



**CLAIMS COMMITTEE
SUMMARY MINUTES**

**Friday, February 20, 2009
101 8th Street
Oakland CA 94607
Conference Room B**

& Teleconference Locations Below:

**330 West 20th Avenue, San Mateo, CA
7351 Rosanna St., Gilroy, CA
110 East Main St, Los Gatos, CA
567 El Camino Real, San Bruno, CA
400 Grand Avenue, So. San Francisco, CA**

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| Presiding | Shawn Mason | San Mateo |
| Members Present: | Pamela Thompson Orry Korb Jim Steele LeeAnn McPhillips Heather McLaughlin | San Bruno Los Gatos So. San Francisco Gilroy Benicia |
| Members Absent: | Gary Galliano | Newark |
| Legal Counsel: | Mike Serverian, for closed session | Rankin, Landness, Lahde, Serverian & Stock |
| Staff Present: | Marcus Beverly, PLAN Risk Manager Angela Salsbury, PLAN Claims Manager Gertruda Luermann, PLAN Risk Management Analyst Carol Taylor, PLAN Secretary | |

- 1. Call To Order:** Shawn Mason called meeting to order at 10:05 a.m. A quorum was present.
- 2. Public Comments:** None
- 3. Approval of Minutes, Meeting of February 6, 2008 and December 18, 2008:** Minutes of February 6, 2008 approved as presented. /M/Korb/S/Mason/Approved on roll call vote with McPhillips abstaining.

Minutes of December 18, 2008 approved as amended to reflect Shawn Mason presiding.
/M/Korb/S/Mason/C/Approved on roll call vote.

- 4. Revisions to the Liability Memorandum of Coverage (MOC):** Marcus Beverly presented a draft memo to the Board from Kenneth Moy, Legal Counsel, regarding recommended changes to the Liability Program MOC, including the rationale for the changes and the proposed language. The Committee was asked to provide comment and direction regarding the content of the memo and the proposed language.

Discussion included examples of claims in which the subject changes were an issue and how the coverage would respond. Members expressed concern about the exposure to their agencies for plaintiff attorney fees and support for the change.

After presentation and committee discussion, revisions to the Liability Memorandum of Coverage were approved as presented. /M/McPhillips/S/Korb/Approved on roll call vote with Thompson abstaining.

- 5. Litigation Management and Defense Counsel List:** Marcus Beverly presented the current list of approved defense counsel and a summary of litigation expenses from 2005 through 2008. The summary listed the top six firms by cost and the average paid per suit. Staff and committee members discussed the summary and the results of several lawsuits, including a police case that was defended at trial and the comparative cost of two similar police cases that were settled.

Staff also presented an overview of recent changes to the PLAN's litigation management process and plans for the coming year. Most notably, we no longer have one claim examiner dedicated solely to litigated claims. Lextech is now being used to audit legal bills on a spot check basis and we are requesting legal bills every thirty days instead of every 90days.

Pamela Thompson requested an addition to the Defense Counsel List, Eugene Brown with the firm of Filice, Brown Essa & McLeod, LLP. The recommendation is based on her prior experience with him defending public entity claims. After review and discussion Eugene Brown was approved with a cap of \$200.00 per hour for services rendered. /M/ Thompson/S/McPhillips/C/unanimously approved.

- 6. 2008 Year-end Claim and Claim Policy Review:**

Staff presented a report of claim activities as listed in the PLAN Claim Policy, including claim settlements over \$125,000. The committee was also asked to review the Claim Policy for potential revisions and whether or not to establish a process for re-affirming the Policy. Marcus Beverly provided an overview of the Policy's key objectives, including the provisions for dispute resolution, explaining a member questioned if the Policy required binding arbitration.

After review and discussion the members did not recommend any changes to the dispute resolution language, but Jim Steele recommending a change to the Settlement Authority section pertaining to the Claims and Risk Managers' authority. He expressed the desire to have member input for settlements above their deductible, especially for high profile or politically sensitive claims, while still preserving the PLAN's ability to settle claims based on the best interests of the members. The committee members agreed to add a condition on staff's authority to state "with approval of Member, provided such approval is not unreasonably withheld".

After presentation, review and discussion, the Committee approved the recommended change to the Claims Policy. M/McLaughlin/S/Mason/C/unanimously approved

- 7. Overview of Claims Objectives and Planning:** staff provided an overview of objectives, issues, and planned activities, including:

- Suggested revisions to the Property MOC as part of a broader review of the program, to include funding and allocation issues, during 2009.

- Risk Management Software Conversion: February 9, 2009 marked the beginning of the conversion to the Valley Oak Risk Management Information System, with the expectation of going live for the claims administration in August, 2009. Full implementation of the audit function and reports is expected by the end of the year.
- Retirements, new hires, and the software conversion have combined to create a number of changes to ABAG's claims administration, with more changes expected as the software is implemented. We expect greater efficiency and interaction with members once the software is fully functional.
- The City of Oakland and the City of Palo Alto have requested proposals from ABAG to manage their claims. Staff is in discussions with them and will consider to the extent additional claims do not interfere with administering PLAN claims.

Noted: Item 8 was discussed in closed session pursuant to the requirements of the Ralph M. Brown Act. Closed session began at 11:40 am.

8. Conference with Legal Counsel – anticipated or existing litigation:

- Rookwood vs. Town of Los Gatos
- Claims over \$125,000

9. Announcements: Orry Korb announced in open session at 11:58 a.m. that no final reportable action was taken in closed session.

10. Other Business: None

11. Adjournment: meeting was adjourned at 12:05 p.m.

Respectfully Submitted,



Marcus Beverly, Secretary
ABAG PLAN Corporation