



**ABAG PLAN CORPORATION
Board of Directors Annual Meeting
Summary Minutes**

**Wednesday June 11, 2008
Westin San Francisco Airport
1 Old Bayshore Highway
Millbrae, CA 94030**

Presiding

Julie Carter, Chair

Jurisdiction

Dublin

Committee Members Present

Heather McLaughlin
Larry Anderson
Randy Schwartz
Jill Lopez
Jesse Takahashi
Paul Rankin
Alvin James
Kristi Chappelle
LeeAnn McPhillips
Marcia Raines
LeeAnn Thornton
Patrick Alvarez
Nick Pegueros
Jack Dilles
Jeff Killian
Emma Karlen
Gary Galliano
Cecilia Quick
Jim O'Leary
Pamela Thompson
Yulia Rasulova
Shawn Mason
Michael Taylor
Jim Steele
Herb Lester
Heidi Bigall
Kevin Bryant

Benicia
Burlingame
Burlingame
Campbell
Campbell
Dublin
East Palo Alto
Foster City
Gilroy
Half Moon Bay
Hillsborough
Los Altos
Los Altos Hills
Morgan Hill
Millbrae
Milpitas
Newark
Pacifica
San Bruno
San Bruno
San Carlos
San Mateo
Saratoga
So. San Francisco
Suisun City
Tiburon
Woodside

Others Present:

Peter Urhausen, Legal Counsel, Pacifica
Byrne Conley, & Half Moon Bay
Dennis Mulqueeny

Gibbons & Conley
Gibbons & Conley
Alliant Insurance Services

Seth Cole
Mike Harrington – left after Item 6.

Alliant Insurance Services
Bickmore Risk Services

Staff Present – ABAG PLAN Corporation

Henry Gardner, ABAG Executive Director
Marcus Beverly, Risk Manager
Ken Moy, Legal Counsel
Angela Salsbury, Claims Manager
Gertruda Luermann, Risk Management Analyst
Carol Taylor, Recording Secretary
Barbara Walden, ABAG Management Intern
Linda Min, ABAG Management Intern

1. Call to Order

Julie Carter called the meeting to order at 12:30 p.m. A quorum was present.

2. Public Comments

None

3. Approval of Minutes for Board of Directors Meeting, October 17, 2007

Minutes of October 17, 2007, were approved as submitted.
/M/McPhillips/S/Chappelle/C/unanimously approved

4. Business Meeting

A. Executive Committee Makeup

Marcus Beverly presented a report proposing changes to the Bylaws to increase the number of at-large Executive Committee members and allow for replacement of Committee Chair positions left vacant when the Board or Vice-Chair are also Committee Chairs. The purpose of the change is to maintain a quorum of at least five committee members. Currently the committee membership could drop to as few as six members when both the Chair and Vice Chair of the Board are also Committee Chairs.

After presentation and discussion the proposed changes to the Bylaws were approved as presented. /M/Steele/S/Killian/C/unanimously approved.

B. Election of Officers FY 2008/09

Julie Carter presented the Executive Committee nominations for the Board Chair and Vice-Chair and solicited further nominations from the floor. No further nominations were made and the Board of Directors approved the Executive Committee nominations:

Emma Karlen – Chair

Laura Allen – Vice Chair

/M/McPhillips/S/Chappelle/C/unanimously approved

Carter then requested nominations for the Executive Committee at-large positions. The following nominations were made from the floor:

At-Large: Cecilia Quick, Herb Lester, Julie Carter

The following committee members volunteered to serve in lieu of the committee chairs.

Risk Management: Jeff Killian

Actuary: Jack Dilles

With no other nominations, the Board approved the Executive Committee at-large positions and accepted the committee replacements, pending approval by the respective committees.

/M/Chappelle/S/McLaughlin/C/ unanimously approved

C. Committee Appointments

Julie Carter, requested volunteers for the remaining committee vacancies, resulting in the following appointments:

Risk Management Committee: Herb Lester and Randy Schwartz

Actuary Committee: Michael Taylor, with one vacancy remaining.

Claims Committee: LeeAnn McPhillips

D. Meeting Schedule FY 2008/09

The meeting schedule for FY 2008/09 was accepted as presented by voice vote.

5. The Year in Review:

Henry Gardner, ABAG PLAN President, presented a report on the past year's goals and accomplishments. In his presentation he emphasized the need to minimize claims through risk management and best practices. He also approved of the recommended changes to the Memorandum of Coverage for clarity. He stated that change provides an opportunity for growth and financial strength.

