

**POOLED LIABILITY ASSURANCE NETWORK JOINT
POWERS AUTHORITY
(PLAN JPA)**

**MINUTES OF THE BOARD OF DIRECTORS
MEETING OF DECEMBER 5, 2018**

A regular meeting of the Board of Directors was held on December 5, 2018, at Hilton Garden Inn San Francisco Airport North, 670 Gateway Boulevard, South San Francisco, CA 94080.

MEMBERS PRESENT: Marc Zafferano, Chair, San Bruno
George Rodericks, Atherton
Heather McLaughlin, Benicia
Jesse Takahashi, Campbell
Pak Lin, Colma
Julie Carter, Dublin (*Arrived during Agenda Item 6.A*)
Brenda Olwin, East Palo Alto
Matthew Chidester, Half Moon Bay
John Mullins, Hillsborough
Frances Reed, Los Altos Hills (*Arrived during Agenda Item 8.A*)
Robert Schultz, Los Gatos
DeAnna Hilbrants, Millbrae (*Arrived during Agenda Item 2 and left during Agenda Item 11.A*)
Will Fuentes, Milpitas
Feliser Lee, Milpitas (Alternate)
Donald Larkin, Morgan Hill (*Left after Agenda Item 8.B*)
David Benoun, Newark
Joe Chinn, Ross
Jenny Liu, San Carlos (Alternate)
Michael Taylor, Saratoga
Mary Furey, Saratoga (Alternate)
Richard Lee, South San Francisco
Suzanne Creekmore, Tiburon (Alternate)
Kevin Bryant, Woodside
Cindy Safe, Woodside (Alternate) (*Arrived during Agenda Item 6.A*)

MEMBERS ABSENT: Jason B. Holley, American Canyon
Kathleen Kane, Burlingame
Kristina Alfaro, Cupertino
Ann Ritzma, Foster City
Lorenzo Hines, Pacifica
Jeremy Dennis, Portola Valley
Greg Chanis, Tiburon

OTHERS PRESENT: Jon Paulsen, General Manager,
Yahaira Martinez, Assistant General Manager
Rob Kramer, Consultant, Bickmore
Katie Sullivan, Analyst
Ritesh Sharma, Finance Manager
Gail Zeigler, Risk Control Consultant,
Craig Wheaton, Litigation Manager
Jennifer Jobe, ERMA Executive Director
Edmund Suen, Foster City
Greg Rubens, Legal Counsel, Aaronson, Dickerson,
Cohn & Lanzone (*Left after Agenda Item 7.A*)
Seth Cole, Alliant Insurance Services
Thomas Joyce, Alliant Insurance Services

1. CALL TO ORDER

The December 5, 2018, Board of Directors meeting was called to order at 9:37 a.m. by President Marc Zafferano.

2. INTRODUCTIONS

Those present introduced themselves.

3. APPROVAL OF AGENDA AS POSTED (OR AMENDED)

The agenda was approved as posted.

4. PUBLIC COMMENTS

None.

5. CONSENT CALENDAR

Kevin Bryant moved to approve the following items: A) Minutes from the June 20, 2018, Board of Directors meeting; B) Warrant List for October 1, 2018, through November 15, 2018; and C) Treasurer's Report as of September 30, 2018. Heather McLaughlin seconded the motion. The motion passed unanimously.

6. GENERAL MANAGER'S REPORT

A. Report from PLAN JPA's General Manager

Mr. Jon Paulsen, General Manager, provided an update on recent activities that have occurred since the June 2018 Board of Directors meeting as follows:

