



Association of Bay Area Governments

ABAG PLAN Corporation

Risk Management Committee Meeting

Summary Minutes

April 8th, 2015
10:30am – 1:00pm

101 8th Street
Oakland, CA 94607
Conference Room B
&

Teleconference Location Below:

Participant	Member City	Street Address
LeeAnn McPhillips	Gilroy	7351 Rosanna Street

Presiding

Mike Taylor

Saratoga

Members Present:

Julie Carter
Jenny Liu
Laci Kolc
Brian Dossey

Dublin
San Carlos
American Canyon
Colma

Staff Present:

James Hill, PLAN Risk Management Officer
Jill Stallman, PLAN Claims Manager
Kim Chase, PLAN Administrative Assistant
Gertruda Luermann, PLAN Risk Analyst

Others Present:

Cathie Bigger-Smith
Mike Simmons

Loss Control Consultant
Alliant Insurance Services

1. Call To Order:

Meeting was called to order at 10:31 am by Chairman Mike Taylor. A quorum was present.

2. Public Comments: None

3. Approval of Minutes, Meeting of October 14th, 2014:

Minutes were approved as presented; /M/J.Carter/S/Kolc/C/Unanimous

4. Plan Program Performance Highlights

PLAN frequency and severity indicators continue to remain constant in terms of loss type and as they relate to department/function. Staff provided a detailed report (PLAN MDR) reflecting claim counts and claim values over the past five full fiscal years valued as of December 31, 2014. PLAN claim frequency (number of claims incurred) by fiscal year for General Liability/Automobile Liability reflects a downward trend from 2012/13 on a full fiscal year basis. While the general trend in PLAN Liability claims is down, there has been a slight uptick during the transition of the claim portfolio to York Risk Services (TPA) due to winter storm activity. The temporary rise in GL claim frequency is being analyzed closely by PLAN staff to monitor how the increase in PLAN volume impacts TPA operating efficiency.

Total incurred GL/AL claim values (net cost) are down 52% for 2013/14, Total incurred values in 2013/14 were \$3,257,860 versus \$6,805,044 for prior FY. The average incurred GL/AL claim value for 2013/14 decreased to \$7,338 (down 44%) from the preceding fiscal year (\$13,112).

PLAN claim frequency for Property increased 13% in 2013/14. The number of incurred Property claims is 176 in 2013/14 vs 156 the prior FY. Property claims frequency has been cyclical over the past five years. The current data (2014/15) shows continued downward movement which improves our outlook for property claims. Total incurred Property claims values (cost) declined 52% from prior FY despite the increase in claim frequency. Total incurred values were \$436,209 in 2013/14 versus \$913,608 in the prior FY. Average incurred property claims were \$2,478 (down 58%) as compared to \$5,856 in the prior FY.

Staff provided the committee with a report ranking the number of open claims by department/area as a percentage of all open GL/AL claims. Streets/Sidewalks rank #1 in claim by department at 119 claims (33% of the total open GL/AL claims); Police rank #2 at 87 claims (24% of the total claims), Sewer/Water rank #3 at 65 claims (18% of the total claims) and Tree claims rank #4 at 40 claims (11% of the total claims). 86% of all open GL/AL claims are being driven by these four areas. It is notable that weather related (storm) activity had a profound impact on our Sewer/Water claim frequency. PLAN continues to recommend very aggressive management and oversight of PLAN Sewer Best Practices (SSO's/SSMP's) as well as ongoing system inspection and maintenance. Adherence to specific best practices in these areas is being reinforced by PLAN staff and Loss Control consultants.

Loss Control/Safety consultants are working closely with member agencies developing Risk Management strategic plans to address loss frequency areas. Staff is working on advance analytic tools to replace the Management Data Reports (MDR) with "real time" performance reports. PLAN member are encouraged to review their individual MDR reports with the PLAN Loss Control/Safety representative and engage in discussion with PLAN Risk Manager/Risk Analyst during the planning process each year. PLAN staff and Committee will make recommendations to the Board of Directors to continue funding of the Risk Management grant program.