6. Actuarial Committee Report

A. Actuarial Review of the Liability Program:

Michael Harrington, Principal Actuary, Bickmore Risk Services, presented his firm's report, including a calculation of the PLAN's expected liabilities as of 6/30/08, and member funding of expected losses for FY 2008/09.

Ultimate Losses have decreased by \$946,743, even with an increase of \$1,764,000 in 2001-02. Outstanding liabilities remain steady at just over \$17 million. Liabilities at a 90% confidence level also remain unchanged at \$25 million, but net assets dropped by over \$5 million due to claim payments.

Funding for FY 08/09 is projected to increase by a total of \$364,000, or 4.6%, with \$264,000 of the increase for loss funding and insurance, and \$100,000 for administration. The base loss rate remains unchanged at \$1.03 per \$100 of payroll, so the increase is driven by increases in payroll and insurance.

B. Options for Liability and Property Programs:

Seth Cole, Vice President, Alliant Risk Services, presented his firm's results in marketing the PLAN's excess liability and property coverage for FY 2008/09.

He provided an overview of recent insurance industry results, updates to terrorism coverage, and a comparison of the PLAN's property rates for the last five years. This year the PLAN's property rate is expected to decrease by 8%, while the total insured values are increasing almost 4%. Members without increases in their property values will see decreases in premium. The crime coverage is in the third year of a three-year policy and so remains unchanged.

To renew the existing liability coverage the price will decrease almost 4%, to \$654,387. Various options for higher limits and a lower retention, to \$2.5 million, from three

different insurers, were presented and discussed. Cole also presented an overview of recent large claims and limits purchased by other pools and cities.

C. Funding Policy Revisions:

Marcus Beverly, Risk Manager, presented recommended revisions to the PLAN's Funding Policy for approval. The revisions reflected updates since the last Policy change, including use of the term Net Assets to replace Fund Balance. The other recommended changes are as follows:

- Adding the method for calculating the Unallocated Loss Adjustment Expenses approved by the Board.
- Under Stability of Funding, a sentence describing the uses of the SIR Fund to include catastrophe reserve and risk management program funding.
- Adding a benchmark for maintaining yearly Net Deposits at least equal to Net Assets, with a goal of 0.5:1 or less.

After brief discussion, the Funding Policy revisions were approved as presented.
/M/Mason/S/Allen/C/unanimously approved

D. Funding Options and Recommendations:

Marcus Beverly presented the Liability and Property Program funding options and recommendations, including a comparison to the benchmarks and goals of the PLAN Funding Policy.

FY 07/08 claim payments have decreased the PLAN's net assets by just over \$5 million, with the potential for an additional \$5 million decrease by June 30 for a pending claim. However, projected assets are great enough to support a \$5 million SIR and remain within established benchmarks. The PLAN's ability to fund a higher SIR has been impacted, but with recent results and a continuing soft insurance market committee members have expressed an interest in lowering the SIR to \$2.5 million.

PLAN's insurance brokers provided several options for excess insurance, including some with higher limits and a lower SIR. Beverly presented a spreadsheet analyzing the various options, focusing on two with the lowest overall cost per \$1 million in limits. One option is the same as expiring, a \$5 million SIR with \$15 million in excess insurance, and the other is for a \$2.5 million SIR and \$20 million in excess insurance.

Members and staff discussed the options at length, with factors such as total limits, SIR, future likelihood of large claims, and how much PLAN should rely on insurance v. self-insurance. After discussion, members voted to approve the same as expiring option, with a \$5 million SIR and \$15 million excess.

/M/Killian/S/Anderson/C/majority approved – one against

After a break, members continued the discussion regarding liability funding, with focus on option to purchase an additional \$5 million limit of excess insurance. Some members expressed concern that once PLAN offered the \$25 million total limit it would be hard to decrease it in the future should the insurance market harden. Members ultimately agreed to the option with a \$5 million SIR and \$20 million excess insurance. The option cost \$40,000 over the estimate used in the actuary report, to be paid for from reserves.

Option with \$20 million excess over \$5 million SIR approved as presented, with additional cost above actuary estimate funded from reserves. M/Galliano/S/Mason/ approved on vote with 10 in favor and 9 opposed.

Beverly next presented his report and an overview of recommended funding for the Property Program. Rates have decreased and coverage terms remain stable, with an "Upgrade to Green" option for using green building materials being offered for an additional premium. The key change is additional pool funding of \$30,000 for the \$250,000 deductible for flood losses to properties in flood zones.

