good with covering this publicly at the moment.

President Hubbard jokingly responded that as long as the Board did not punish him or discipline him or anything like that, he felt it would be okay.

Chair Miltenberger indicated there were no issues to discuss, he wanted to offer the right of privacy to President Hubbard would have been honored if so directed.

B. President/CEO's Annual Compensation

Chair Miltenberger thanked President Hubbard for his service and said the Board is delighted with the fact that President Hubbard has agreed to continue with MSF for a period of time after so many years and giving the Board adequate time to begin searching for a new President/CEO. He said there would be a discussion later about succession and selection of a successor; however, currently the topic was President Hubbard's compensation for 2021 based on his performance in 2020. He said as part of that, the Board wants to sit down over the next few weeks and have a discussion with himself, Jan VanRiper and John Maxness to cover expectations going forward and outlining Board expectations for performance which Ms. VanRiper mentioned was a common occurrence in the past. He added that now was the opportunity to reward President Hubbard for past service. He said the Board had arrived at a figure and called for a Board member to share the staff-prepared motion so that they did not have to stumble over the language for a motion. He noted he appreciated the proposed motions that staff prepared for each Board meeting.

He said the number that the Board was bringing forward, and which was reflected in the motion as a dollar amount, may need some review and correction by the finance department. He said the math the Board was working from called for a four percent increase which will result in an increase to \$434,720 working from a basis of \$418,000. He noted that if President Hubbard's current salary is not exactly \$418,000 that may result in a slight variance and the Board was open to assistance from the finance team to determine a more accurate calculation. He noted that the Board believed this increase would provide President Hubbard with a spot where he can continue to operate without immediate financial concerns and at the same time put him closer to the recognition of his full years of service to MSF. He noted that if President Hubbard had any comments, those could be provided during the discussion portion of the motion process.

Ms. VanRiper made a motion the annual base compensation of Laurence Hubbard, President and CEO of Montana State Fund, be set by the board at a four percent increase of his current salary, effective March 13, 2021. The motion was seconded by Mr. Marsh. Chair Miltenberger called for discussion.

Chair Miltenberger asked President Hubbard if he wished to comment at that time.

President Hubbard asked that he be able to reserve his comments until after the debate and passage of the motion.

Chair Miltenberger called for additional comments or discussion from Board members; there was none. He called for input from the public; there was none. He called for the vote and the motion passed unanimously.

President Hubbard thanked the Board and said he was honored and privileged to serve as the Board's CEO and he said he really appreciated the Board taking on this task of determining the annual compensation each and every year. He noted that he and the Board have always worked together to ensure that the Board felt comfortable with timing and had all the necessary information to make the appropriate decision. He said he is very privileged to be MSF's CEO and will continue to serve as impassioned and engaged as he always has been to the very last day of his tenure – whatever that may be. He thanked the Board again.

C. Budget Amendment for the Calendar Year 2021

Chair Miltenberger noted that a secondary motion was necessary to amend the budget to account for this change because the increase to the CEO's compensation is not included in the budget for 2021. He called for a motion.

Mr. Maxness made a motion the budget for Calendar Year 2021 be amended to acknowledge the Board-approved adjustment to the President/CEO's base compensation. Mr. Owens seconded the motion. Chair Miltenberger called for discussion and public input; there was none. Chair Miltenberger called for the vote and the motion passed unanimously.

IV. CEO Succession Planning

A. Executive Recruiting

Chair Miltenberger noted that the Board must establish a CEO succession plan. He called on Mr. Marsh for a statement he wished to make.

Mr. Marsh noted that he was currently exploring his options for pursuing the CEO position at MSF and to avoid any real or perceived conflicts of interest, he recused himself from the search and selection process and said he would remove himself from the Zoom session. He thanked the Board for including him in the process thus far and congratulated President Hubbard on his increase. He noted he would see the other members at the Board meeting in September.

Mr. Marsh left the Zoom session at 9:04 a.m.

Chair Miltenberger asked that the minutes reflect that Mr. Marsh had dropped off the meeting at this time. Ms. Boucher assured him they would.

Chair Miltenberger noted that there were a number of ways to go about the selection of a CEO and he said he thought it was one of the most important things that the Board would be involved in. He said the CEO sets the tone, the culture, leadership and financial strategies of the company. He said a Board's actions are limited not just by custom but also by the wisdom to not interfere with the day-to-day running of the company. He said Boards that get overactive in trying to get their fingers into the organizations end up causing trouble for the entire company. He said one of the great roles for the Board is to assure they find someone who can fill these shoes and keep the company on this track of financial and customer service success that has been on-going for all these years.

