

# Livermore Area Recreation and Park District Staff Report

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TO: Chair Pierpont and Board of Directors

FROM: Mathew Fuzie, General Manager

PREPARED BY: Jeffrey Schneider, Administrative Services Manager  
Linda Van Buskirk, Executive Assistant to the General Manager

DATE: February 24, 2021

SUBJECT: Workers' Compensation Coverage for Volunteers – Board Resolution

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**RECOMMENDATION:** That the Board of Directors approve Resolution No. \_\_\_\_ to ensure continued workers' compensation (WC) coverage for the District's volunteers and Board members for the upcoming fiscal year (2021-22).

**BACKGROUND:** The joint powers authority CAPRI (California Association for Park and Recreation Indemnity), which provides the workers' compensation and other insurance coverages upon which the District relies, has established a standard resolution that it requests each of its members to adopt regarding workers' compensation coverage for volunteers and board members.

While the District has historically included its volunteers and board members under its workers' compensation umbrella, this resolution establishes language that has been vetted by CAPRI to ensure that its members adhere to the governing Labor Code of California (section 3363.5), which states: "...a person who performs voluntary service for a public agency as designated and authorized by the Governing Body of the agency or its designee, shall, upon adoption of a Resolution by the Governing Body of the agency so declaring, be deemed to be an employee for workers' compensation purposes." Per CAPRI: "Stated another way, these volunteers may be treated as an employee and covered for workers' compensation purposes *only if* a Resolution to that effect is adopted by your District pursuant to Labor Code§ 3363.5."

**FISCAL IMPACT:** No additional cost in terms of workers' compensation coverage, though by ensuring that our volunteers and board members are covered, we avoid significant risk, as described by CAPRI: From a risk management standpoint, it is much preferred to extend Workers' Compensation coverage to volunteers. For example, when a volunteer (which, again, can include the District's Board of Directors) is not covered by workers' compensation, his or her only remedy for an injury is to file a claim against the District and pursue damages through the civil court system. This can result in costly and time-consuming litigation and a significant claim has the potential to adversely impact the District's loss history and, thus, future premiums. Importantly, it can also result in unnecessary delays in obtaining competent treatment from qualified professionals.

**A final note/request from CAPRI:** “It is likely that your District adopted a volunteer resolution dating back to the 1980s. Whether or not a Resolution is currently in place, please use the enclosed sample Resolution to create or update the document for your Board's approval.”

**Attachment A:** Resolution: Workers’ Compensation for Volunteers

**ATTACHMENT A**

**THE BOARD OF DIRECTORS  
OF THE  
LIVERMORE AREA RECREATION AND PARK DISTRICT**

**DRAFT RESOLUTION NO. 27xx**

**A RESOLUTION DECLARING THAT GOVERNING BODY MEMBERS AND  
VOLUNTEERS SHALL BE DEEMED TO BE EMPLOYEES OF THE DISTRICT FOR  
THE PURPOSE OF PROVIDING WORKERS' COMPENSATION COVERAGE FOR  
SAID CERTAIN INDIVIDUALS WHILE PROVIDING THEIR SERVICES**

*WHEREAS*, the Livermore Area Recreation and Park District utilizes the services of Governing Body Members and Volunteers; and

*WHEREAS*, Section 3363.5 of the California Labor Code provides that a person who performs voluntary service for a public agency as designated and authorized by the Governing Body of the agency or its designee, shall, upon adoption of a resolution by the Governing Body of the District so declaring, be deemed to be an employee of the District for the purpose of Division 4 of said Labor Code while performing such services; and

*WHEREAS*, the Governing Body wishes to extend Workers' Compensation coverage as provided by State law to the following designated categories of persons as indicated by a checkmark in the box to the left of the descriptions:

- All Members of the Governing Body of the Livermore Area Recreation and Park District as presently or hereafter constituted and/or
- All persons performing voluntary services without pay other than meals, transportation, lodging or reimbursement for incidental expenses
- Individuals on Work-study programs
- Interns
- Other Volunteers
- \_\_\_\_\_  
[designate]

***NOW, THEREFORE, BE IT RESOLVED***, that such persons coming within the categories specified above, including the duly elected or appointed replacements of any Governing Body Member and other designated individuals be deemed to be employees of the Livermore Area Recreation and Park District for the purpose of Workers' Compensation coverage as provided in Division 4 of the Labor Code while performing such service. However, said Governing Body Members and other designated individuals will not be considered an employee of the Livermore Area Recreation and Park District for any purpose other than for such Workers' Compensation coverage, nor grant nor enlarge upon any other right, duty, or responsibility of such Governing Body Members or other designated individuals, nor allow such persons to claim any other benefits or rights given to paid employees of the Livermore Area Recreation and Park District.

***ON MOTION*** of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, the foregoing resolution was passed and adopted this 24<sup>th</sup> day of February, 2021, by the following roll call vote:

**AYES:**  
**NOES:**  
**ABSTENTIONS:**  
**ABSENT:**

Approved this 24th day of February, 2021,

\_\_\_\_\_  
Philip Pierpont  
Chair, Board of Directors

ATTEST:

\_\_\_\_\_  
Mathew L. Fuzie  
General Manager and ex-officio Clerk  
to the Board of Directors