- **Appointments:** George Rodericks, Atherton, has been appointed as the Risk Management Committee Chairperson and as a member of the Executive Committee. Mr. Paulsen was appointed as PLAN JPA's new General Manager, replacing Mr. Rob Kramer due to his retirement.
- **Strategic Planning Session:** PLAN JPA will be hosting a Strategic Planning Session (SPS) in February 2019 to review current operational and organizational goals and objectives. Staff will survey members on availability and request feedback regarding each member's experience with PLAN and topics for discussion.
- **Governing Document and Memorandum of Coverage (MOC) Review:** Members and staff identified changes they would like to see in the new PLAN JPA governing documents during the transition from ABAG PLAN to PLAN JPA at July 1, 2018. Due to several changes that came with the transition, staff did not recommend making material changes at that time. Going forward, staff and legal counsel will review the governing documents and make suggested changes for the Board's consideration.
- **Conflict of Interest Code:** The Conflict of Interest Code was approved and finalized in June 2018; however another revision to the document is necessary. The PLAN JPA Bylaws permit member agencies to appoint employees to serve on committees, even if not serving on the Board of Directors. This was not considered in the initial revision of the Code; therefore, the FPPC will provide staff with proposed amendments, and the notice of intent to amend will follow shortly after.

- **Bickmore Branding:** On December 1, 2018, Bickmore's JPA Administration and Risk Control Services were updated to the York brand. Some branding changes included name and logo, staff email addresses, building names and signage, and websites and portals. Items not changing are the mailing address and phone numbers, existing contracts, and staff.

B. Update on Request for Proposal (RFP) for Risk Control Services

At their June 6, 2018 meeting, the Executive Committee approved a one-year contract with Bickmore for Risk Control Services. To conduct its due diligence, the Executive Committee agreed they wished to issue a RFP for risk control services for the upcoming 2019/20 program year. At the October 10th Risk Management Committee (RMC) meeting and the October 26th Executive Committee meeting, the respective Committee members discussed the RFP process and various options.

Mr. Kramer advised that ultimately, the Committees agreed that with oversight from the RMC, staff consisting of Mr. Jon Paulsen, Ms. Yahaira Martinez, and Ms. Katie Sullivan, conduct administration of the RFP process. Staff will issue the RFP to prospective firms, be available to answer questions that may arise from prospective firms, receive and review responses to ensure minimum qualifications are being met, and compile responses for the Committee's review. Staff would not be involved in any part of a potential interview process and will recuse themselves from providing any evaluation or recommendation in regards to the selection of a risk control firm.

7. ADMINISTRATIVE MATTERS

A. Overview of Employment Practices Liability (EPL) Coverage Options

Employment practices liability (EPL) coverage is an important and costly exposure that all public entities should evaluate. The PLAN JPA Memorandum of Coverage (MOC) does not include coverage for EPL, and three PLAN JPA members purchase standalone EPL insurance. Ms. Jennifer Jobe, the Executive Director for Employment Risk Management Authority (ERMA), and Seth Cole, Alliant Insurance Services (Alliant), respectively presented EPL options to the Board.

Ms. Jobe provided the following highlights for coverage through ERMA:

- A joint powers authority to reduce employment practices risk by proactively managing claims, training and education, and subject matter expertise. With

over 200 participating public entities and an Accreditation with Excellence with the California Association of Joint Powers Authorities, ERMA is the first and only state-wide public sector risk sharing pool.

- Participating members have access to live training workshops, online and hot topic trainings, an employee reporting line, an attorney hotline, review of policies and procedures, and specialized human resources training.
- ERMA is conservatively funded at the 80% confidence level; rates are based upon JPA and individual member experience, capped experience modifier, flexibility of self-insured retention amounts, and dividend plans and incentives.

Ms. Jobe noted that PLAN JPA would be the member of ERMA and can decide whether to make ERMA an optional or mandatory program offering for its underlying member cities.

- Mr. Cole provided the following highlights: There are currently three PLAN JPA members that are purchasing EPL coverage through a commercial carrier.
- Commercial insurance carriers offer similar resources as ERMA, such as trainings and a toll-free number for guidance, but they are not as robust as what ERMA offers.
- Retentions could be higher than what would be available with ERMA, generally starting at \$25,000-\$50,000 for members with little to no claims.
- Coverage is available individually or as a group.
- Underwriters in the commercial market will not give an indication without substantial information and scrutinization.