5. Risk Management Program Update:

Staff presented a summary report regarding Risk Management services provided to the members during the 14/15 program year to date. The majority of grant utilization continues to be in the area of risk consultant services prompted by the mandated best practices re-assessment and assistance for members in developing overall risk management strategies. The focal area of review this period is in

the areas of Contractor Selection & Control, Sewers and Aquatics. To date, 14 of the 16 members in need of updating their Sewer Overflow Emergency Response Plan (OERP) have completed the plan; and 7 of the 13 members have completed the Aquatic audit. As a result of the OERP work, we have seen requests for other services related to sewer operations, such as evaluations of current procedures and practices. Staff advised the committee most grant requests are for sidewalk/walkway repairs, tree inventory assessments/tree hazard mitigation, ADA or safety equipment. Some cities have shared allocated grant funds with their police departments for use on risk management consulting or training services provided by Marty Mayer or Gordon Graham. Staff asked committee members to consider Law Enforcement when utilizing grant funds.

From a customer service perspective, staff remarked that we continue to receive good feedback from members. Cathie Bigger-Smith (Safety/Loss Control Consultant) advised that good cooperation is provided by members in most cases. Staff proposed to focus next year's loss control program on the following areas: Vehicle Use/Operations; follow up on outstanding implementation of previously assessed best practices and development of a "Contract Administration Manual". Staff reminded committee members that member cooperation in providing the consultant with necessary access to staff and/or documents is an important element in the risk assessment/strategic planning process.

Julie Carter asked for an annual executive summary outlining claims, losses, ranking, etc. Staff noted their concerns regarding public release of this information. A motion was made by Julie Carter to form an ADHOC Committee to develop a Risk Management Attitude; and a Risk Awareness Survey for the 15/16 FY. Staff will work with Julie Carter on developing/updating our Risk Awareness Survey. **M/J. Carter/S/Dossey/C/Unanimous**

5b. Contractual Risk Transfer – Additional Insured Language

Staff discussed the new ISO Additional Insured Endorsement changes and provided recommendations for inclusion in PLAN Best Practices (Insurance Requirements in Contracts). The Board of Directors was informed of the ISO changes and the broad implications during our Board meeting and through our special training sessions for member agencies. Staff provided the committee with a detailed report containing commentary and analysis of the ISO changes. The report included recommendations to incorporate specific changes into member contract indemnification and insurance language.

It was noted that some PLAN members have already incorporated the recommended changes into their contracts and insurance requirements. By adopting this recommendation, the Committee can ensure PLAN members will be consistent in their approach to managing contractual risk transfer and thwart attempts by insurers to limit or restrict AI coverage. The Committee is asked to recommend the following three changes: 1. All written contracts or agreements should contain a hold harmless and indemnification provision with the broadest indemnification allowable by law. 2. All written contracts should contain explicit insurance requirements, or, they can be referenced by Exhibit or Addendum and made part of the contract or agreement. 3. The recommendations enclosed in the packet (staff report) labeled "Attachment A" should be incorporated into the insurance requirement section of the contract to negate the recent ISO additional Insured endorsement limitations. Staff then reviewed and discussed "Attachment A's" Additional Insured Language recommendations. Committee members requested some editorial changes to be made to "Attachment A".

Staff reminded the committee members that the IRIC manual is updated annually on the Alliant website. Cathie Bigger-Smith stated that she will put together a guideline/manual with contract samples and processing with regards to contractual Risk Transfer and Sewer Best Practices.

Staff is asking for a recommendation (motion) from the committee to approve/adopt the usage of recommended language for indemnity and insurance requirements in all contracts and agreements between contractors, consultants, vendors and our member agencies, to include changes/edits noted. **M/McPhillips/S/J.Carter/C/Unanimous**

Staff closed by noting the committee recommendation is to be ratified by PLAN Board of Directors and incorporated into PLAN Best Practices as part of our contractual risk transfer and insurance requirements in contracts guidelines at the upcoming June Board meeting.

6. Risk Management Grant Program Funding

Staff presented the Proposed FY15/16 Grant Program Budget Allocations for PLAN members. Staff noted the current calculations are based on the FY 14/15 premiums and subject to adjustment post receipt of the Actuarial funding report. The most utilized grant category is Risk Management Service Credits and it provides the most customized assistance to each member. Staff noted some members have run out of service credits while still in need of assistance. In light of this, staff recommends increasing funding from 3% to 4.5% of each member's total liability premium for FY 15/16 based on a favorable trend in program financial performance and current PLAN surplus position. Staff further recommends increasing the general fund under this category from \$40,000 to \$100,000. This category is for Risk Management related services benefiting the membership as a whole. The focus here is on services to mitigate overall loss frequency trends.