He suggested that the Board have a dual approach to the selection process and he drew the Board's attention to two different proposed motions the Board could discuss and decide how to best to approach the planning. He suggested that the Board use both mechanisms because he thought they could work together well. He noted that one was to use an executive search firm that specializes in this industry which would not require a full RFP because it is industry related. He said the Board would be provided with materials and could compare different firms so the Board could select one from that list and be able to utilize a search firm going forward. He noted that these firms are not inexpensive and typically charge a percentage of the first year of compensation; however, they have

connections and credibility within the industry that can add value for the Board. He said at the same time, he thought there was a role, in conjunction with the search firm, that is normally played by the internal HR personnel who manage the search firm process to keep the firm and the Board on track. He said he believed it was unfair to ask Rick Duane, MSF's very capable Vice President of Human Resources, to be that intimately involved with the selection process of his new boss. He said he thought it would be appropriate to have a Human Resource professional who could work with the search firm and with the Board to assure that the process stays on track going forward. He stated at times, in his own experience, he has seen search firms not provide satisfactory candidates and at that point turn the process into an effort to sell the Board on the candidates they have brought. He said that is why it is not a bad idea to have an intermediary who takes the place of what the HR department normally does in the hiring process where there is a recruiter. He added that it may seem redundant; however, he did not believe the cost would be very high. He said Human Resource consultants work on an hourly basis and he believed it would add some real value. He said selfishly, from his perspective as Chair, he felt it would take a load off of him to not have to interact quite as frequently with the search firm but to have an HR professional in the middle. He said the HR component would not be terribly expensive and he estimated it would be well less than \$5,000 which also takes it out of the realm of the necessity of a full blown, three-month, RFP process. He invited the Board members to offer any suggestions that they thought would be a better route for the Board to take.

President Hubbard said he did not have a better idea; however, he wanted to note that the Board had adopted procurement policies and there is an exception for the state procurement requirements if the total contract amount is under \$5,000. He added that Board policy guidance recommends that three recruiting firms be considered for appropriate comparison analysis. He said he agreed with the approach of hiring a recruiting firm as well as a human resource generalist. He added that though he had no doubt the human resource professionals at MSF, Rick Duane and Michele Evans, would serve the Board well, he believed hiring an outside HR professional would be an excellent practice to assure there is appropriate distance between management and the Board's responsibilities for selecting his successor. He said he thought it was a wise decision and encouraged the Board to continue in that direction particularly in terms of establishing a bullet-proof process, particularly since a current Board member might be considering applying for the position.

Chair Miltenberger called for additional comments or discussion; seeing none, he called for a motion.

Mr. Owens made a motion that the selection of the executive recruiter be limited to entities that specialize in recruiting executive level candidates in the insurance industry and that the Board solicit proposals from more than one qualified recruiter in accordance with the Board-adopted Procurement Guidelines For Insurance Related Services. Ms. Fagg seconded the motion. Chair Miltenberger called for discussion or comments from the Board and the public; there was none. He called the question and the motion passed unanimously.

Chair Miltenberger said the next motion will address hiring the human resources generalist and he called for a Board member to make the motion.

Ms. Van Riper made a motion the Board contract with a human resource generalist in an amount not to exceed \$5,000, to assist the Board in the recruitment, selection and hiring of the President/CEO position. The motion was seconded by Ms. Fagg. Chair Miltenberger called for discussion from the Board and the public; there was none. He called for the vote and the motion passed unanimously.

Chair Miltenberger noted that the next Board discussion item was whether or not it would be meaningful and effective to have a contract with the incoming CEO. He said it could be that the

person selected is familiar to everyone and there is a great deal of confidence in that person. The last time a CEO was selected, President Hubbard had been with MSF for over a decade with varying levels of management experience. He said there is always the possibility that a selection is made of someone who is new to the field and it could protect the organization, if it is possible to do so, to have a contract with the new CEO. He said exploring that possibility is something that could be beneficial and he noted that MSF's legal department has always been effective at advising the Board; however, this too may put the MSF legal team in an awkward spot of having to negotiate details with their next boss. He said a contract may not be necessary; however, he thought it would be wise to have someone available to advise the Board on this issue. He said he did not believe this would exceed \$5,000 so a full RFP would not be necessary. He noted that Montana has some very unique employment laws though some changes were made during the last legislative session that decluttered the wrongful discharge act a bit; however, it is still pretty complicated and quite different than how many other states operate. He said he thought it was important to have somebody who knows and understands Montana law especially for state employees as there are a number of law groups that press in on that topic. He called for a motion to elicit further discussion that the Board may want to have.