Upon discussion, the Board directed staff to pursue an indication from ERMA for the entire membership in order to provide members a better of idea of the cost at the SPS in February, and to gauge interest.

Michael Taylor moved to direct staff to obtain pricing indication from ERMA for Employment Practices Liability coverage. Will Fuentes seconded the motion. The motion passed unanimously.

B. Overview of Cyber Liability Coverage Options

PLAN JPA participates in the Alliant Property Insurance Program (APIP) and through APIP, members obtain cyber liability coverage via APIP Cyber. Cyber liability is offered as an add-on coverage via Beazley. Members of APIP Cyber have

“Enhanced” and “Excess” Cyber coverage purchase options available. Mr. Cole reviewed the following purchase options with the Board:

- **Cyber Enhanced Offerings (CEO1):** Available to Public Entities who want Beazley Breach Response services, “dedicated notified lives” structure, , call center services, and breach resolution and mitigation.
 - Short form application
 - Member annual aggregate of \$2 million
 - Retention of \$50,000 or \$100,000 per claim
- **Cyber Enhanced Offerings 2 (CEO 2):** Available to Public Entities who bought CEO 1 and also want dedicated excess coverage.
 - Long form application
 - Member annual aggregate of \$1 million to \$5 million excess of APIP Cyber
 - Retention of \$50,000 or \$100,000 per claim
- **Cyber Excess Solutions (ACES):** Available as a standalone, or purchased in conjunction with CEO coverage, to Public Entities who want dedicated excess cyber cover (limits).
 - No application required
 - Member annual aggregate of \$2 million excess of APIP Cyber and/or CEO
 - No excess retentions; only primary apply.

C. Overview of Earthquake Liability Coverage Options

At their October 26, 2018, meeting, the Executive Committee directed staff to provide the Board with information regarding Earthquake Liability Insurance options for consideration. Mr. Cole discussed the following options with the Board:

- Group purchase earthquake insurance for the entire membership via APIP – The PLAN JPA participates in APIP for All-Risk, Flood, Pollution, Boiler & Machinery, Terrorism, and Cyber.
- Standalone group purchase earthquake insurance for the group as a whole or select members.
- Standalone earthquake insurance for individual members.
- Parametric earthquake insurance – Parametric earthquake insurance offers an alternative to the traditional approach of addressing this exposure. There are

many possible forms to a Parametric product, but in short the main differentiator from a traditional earthquake policy is that coverage under a Parametric is triggered by an event occurring rather than a sustained loss.

It was noted a majority of the pool would need to be interested for group participation. After a brief discussion, the Board requested more information on the ranges in coverage options available along with the costs of each.

Jesse Takahashi moved to direct staff to do additional research on earthquake coverage and cost options and present to the Board at a future meeting. Michael Taylor seconded the motion. The motion passed unanimously.

D. Consideration of Draft Property Master Program Document (MPD) for the Pooled Property Program

Yahaira Martinez, Assistant General Manager, presented the Draft Property Master Program Document (MPD) for the Pooled Property Program noting that similar to the Liability MPD formerly approved by the Board, the MPD memorializes operations and processes of the program. Ms. Martinez noted the MPD is subject to Board Counsel approval.

Pak Lin moved to approve the Pooled Property Program Master Program Document for PLAN JPA, pending approval by Board Counsel. Brenda Olwin seconded the motion. The motion passed unanimously.

8. CLOSED SESSION

A. The Board convened to closed session, pursuant to Government Code sections 54956.95(a) and 54956.9(c), at 11:17 a.m. to discuss:

- Patton v. City of Morgan Hill

B. The Board reconvened to open session at 11:47 a.m. No reportable action was taken during closed session.

9. POOLED LIABILITY PROGRAM

A. Review of the General Liability Claims Audit

Craig Bowlus, Aon Risk Services (Aon), conducted an audit of ABAG PLAN's general liability claims in September 2018. A total of 50 liability files were audited:

20 closed files and 30 open files, with York adjusters currently handling files. Part of the scope of the audit was to determine if there had been a successful transition from in-house handling to third party handling. Audit results validated this successful transition.

