



ABAG PLAN CORPORATION
Executive Committee
Summary Minutes
Thursday, May 14, 2009

101 8th Street
Oakland, CA 94607
Conference Room B
&
Teleconference Location
455 East Calaveras Blvd., Milpitas CA

Presiding

Emma Karlen, Chair – left during Items 6-8

Jurisdiction

Milpitas / Teleconference

Committee Members Present

Laura Allen
 Shawn Mason
 Jim Steele
 Herb Lester
 Julie Carter
 Gary Broad

Colma
 San Mateo
 South San Francisco
 Suisun City
 Dublin
 Ross

Committee Members Not Present

Jeff Killian
 Cecilia Quick

Millbrae
 Pacifica

Staff Present – ABAG PLAN Corporation

Henry Gardner, ABAG Executive Director – arrived during Item 5.
 Marcus Beverly, Risk Manager
 Ken Moy, Legal Counsel
 Gertruda Luermann, Risk Management Analyst
 Carol Taylor, Recording Secretary

1. Call to Order

Meeting called to order by Emma Karlen at 10:02 a.m.

2. Public Comments

None

3. Approval of Minutes, Meeting January 15, 2009

Minutes were approved as presented: /M/Mason/S/Allen/C/approved

4. Election of Officers for FY 09-10 and Approval of Committee Schedules

The committee was asked to nominate officers to fill the Board Chair and Vice Chair positions for FY 09-10, recommend committee appointments and recommend dates for the committees' regular meeting dates. Staff provided a list of proposed meeting dates, current committee members, and current openings.

Laura Allen was nominated for the Board Chair position and Shawn Mason was nominated for Vice Chair. /M/Karlen/S/Carter/C/unanimously approved on separate motions for each nominee.

No changes were suggested to the proposed dates for the committees' regular meetings.

5. Management Proposal

Marcus Beverly presented a proposal for management of the PLAN for FY 09-10. The proposal outlined cost and governance issues that could be addressed by the members appointing a President of the PLAN who is independent of ABAG. Henry Gardner joined the meeting to provide a response to the issues raised.

After questions and discussion, the committee approved using outside counsel for further guidance on the issues and their possible implications. Also a subcommittee was appointed for a future meeting with ABAG staff for the purpose of gathering more details and further discussion. The appointed subcommittee members are as follows: Gary Broad, Laura Allen, Jim Steele, Herb Lester and Shawn Mason. /M/Lester/S/Carter/C/unanimously approved

6. Actuary Committee Report

A. Funding Policy Revision

Beverly presented a request to recommend revising the PLAN's Funding Policy to include the Termination Formula approved by the Board in October, 2008.

After presentation and discussion the funding policy revision was approved as presented. /M/Steele/S/Carter/C/unanimously approved

B. Program Status and Funding of FY 09-10

Beverly presented an overview of Bickmore Risk Services report regarding the PLAN's Liability Program as of June 30, 2009. The projections for outstanding liabilities have decreased and the rate for loss funding has decreased from \$1.03 to \$1.01 per \$100 of payroll. Payroll costs have decreased and total administrative costs will remain at \$2.5 million. Staff recommended maintaining a \$5 million SIR and \$20 million excess insurance with total cost increase less than 1% over last year.

The Property Program is expected to see at least a 10% rate increase but with no insurance coverage changes. Staff is recommending lowering the auto deductible from \$10,000 to \$5,000 and eliminating it entirely for losses above \$25,000. A change to the Property MOC to reflect the deductible change was presented. Members will also receive replacement cost for total loss autos if they are listed in the vehicle schedule.

After discussion and review the recommendations were approved as presented. /M/Broad/S/Carter/C/unanimously approved

7. Risk Management Committee Report

A. Risk Management Programs and Funding

Staff presented an overview of member progress in implementing the Risk Management Policy, including an updated scorecard, budget balances, grant uses, training and suggestions for future programs and funding. For the first time, grants have exceeded \$1 million and will likely exceed

\$1.5 million before fiscal year end. Momentum and increased awareness of the programs, as well as member budget concerns, have combined to peak interest in the grants.

