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**SPECIAL CLAIMS COMMITTEE MEETING
AGENDA**

**Thursday, August 1, 2019
1:30 p.m.**

Teleconference

All or portions of this meeting will be conducted by teleconferencing in accordance with Government Code Section 54953(b). Teleconference locations are as follows: York Pooling, 1750 Creekside Oaks Drive, Suite 200, Sacramento, CA 95833; Aaronson, Dickerson, Cohn & Lanzone, 1001 Laurel Street, San Carlos, CA 94070; City of Burlingame, 501 Primrose Road, Burlingame, CA 94010; City of East Palo Alto, 2415 University Avenue, East Palo Alto, CA 94303; Town of Hillsborough, 1600 Floribunda Avenue, Hillsborough, CA 94010; Town of Los Gatos, 110 East Main Street, Los Gatos, CA 95030; City of Morgan Hill, 17575 Peak Avenue, Morgan Hill, CA 95037; and City of Suisun City, 701 Civic Center Blvd., Suisun City, CA 94585.

Each location is accessible to the public, and members of the public may address the Claims Committee from any teleconference location.

In compliance with the Americans with Disabilities Act, if you need a disability-related modification or accommodation to participate in this meeting, please contact Katie Sullivan at (916) 244-1164 or (916) 244-1199 (fax). Requests must be made as early as possible and at least one full business day before the start of the meeting.

Documents and materials relating to an open session agenda item that are provided to the Pooled Liability Assurance Network Joint Powers Authority (PLAN JPA) Claims Committee less than 72 hours prior to a regular meeting will be available for public inspection at 1750 Creekside Oaks Dr., Suite 200, Sacramento, CA 95833.

- Page** **1. CALL TO ORDER**
- 2. INTRODUCTIONS**
- 3. APPROVAL OF AGENDA AS POSTED (OR AMENDED)**

* Reference materials enclosed with staff report.

- Page** **4.** **PUBLIC COMMENTS** - This time is reserved for members of the public to address the Committee relative to matters of the PLAN JPA not on the agenda. No action may be taken on non-agenda items unless authorized by law. Comments will be limited to five minutes per person and twenty minutes in total.
- 5.** **CONSENT CALENDAR**
If a Committee member would like to discuss any item listed, it may be pulled from the Consent Calendar.
- 4** *A. Minutes from the June 27, 2019, Claims Committee Meeting
 Recommendation: Staff recommends the Committee approve the Consent Calendar.
- 6.** **CLOSED SESSION**
A. Pursuant to Government Code Section 54956.95(a), the Committee will hold a closed session to discuss the following claims:
- Donnelly v. Town of Los Altos Hills
- B. Pursuant to Government Code Section 54957.1, the Committee will report in open session any reportable action taken in closed session.
- 7.** **CLOSING COMMENTS**
This time is reserved for comments by Claims Committee members and/or staff and to identify matters for future Claims Committee business.
- A. Claims Committee
 - B. Staff
- 8.** **ADJOURNMENT**

NOTICES:

- The next Claims Committee meeting will be held on August 22, 2019, at 1:30 p.m. via teleconference.

* Reference materials enclosed with staff report.

August 1, 2019

Agenda Items 5.A.

CONSENT CALENDAR

SUBJECT: Consent Calendar

BACKGROUND AND HISTORY:

The Consent Calendar consists of items that require approval or acceptance but are self-explanatory and require no discussion. If a Committee member would like to discuss any item listed, it may be pulled from the Consent Calendar.

STAFF RECOMMENDATION:

Staff recommends the Committee approve the Consent Calendar.

REFERENCE MATERIALS ATTACHED:

A. Minutes from the June 27, 2019, Claims Committee Meeting

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

**MINUTES OF THE CLAIMS COMMITTEE
MEETING OF JUNE 27, 2019**

A regular meeting of the Claims Committee was held on June 27, 2019, via teleconference.

MEMBERS PRESENT: Kathleen Kane, Chair, Burlingame
Brenda Olwin, East Palo Alto
John Mullins, Hillsborough
Marc Zafferano, San Bruno (*Arrived during Agenda Item 6.A, left during Agenda Item 7.C*)
Rebecca Mendenhall, San Carlos
Scott Corey, Suisun City

MEMBERS ABSENT: Robert Schultz, Los Gatos

OTHERS PRESENT: Jon Paulsen, General Manager
Will Portello, Litigation Manager
Katie Sullivan, Assistant Board Secretary
Jeff Rogers, York (*Left during Agenda Item 7.B*)
Greg Rubens, Board Counsel (*Arrived during Agenda Item 6.A*)
Terrie Norris, Risk Control Manager (*Arrived during Agenda Item 7.A*)

1. CALL TO ORDER

The June 27, 2019, Claims Committee meeting was called to order at 1:35 p.m. by Chairperson, Kathleen Kane.

2. INTRODUCTIONS

Introductions were made and it was determined there was a quorum present.

3. APPROVAL OF THE AGENDA AS POSTED (OR AMENDED)

The agenda was approved as posted.

4. PUBLIC COMMENTS

None.

5. CONSENT CALENDAR

Brenda Olwin moved to approve the following items: A) Minutes from the April 25, 2019, Claims Committee Meeting. Scott Corey seconded the motion. A roll call vote was taken and the motion passed unanimously by Kathleen Kane, Brenda Olwin, John Mullins, Marc Zafferano, and Scott Corey. Rebecca Mendenhall abstained from voting.

