



Association of Bay Area Governments
ABAG PLAN CORPORATION
101 - 8th Street
Oakland, CA 94607-4756

DRAFT
Summary Minutes
Claim Committee Special Meeting
May 13, 2003
ABAG Conference Room B
101 Eighth St., Oakland, CA

Presiding:

Gretchen Conner, Chair

Campbell

Members Present:

Barbara Lathrop

Newark

Ed San Diego

Belvedere

Orry Korb

Los Gatos

Staff Present:

Marcus Beverly, Risk Manager

Ken Moy, Legal Counsel

Carol Johnson, Secretary

Member Representative Present:

Helene Leichter, City Attorney

Morgan Hill

1. Call to Order:

Chair called the meeting to order at 10:40 p.m. when a quorum was present. Special meeting was called at the request of the PLAN Secretary and Risk Manager, Marcus Beverly.

2. Public Comments

There were no public comments

3. Approval of Minutes, September 6, 2002 and November 6, 2002

/M/Lathrop/S/Korb/C/ approval of September 6, 2002, and November 6, 2002, meeting minutes as presented.

4. Conference with Legal Counsel – anticipated or existing litigation

Prior to entering in to closed session to discuss the claims on the agenda, Helene Leichter addressed the committee regarding the Gridley v. Morgan Hill claim and the City of Morgan

Hill's request to waive all or part of the applicable deductible. The city feels PLAN waived a defense to the claim for sewer backflow damages by accepting liability and agreeing to pay the claim. It is alleged the homeowner should have installed a backflow prevention device that would have prevented the backup in to the home.

The PLAN staff acknowledged accepting liability prior to receiving approval from the City's Claims Liaison, Jack Dilles. However, staff contends that defense has rarely if ever been used successfully, and focusing on mitigating the damages rather than provoking a lawsuit is often less expensive than asserting the defense.

The committee members also questioned Helene regarding the City's position and the probability and cost of a successful defense. After some discussion the committee thanked Helene for her presentation, she left the meeting, and the committee began its closed session discussion of the claims on the agenda.

A. Gridley v. Morgan Hill

The Committee agreed with actions taken to date and gave direction to ABAG PLAN staff regarding settlement of the claim and Morgan Hill's request.

B. Luebke v. Hillsborough

The Committee agreed with actions taken to date and gave direction to ABAG PLAN staff.

C. Hoffman v. San Bruno

The Committee agreed with actions taken to date and gave direction to ABAG PLAN staff.

D. Van Horn v. Benicia

The Committee agreed with actions taken to date and gave direction to ABAG PLAN staff.

Convened to Open Session:

Committee met in closed session on four items on the Agenda and no reportable actions were taken on those four items as announced by Orry Korb.

5. Approved Defense Counsel List

Staff requested addition of Kimberly Colwell to the list of approved attorneys for Meyers, Nave, a firm already on the approved list. Request was made by Pamela Thompson, City Attorney for San Bruno, based on her past experience with Ms. Colwell and a pending case she would like her to handle.

/M/Connor/S/Korb/C/ approval of Kim Colwell per request.

Staff also requested the addition of the law firm Low, Ball & Lynch and three of its attorneys, Mark Hazelwood, Steve Werth, and Raymond Coates. Request is based on staff's prior work

with the firm and attorneys, including desire to include Ray Coates as a coverage specialist as needed for revision of MOC or other coverage work.

/M/Korb/S/Connor/C/ approval of LB&L firm and attorneys per request.

6. Other Business

No other business was presented

7. Adjournment

Conner adjourned the meeting at 3:35 p.m.

Respectfully submitted,

Marcus Beverly
Secretary, ABAG PLAN Corp.