At the same time, members have found it increasingly difficult to come up with matching funds. The Risk Management Committee has recommended increasing the grant from 5% to 10% of funding and eliminating the matching requirement on both the risk management and police grants, at least for FY 09-10. Staff provided a budget with those changes and well as suggestions for other programs and eliminating the subsidy for the Risk Management Analyst position by including it in the Administration funding.

After presentation and discussion, suggestions for the risk management programs and recommended funding for the FY09-10 programs were approved as presented.

/M/Lester/S/Broad/C/unanimously approved

B. Revisions to the Risk Management Policy

Marcus Beverly presented new best practices for Employment Practices Liability (EPL) for review and approval, as well as a minor change to the Police best practices. The EPL practices were the result of work provided by a law firm and edited by several HR Director Members of the Risk Management Committee. The change to the Police practices deleted a reference to video devices in patrol cars to emphasize new technology.

After presentation and discussion revisions to the Risk Management Policy and the minor change to the Police best practices was approved as presented.

/M/Mason/S/Broad/C/unanimously approved

8. Finance Committee Report

Marcus Beverly presented an overview of the Committee's activities, including the audited financials as of June 30, 2008, and the PLAN's Investment Performance Report as of December 31, 2008. The 2008 audited financials reflect a decrease in net assets of almost \$3 million due to above average claim payments of \$8.7 million. The market value of all investments as of December 31, 2008, was just under \$50 million, with a yield of 4.27%.

After discussion and review the Finance Committee Report was approved as presented.

/M/Broad/S/Carter/C/unanimously approved.

9. Claim Committee Report

A. Revisions to Liability MOC

Marcus Beverly presented proposed revisions to the Liability Memorandum of Coverage (MOC) for recommendation to the Board. The revisions include a broadening of coverage for damages by removing an exception for (plaintiff) attorney fees and a new exclusion meant to support other exclusions for damages arising violations of regulations, grant requirements, and the like. The change in the definition of damages will be most applicable in police civil rights cases, where an award of attorney fees can be granted to the plaintiff.

After presentation and discussion the MOC revisions were approved as presented.

/M/Mason/S/Karlen/C/unanimously approved.

B. Committee Update

Marcus Beverly provided an update of significant issues and claims addressed by the committee throughout the year. So far this year claims payments are below average, with payments mostly for legal defense, including a defense verdict in a police case, and one injury settlement of \$325,000. A claim was just reported arising from an incident in Atherton in which the claimant was hit and severely injured by a tree limb.

10. Strategic Planning Discussion

Marcus Beverly followed up on the recommendation made at the last Executive Committee meeting to table the Inverse Tail proposal made by the Board in October and instead recommend members participate in an interest-based facilitation at the next Board planning session. He presented proposals from two prospective facilitators for the meeting and described the discussions held with each.

After presentation and discussion, Royleen White was approved as facilitator for the October 2009 Board meeting. /M/Mason/S/Steele/C/unanimously approved.

11. Proposed ABAG PLAN Budget – FY 2009-10

Marcus Beverly proposed the budget for funding administrative expenses of the PLAN. The budget is the same as last year, \$2.5 million, due in large part to savings from retirements and reorganization of the department without a Litigation Manager. The budget for claim consultants is increased due to assistance needed on sewer claims, but the budget

After presentation and review the proposed ABAG PLAN budget was approved as presented without a subsidy for the Risk Management Analyst position.
/M/Broad/S/Steele/C/unanimously approved.

Closed Session

Item 12 discussed in closed session pursuant to the requirement of the Ralph M. Brown Act.

12. Conference with Legal Counsel – anticipated or existing litigation

Arcadia Development v. Morgan Hill

Open Session**13. Announcements**

Shawn Mason announced in open session there was no reportable action taken in closed session.

14. Other Business

None

15. Adjournment

Emma Karlen adjourned the meeting at 1:05 p.m.

Respectfully Submitted,



Marcus Beverly
Risk Manager and Secretary