Mr. Braun clarified that the \$5,000 limitation is peculiar to the human resource generalist, when you hire or retain attorneys, this is one exception to the Montana procurement act so there is not a dollar limitation necessarily imposed with regard to legal counsel. He said there are wide parameters with regard to selection of the individual because the uniqueness of attorney services and certain other things, such as actuaries, it is not necessary to go through procurement act rigors.

Chair Miltenberger thanked Mr. Braun for the clarification.

Mr. Maxness made a motion the Board contract with a Montana employment law attorney to assist the Board with the CEO transition and drafting an employment contract with the candidate selected by the Board to be the President/CEO. The motion was seconded by Mr. Owens. Chair Miltenberger called for discussion.

Ms. VanRiper said she supported this motion; however, she also thought the Board should have an expectation that the attorney would consult with Mr. Braun. She explained that there are a lot of unique things to MSF that Mr. Braun has a background in as well as state employment law and matters related to MSF. She said she thought the Board would want the attorney to consult with Mr. Braun.

Chair Miltenberger said that was wise advice and that he totally concurred. He said that would give the Board the benefit of Mr. Braun's advice as well as establishing some distance as we get down to the "nitty gritty."

He called for additional discussion; there was none. He called for public input; there was none. He called the question and the motion passed unanimously.

B. Selection Committee Appointment - Chairman

Chair Miltenberger sought clarification from President Hubbard and Mr. Braun as to the propriety of the Chair making committee appointments or are the committees and members to be voted on by the Board as a whole?

President Hubbard said that typically committees and member assignments are at the pleasure of the Chair.

Chair Miltenberger thanked President Hubbard and appointed himself, Jan VanRiper and John Maxness to the Selection Committee. He added that this is going to be a project for the entire Board

and the committee members will keep everyone informed and get input all along the process. He said they would bring multiple candidates back to the full Board for interviews. He said it would not be the committee selecting one person on behalf of the entire Board. He explained the reason for the committee is to simplify the process with a smaller number; however, it will not be to the exclusion of the full Board.

V. Old Business/New Business

Chair Miltenberger called for Old or New Business.

President Hubbard noted that he and the Chair had spoken briefly about the wisdom of a compensation consultant for the search process and he recommended that the Board consider retaining a compensation consultant for the CEO. He said that Mr. Neville Kenning, of Kenning Consulting, who had served the MSF Board for over 15 years with regard to setting CEO compensation, has passed away. He said there are a number of state funds that President Hubbard is engaged with that are seeking to get annual compensation survey data from all of the AASCIF member state funds around the country for their respective Boards and their chosen compensation consultants to utilize. He said the reason he thought it was prudent for the Board to retain and obtain annual salary data for this position, particularly in light of going into potential negotiations with a new CEO, is that executive compensation trends are often highly variable and not necessarily the same as general wage CPI in other industries. He said another consideration is that many plans for CEOs contain a variable pay or bonus pay component, which MSF does not, and the base salary and prerequisites are also a factor that need to be considered. He said the annual data does provide the necessary independent backup to the Board's compensation decisions for the President/CEO. He noted the President/CEO position at MSF is, as the highest paid state employee, a very public position that gets a lot of attention. He said most compensation surveys are conducted annually and the Board could stay very current with the data on an annual basis. He said the current market data also gives the Board assurances for the negotiations that are inevitably going to have to happen with his successor. He encouraged the Board to consider having this discussion at the September Board meeting.