Mr. Craig Wheaton, Litigation Manager, reviewed the following highlights:

- The level of claims assigned to each adjuster was appropriate.
- Reserve levels were good overall with the exception of five files, requiring minimal adjustments.
- Communication to Excess insurers was “handled properly.”
- Coverage and contractual issues were recognized and properly dealt with.
- Self-Insured Retentions were not an issue when it came to claim settlement.
- Housekeeping in the vast majority of files was good.
- Supervision is documented in the Claims Connect Claims Management Reports (CMRs). Claims reviews with the PLAN JPA administrator occurs on a quarterly basis.

Mr. Wheaton noted Mr. Bowlus concluded his audit by stating, “York is doing a better than average job of claims and litigation management for ABAG.”

Kevin Bryant moved to accept and file the 2018 Liability Claims Audit. Jenny Liu seconded the motion. The motion passed unanimously.

10. RISK CONTROL MATTERS

A. Update on Risk Control Program for 2018/19

Gail Zeigler, Risk Control Consultant, reported at their respective October meetings, the Risk Management Committee and the Executive Committee were provided the following information from staff:

- PLAN JPA Member City/Town Services Log developed during the orientation meetings;
- Update on the Risk Console Software refinement;
- A Risk Control Services Report; and
- A Risk Control Services Survey.

Ms. Zeigler informed the Board the Executive Committee and Risk Management Committee reviewed and approved proposals for contracted fixed services pricing with Du-All Safety, DKF Solutions Group, and Total Aquatics Management.

Ms. Zeigler also noted each Committee had reviewed staff's recommended revisions to the PLAN JPA Risk Assessment Questions. Upon further review at their meeting, the Executive Committee directed staff to make additional revisions. Ventiv Technology has been provided the revised questions for updating the Risk Console Platform.

B. Update on Sewer Summit 2018 and Discussion on Sewer Summit 2019

In January 2018, PLAN JPA contracted with DKF Solutions Group (DKF) for the 2018 Sewer Summit, which took place on October 17, 2018. The contract included payment to DKF for planning and managing the 2018 Sewer Summit and PLAN JPA's agreement to sponsor the total cost of the summit less other sponsorships and income. The signed proposal estimated PLAN JPA's cost at \$28,500, but after costs were tallied, PLAN's final cost was \$37,112.34.

The planning for the 2019 Sewer Summit will begin in January 2019 and staff anticipates DKF will be requesting a sponsorship from PLAN JPA similar to what was provided in 2018. Ms. Zeigler requested direction from the Board regarding PLAN's participation and provided a few options for consideration:

- **Option 1:** Continue to pay DKF a planning and management fee of \$13,000, plus absorb the cost of summit less other sponsorships and income. Staff estimated the cost at \$37,000, based on the 2018 summary. PLAN JPA members may attend for free.
- **Option 2:** Pay DKF a planning and management fee of \$13,000, plus a fixed dollar sponsorship. Sponsorship can be any amount the Board authorizes. PLAN JPA members may attend for free.
- **Option 3:** Offer a fixed dollar sponsorship. Sponsorship can be any amount the Board authorizes. PLAN JPA members may attend for free.
- **Option 4:** Provide no financial support. Staff of PLAN JPA members that attend may pay the registration fee. Registrations fees are reimbursable using the Risk Management Grant Fund.
- **Option 5:** Provide further direction to the Program Administrator.

After a brief discussion, the Board agreed if maintaining sponsorship of the Sewer Summit is beneficial to helping members reducing sewer risks, PLAN should continue to sponsor; however, the Board requested an analysis be conducted to determine if there is a correlation between attending the Summit and claims costs and experience.

The Board also agreed cost should be distributed more evenly between the other groups in attendance and directed staff to renegotiate more equitable pricing and sponsorships fees with DKF for the 2019 Sewer Summit. Lastly, the Board also advised they would like to see more advertising of the next summit.

