

**ABAG PLAN Corporation
Board of Directors
Special Meeting
Wednesday, November 4, 2008
9 a.m. to 4:30 p.m.**

**Westin Hotel
675 El Camino Real
Palo Alto, CA 94d301**

Presiding

Shawn Mason

Jurisdiction

San Mateo

Board Members Present

Bronda Silva
Eileen Wilkerson
Heather McLaughlin
Gus Guinan
Jesse Takahashi
David Woo
Julie Carter
Alvin James
Kristi Chappelle
Tom Haglund
Michael Dolder
Kathy Leroux
Patrick Alvarez
Nick Pegueros
Orry Korb
Jenny Haruyama
LaRae Brown
Emma Karlen
Danny Wan
John Becker
Angela Howard
Pamela Thompson
Shawn Mason
Barbara Powell
Jim Steele
Heidi Bigall
Kevin Bryant

American Canyon
Atherton
Benicia
Burlingame
Campbell
Cupertino
Dublin
East Palo Alto
Foster City
Gilroy
Half Moon Bay
Hillsborough
Los Altos
Los Altos Hills
Los Gatos
Los Gatos
Millbrae
Milpitas
Morgan Hill
Newark
Portola Valley
San Bruno
San Mateo
Saratoga
South San Francisco
Tiburon
Woodside

PLAN Corporation

Robert Lanzone, General Counsel
Marcus Beverly, Consultant

ABAG

Henry Gardner, Executive Director
Ken Moy, Legal Counsel
Darrell Dearborn, Interim Risk Manager

1. Call to Order

Shawn Mason called the meeting to order at 9:40. He noted that Laura Allen, Board Chair, was absent due to a family matter. Quorum was present.

2. Public Comments:

None

3. Facilitated Discussion of Inverse Tail Claim Strategy

Royleen White, consultant, facilitated a discussion among the Board members of the development of a PLAN policy to govern the treatment of claims based on a cause of action for regulatory inverse condemnation with dates of occurrence prior to July 1, 2008 (“Inverse Tail Claims” or “ITC”).

Ms. White divided the members into groups of 5 or 6 to work through the several stages of policy development. Groups were asked to identify interests that should be addressed in an ITC policy, options for addressing these claims and the elements of a preferred solution. Each group identified their input at each of these steps and recorded them on wall charts for consideration by the group as a whole.

The following draft policy was approved by the group at the end of the process.

Draft Policy to Handle Inverse
Tail Claims (ITC) Arising Before July 1, 2008

- Create a \$7M reserve for ITCs. Monitor reserve regularly. This reserve shall not limit PLAN liability for ITCs.
- Permit members to warrant to PLAN any potential ITCs of which the member is aware but which have not been presented or asserted by the putative claimant (“warranted ITCs”). [such claims outstanding upon the approval of this policy by the Board].
- Limit PLAN liability for ITCs to five years, July 1, 2008 to June 30, 2013.

- The cost of these ITCs will be reflected in member experience modification factors used to set liability pool premiums for five years.
- A cap will be placed on PLAN liability for each member in the amount of \$1M for all ITCs submitted by a member within the five year period and any warranted ITC.
- Members that submit ITCs to PLAN shall be required to sign a waiver as a condition of PLAN acceptance of any liability for such claims.
- PLAN liability for ITCs shall be limited to defense costs only.
- A committee of the PLAN Board shall be established to determine if a claim is subject to this policy.

The ABAG Legal Counsel, Mr. Moy, will prepare a resolution incorporating these points into a formal policy to be adopted by the Board at its next meeting within 30 days.

4. Other Business

None

5. Adjournment

The meeting adjourned at 4:40 p.m.