Chair Miltenberger said hiring a compensation consultant is something that some Board members have discussed. He noted there is currently not a replacement for Mr. Kenning though there could be soon. He said having that resource and input is critical to the organization. He said in his experience, salary surveys, whether completed for the rank and file or at the executive level, are something that is completed every so often which may reflect his own limited experience. He said keeping current every year with what is happening seems to be a bit of overkill. He said Mr. Kenning was worth every penny the Board paid him and he was a wonderful gentleman; however, he said his thinking process is that a salary survey is only necessary every two or three years as opposed to every year. He added that in the in-between years the Board could use the corporate COLA extensions to stay current to some degree with recognition for advance in career and experience that a good candidate will be incurring every year. He said he thinks it might be overkill to have that much input every year, not just for the \$12,000 that is spent each year but also for Board time as it represents an hour a couple of times each year. He asked the Board members for their thoughts on this topic.

President Hubbard said he thought the determination of the frequency of the review was very appropriate for the Board to consider and discuss once a new CEO is retained. He said he was suggesting for purposes of the recruitment of his replacement that it would be wise to have the initial market survey data. He said the data used to determine his compensation at this meeting was from 2020 and the marketplace does change quite rapidly at the executive level for compensation. He said his encouragement was really just for the selection part of the recruiting process.

Ms. VanRiper asked President Hubbard if he had reported to her that AASCIF was looking for a replacement for Mr. Kenning as he contracted with a lot of state funds and if he knew where that stood?

President Hubbard said he has been on a committee of CEO's that meets informally every Friday. He said about eight or nine state funds around the country actually used Mr. Kenning's services as their compensation consultant; however, he also performed the overall survey on behalf of AASCIF. He said AASCIF will continue the annual salary survey either through their own HR department or through another consulting firm. He said they have spoken to a number of firms about providing this service to AASCIF and any state funds that may be interested in using their compensation consulting services. He said that will be available to MSF through AASCIF; however, it is up to the Board to determine if they should have their own compensation consultant to use that data to make compensation recommendations or decisions.

Ms. VanRiper said related to when the Board considers compensation for the new President/CEO, in the past MSF did offer bonuses and/or incentive pay and MSF got rid of that. Was that eliminated because it was deemed illegal under Montana law or what was the reason and does the Board have that option?

President Hubbard replied that recommending that the Board eliminate all incentive programs was one of the mistakes he made as the CEO of MSF. He said he always believed that when properly designed incentives, not bonuses, actually engage and drive behavior the way the Board and management want the company to go. He added that the reality was that it was a political lightning-rod issue for folks that believe that MSF is just a state entity. He said it is inconsistent or incongruent for those folks that MSF had a compensation plan that included incentives when other state employees do not get them. He said, frankly, it was a distraction that he felt, at the advice of counsel and the executive team at the time, that the Board should eliminate the incentive program for all employees. He said there is no prohibition in law and he said he strongly believes that they are useful devices for engaging performance. He said he would encourage the Board to someday consider reimplementing an incentive plan when under appropriate circumstances. He said it is very common for other funds to have incentive programs.

Ms. Fagg commented that she thought it would be helpful for the Board to hire a compensation consultant for the CEO hiring process. She said the Board can decide after that whether or not annual updates are necessary. She said she believed MSF's own HR professionals utilize the overall surveys that are being done by AASCIF. She said perhaps they could then alternate years which is a decision the Board can make down the road. She said for purposes of hiring a new CEO, an outside consultant is needed whether that is the recruiter or a separate consultant, she was unsure but said the Board does need to know what the status is for 2021 and looking forward.

President Hubbard said if the Chairman approved, the compensation consultant topic could be included on the September Board meeting agenda?

Chair Miltenberger said he would be getting the draft of the September Board meeting agenda to the Board for their review and said the Board will probably find that topic on there. He said we will get you an agenda in the next few days. He added that he would be sending the draft of the September 10, 2021 agenda yet today and if Board members had any items they wished to add to please let him know.

He noted that he did not want to go too far afield without Mr. Marsh who has recused himself for that one section and he did not want to get too far off the beaten path without including him back in. He called for any other old or new business; there was none.

VI. Public Comment

Chair Miltenberger called for public comment; there was none.

Montana State Fund
Board Meeting Minutes
August 17, 2021

Ms. VanRiper made a motion to adjourn the meeting. Chair Miltenberger said the motion to adjourn does not need to be voted on.

The meeting was adjourned at 9:37 a.m. The next scheduled Board Meeting will be held on Friday, September 10, 2021 at 8:30 a.m. in the Board Room at Montana State Fund, 855 Front Street, Helena, Montana.

Respectfully submitted,

Verna M. Boucher

Special Assistant to the President/CEO