Staff recommended increasing total funding for the Risk Management Program Grants from \$350,000 to \$450,000 but continuing the matching requirements unless the grant request relates to a defined and documented risk management goal. The Committee agreed that unused grant balances under this category shall be rolled over to the next year with the total remaining balance to be re-distributed among all members based on the existing allocation formula. Staff recommended increasing the Risk Management Training Grant funding for each member from \$2,500 to \$3,500 per year. Staff further recommends continuing our Defensive Driving Grant and Sewer Smart Grant.

Staff requested the Committee's review and approval of recommendations to the Board for funding of risk management grant programs for FY 15/16 subject to review by the Actuary Committee. Motion to approve PLAN grant program budget, including provision to rollover funds within the RM grant category. Rollover funds are to be utilized at each jurisdiction's discretion, subject to current grant program guidelines. **M/Liu/Dossey/C/Unanimous**

Staff asked for a motion to allow staff to award \$1500 in grant funds to winners of certain Board Meeting contests. **M/Kolc/S/J.Carter/C/Unanimous**

7. Risk Management Training Program

Staff reported that PLAN conducted the following regional training workshops during the fiscal year:

Insurance Requirements in Contracts Update; Sewer Smart Summit; Sexual Harassment; Controlling Contractor Liability; Aquatics Risk Management; Police Legal Update for Law Enforcement Management; Mandated Reporter; Hazardous Recreational Activities; Traffic Control and Defensive Driving. We had a successful Sewer Smart Summit this FY with over 100 attendees. The next FY's Sewer Smart is planned in October 2015.

Staff reported on workshop attendance and pointed out that workshop attendance follows the location in which the workshops are held. Member attendance is good at workshops held on the Peninsula given the PLAN member demographics. Workshops held at the Metro Center in Oakland afford favorable transportation options; however, attendance is moderate.

Staff announced PLAN workshop topics for the next program year:

Incident Investigation and Root Cause Analysis; Insurance Requirements in Contracts Update; Drought Concerns in Urban Forest Management; Workplace Violence; Special Events; Fleet Management; Preventing and Managing Sewer Backup and Defensive Driving. Staff pointed out a great training opportunity provided by ABAG's Resilience Program. They are offering a series of three workshops located throughout the Bay Area to support local governments in planning for existing and future hazards at all levels. ABAG's Resilience Program Coordinator are planning to provide members with an update on this program at the June 2015 board meeting in Newark, CA.

Staff noted PLAN and its associates offer regular webinars on various topics free to PLAN Members. Chairman Taylor commented on the importance of Forensic Photography training which helps with claims documentation and evidence. Chairman Taylor requested staff to consider offering this type of training for members. Gertruda Luermann and Jill Stallman (PLAN Staff) acknowledged the importance of this subject and will work with Mike Taylor developing the training in concept.

8. Insurance Program Review

Staff reported on the ABAG PLAN Excess Property Annual Aggregate review. The claims audit is complete and we have identified specific recoverables which were summarized in a report presented to the committee. Staff advised the committee the PLAN property program is set up with a stop loss aggregate feature that affords a benefit should annual losses aggregate to \$250k or more. The feature allows potential recovery for any losses exceeding the \$10k maintenance deductible after the stop loss aggregate level has been breached. Recovery payments identified through the audit were \$66,000 to date. Future audits will be on an annual frequency with reports to follow.

9. Other Business: New Member Application (Belvedere)

PLAN Risk Management Officer (Jim Hill) has engaged in dialog with the City of Belvedere regarding re-entry into the ABAG PLAN program. A formal application for entry into the PLAN program has been received and reviewed. Belvedere is a viable candidate for acceptance into the PLAN program.

Belvedere left the PLAN program in 2006/07 and joined the California Joint Powers Insurance Authority (CJPIA) that same year. They are currently with CJPIA however, they are seeking program alternatives. Internal research has revealed Belvedere is also seeking entry into the Bay Cities JPA. It is notable that Bay Cities JPA has already approved this applicant for admission to their program. Committee needs to take into consideration the fact Belvedere has applied for and been accepted to another pool (BCJPIA) and is seeking a proposal from PARSAC, another JPA. There are no real assurances that Belvedere will join ABAG PLAN program and the Risk Management. Committee needs to factor this into the discussion.

Motion to accept Belvedere's application to PLAN and committee will recommend approval of membership to PLAN program to Board of Directors. **M/J.Carter/S/Kolc/C/Unanimous**

10. Meeting was adjourned at 1:09pm by Chairman Taylor.

Respectfully Submitted,



Jim Hill, Risk Management Officer/PLAN Secretary