After presentation and discussion funding for the Property Program was approved as presented. /M/McPhillips/S/Karlen/C/unanimously approved.

7. **Risk Management Committee Report**

Risk Management Program Update

Gertruda Luermann, Risk Management Analyst, presented an overview of member progress in implementing the Risk Management Policy, feedback and suggestions for future risk management programs. Participation in the programs, grant funding, and training attendance continue to increase. She recommended members review their progress in meeting FY 07/08 goals and establish 08/09 goals as a prerequisite to obtaining grant funding. She will gauge member interest in creating steering committees for public works and recreation exposures to provide feedback for addressing those areas.

Risk Management Program Funding

Marcus Beverly provided an overview of the recommended Risk Management Program funding for FY 08/09. The budget formula based on a percentage of funding remains the same, with 5% for services and 5% for matching grants, rounded up to the nearest \$5,000. An additional \$15,000 match is available for police, and this year members with contract police receive an additional \$5,000 grant. The grant for training increased from \$2,000 to \$3,000 per member.

Other programs and staff funding remain the same, with an increase in the defensive driving and Sewer Smart budgets. Recommendation includes authority for Risk Management Committee to authorize purchase of new software up to \$300,000.

After brief discussion the Board of Directors approved funding for FY08/09 as presented. /M/Takahashi/S/Lester/C/Unanimously approved

Note: per request from the floor, members agreed to move to Item 9.B., to allow sufficient time for discussion.

9. B. **Revision of Memorandum of Coverage (MOC)**

Ken Moy, Legal Counsel, presented a memo regarding proposed changes to strengthen the inverse exclusion in the MOC. The revisions reflect the PLAN's existing practice of covering sewer claims while denying defense and indemnity for inverse claims that include other causes of action. The intent is to reverse the effects of the trial court's decision in the Pacifica case.

He also provided a number of examples of regulatory and physical inverse claims and discussed whether or not they would be covered. Members asked a number of questions about the changes and the circumstances under which the exclusion would apply. The distinction between physical and regulatory inverse was made, with Moy explaining the basis for excluding non-negligent operation of a public improvement.

Moy prepared a subsequent memo summarizing his presentation and the examples provided. The memo and examples are attached to these minutes for reference.

After presentation and discussion the Board of Directors approved the revisions to the MOC with the following changes:

- Change the first line of section IV.I to “For an inverse condemnation claim arising solely out of the non-negligent operation . . . “
- Change section IV.G.3.iii to “the circumstances described under section IV.I”

Further, the Board of Directors authorized Moy to make non-substantive edits to the final sentences of sections IV.H and IV.J.

/M/Galliano/S/Allen/C/unanimously approved.

8. Finance Committee Report

Marcus Beverly presented a brief overview of the PLAN’s financial reports and audited financials. As of June 30, 2007, total assets were \$48 million, with net assets increasing by \$7.4 million over the previous year. Liability claims paid were just under \$2 million and interest received just over \$2 million.

The PLAN’s investments are currently earning over 4.5% with no exceptions to the Investment Policy and no changes recommended. Portfolio duration remains slightly below target due to continued inverse yield curve, but that should change as interest rates increase.

A. Financial Report as of December 31, 2007

B. Audited Financials as of June 30, 2007

The Board accepted the Financial Report and Audited Financials as presented.

/M/Karlen/S/Chappelle/C/unanimously approved

C. Investment Policy

The Board of Directors voted to adopt the Investment Policy with no changes as presented. /M/McPhillips/S/Mason/C/unanimously approved

9. Claim Committee Report

A. Update on Activities

Beverly presented an update on the activities of the Claims Committee, including significant claim settlements. No action taken, for information only.

B. Revision of Memorandum of Coverage (MOC)

See above and attached memo.

10. Administrative Budget FY 2008/09

Marcus Beverly presented the proposed administrative budget for Board approval. Most of the categories remain unchanged, with a decrease in consultant expense and an increase in personnel costs.

After presentation and discussion the administrative budget was approved as presented.

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

11. Strategic Planning Discussion

Item 11. was tabled for future discussion.

12. Conference with Legal Counsel-Anticipated Litigation Pursuant to Govt C. Sec. Section 54956.9(b) – One Case

- 13. Open Session:**
Julie Carter called the meeting into open session at 5:00 p.m. and announced no reportable action was taken in closed session.
- 14. Other Business:**
None
- 15. Adjournment:**
Meeting adjourned at 5:03 p.m.

Respectfully Submitted,



Marcus Beverly
Risk Manager and Secretary

DRAFT