Robert Schultz moved to direct staff to renegotiate more equitable pricing and sponsorship fees for the 2019 Sewer Summit. Brenda Olwin seconded the motion. The motion passed unanimously.

C. Contract with Ventiv/Risk Console for Risk Assessment and Grant Funding Management

Ms. Zeigler reminded the Board that in January 2018, ABAG PLAN renewed its contract with Ventiv Technology (Ventiv) to provide the Risk Console for risk assessments and scorecards for one year, expiring on January 13, 2019.

A new one-year service agreement is required in order to utilize the Risk Console platform. Ventiv offered PLAN JPA a one-year renewal for \$18,644, which is a 5% increase over last year. Staff did not recommend PLAN engage into a multi-year service agreement while the risk control services are going to RFP as other risk control providers could bring their own assessment platforms.

Utilizing existing support service hours, risk control staff has been working with Ventiv to update the Risk Console assessment platform into a product that can be utilized by members and staff and also includes Risk Management Grant Fund tracking. Ms. Zeigler stated staff is anticipating being able to utilize Risk Console in early 2019.

Michael Taylor moved to approve a one-year contract with Ventiv Technology. Richard Lee seconded the motion. The motion passed unanimously.

11. FINANCIAL MATTERS

A. Report from PLAN JPA's Finance Manager

Mr. Ritesh Sharma, Finance Manager, was present and provided the following updates to the Board:

- **ABAG Dissolution:** ABAG PLAN, a non-profit organization, is going through an annual financial audit as of June 30, 2018. The financial audit report shall contain a subsequent event footnote describing ABAG PLAN closing down and transferring its Assets, Liabilities, and Net Position to PLAN JPA, effective July 1, 2018. Subsequent to the completion of the financial audit, a final tax return will be prepared and shall help facilitate the dissolution of ABAG PLAN.
- **Investment:** In early 2018, PFM Asset Management, LLC (PFM) was selected as the Investment Advisor for PLAN JPA. An update on PLAN JPA's portfolio was enclosed in the agenda, and Ms. Lesley Murphy, PFM, will be present at the next Board meeting in June 2019 to provide an annual update.
- **Unaudited Financial Statements as of June 30, 2018:** Mr. Sharma provided an updated version of the Unaudited Financial Statements as of June 30, 2018 during the meeting. Mr. Sharma noted the following :
 - A 6% decrease in Total Assets;
 - An 11% increase in Total Liabilities;
 - A 16% decrease in Overall Net Position due to adverse claims development;
- **Program Year Accounting:** Program Year Accounting, which tracks revenues and expenses of each program year separately from another program year's revenues and expenses, is intended as a tool for funding and equity decisions. It demonstrates the difficulty of accurately forecasting claims cost, helps provide direction with adverse claims development, and helps to reduce the possibility of future assessments. As part of the transition from ABAG PLAN to PLAN JPA, the historical years (inception to June 30, 2018), will be combined as one year. Subsequent years will be accounted for separately.

A brief discussion ensued regarding conservative funding for the Pooled Liability Program and staff recommended PLAN starts increasing the confidence level as currently, PLAN is funding close to expected. The Board requested more information on increasing the confidence level at a future meeting.

Pak Lin moved to approve the unaudited financial statements as of June 30, 2018, as revised. Richard Lee seconded the motion. The motion passed unanimously.

12. CLOSING COMMENTS

A. Board of Directors

None.

B. Staff

Mr. Paulsen provided a quick update in regards to SHARP's membership and their intent to grow. He stated staff has reached out to interested PLAN JPA members and is currently assisting in their growth.

13. ADJOURNMENT

The Regular Meeting of the PLAN JPA Board of Directors was adjourned at 1:03 p.m.

A handwritten signature in cursive script that reads "Katie Sullivan". The signature is written in black ink and is positioned above a horizontal line.

Katie Sullivan, Assistant Board Secretary