6. CLOSED SESSION

A. The Committee convened to closed session, pursuant to Government Code section 54956.95(a) at 1:38 p.m. to discuss the following claims:

- Patton v. City of Morgan Hill
- Donnelly v. Town of Los Altos Hills

B. Pursuant to Government Code Section 54957.1, the Committee reconvened to open session at 1:57 p.m. The following actions were taken under closed session:

No reportable action was taken during closed session.

7. CLAIMS MATTERS

A. Consideration of the PLAN JPA Litigation Management Guidelines

Previously, while constituted as Association of Bay Area Governments (ABAG), the liability program was to have implemented Litigation Management Guidelines to ensure consistency and control over litigated claims. In accordance with best practices, staff prepared and presented those guidelines to ensure proper oversight of panel counsel.

Will Portello, Litigation Manager, was present to discuss the Litigation Management Guidelines with the Committee. He stated the purpose of the guidelines is to ensure competency, avoid conflicts of interest, and properly manage litigation while controlling legal costs and expenses. Mr. Portello reviewed a few of the requirements, as summarized below:

- 1) Approved Panel Counsel must certify they have no ethical or legal conflicts that would disqualify them from representing members.
- 2) Counsel must keep the Member, Third Party Administrator's (TPA) Supervising Claims Program Manager, Claims Adjuster, and Litigation Manager assigned to the claim all up to date on the status of the matter.
- 3) A case analysis and litigation budget is required within sixty (60) days of retention of each case.
- 4) Status reports are required every sixty (60) days from submission of the Initial Case Analysis and describing only new developments since the previous report.
- 5) Approved Panel Counsel is required to obtain prior approval from Supervising Claims Manager, Litigation Manager, and Member before making any settlement offer.

After a brief discussion, Mr. Portello agreed to reach out to those currently listed on the defense panel for feedback regarding the Litigation Management Guidelines and updated information, including rates, as the Committee expressed interest in setting a maximum rate for defense counsel. The Committee asked staff to resend the survey to members to obtain more quantitative and qualitative feedback.

Section 1.A, paragraph 1 states defense counsel is to "refrain from initiating any adverse action against PLAN members." The Committee requested language be added to clarify that defense counsel should refrain from participating in adverse action as well.

Rebecca Mendenhall moved to approve the amendment to Section 1.A, Paragraph 1 to clarify language and to have Mr. Portello reach out to the current defense panel for feedback on the Litigation Management Guidelines. Kathleen Kane seconded the motion. The motion passed unanimously by Kathleen Kane, Brenda Olwin, John Mullins, Rebecca Mendenhall, Marc Zafferano, and Scott Corey.

B. Consideration of the PLAN JPA Claims Handling Guidelines

The Claims Handling Guidelines were implemented when York first began acting as Third Party Administrator (TPA) to the self-staffed Association of Bay Area Governments (ABAG) Liability Program. The Claims Handling Guidelines have been revised and updated with claims handling instructions for members' use with respect to their claims and communications.

Mr. Portello reviewed the updates to the Claims Handling Guidelines, noting the addition of information for the TPA to clarify lines of communication and steps for the reporting of excess claims.

After a brief discussion around Section I, Paragraph 1 in regards to the second sentence stating York has a \$25,000 discretionary “payment” authority, the Committee agreed the sentence is ambiguous and requested it be removed as it is not necessary. Staff agreed to make the necessary changes and to place the amended Claims Handling Guidelines on the Consent Calendar for the next meeting for approval.

Kathleen Kane moved to remove the second sentence of Section I, Paragraph 1 of the Claims Handlings Guidelines. John Mullins seconded the motion. The motion passed unanimously by Kathleen Kane, Brenda Olwin, John Mullins, Rebecca Mendenhall, Marc Zafferano, and Scott Corey.

It was requested to add language regarding the reasoning being the Claims Handling Guidelines and to list a point of contact for any concerns that may arise during the process. The Committee agreed to have the Claims Handling Guidelines, once amended, be listed under the Consent Calendar for approval.

C. Consideration of Revisions to PLAN JPA’s Claim Policy

The Association of Bay Area Government’s (ABAG) Claim Policy was originally implemented in 2004. ABAG historically staffed claims with employees internally until York began management of the process. However, the Claims Policy did not reflect the role of York Risk Services Group at the Third Party Administrator (TPA).

Mr. Portello informed the Committee the Claim Policy has been updated to reflect the use of a TPA, as well as it now delineates settlement authority related to PLAN’s Litigation Manager and the Claims Committee and sets forth the procedure for resolution of coverage disputes within the Liability Program. The Committee also requested staff to poll the members on who their “claims liaison” would be as Section 3.1: Claims Management indicates having a primary point of contact in writing.

Mr. Portello clarified that the yearly report that summarizes open and closed losses greater than Member retentions referenced in Section 5: Reporting of the Claims Policy will be included and review in a future meeting held during the fall.

The Claims Committee reviewed the policy and indicated it will go to the Board of Directors for formal approval.

8. CLOSING COMMENTS

A. Claims Committee

Kathleen Kane thanked staff for all their hard work.

B. Staff

Mr. Portello thanked the Claims Committee for their time and assistance in updating documents.

Terrie Norris, Risk Control Manager, inquired if the Committee members had additional suggestions for regional workshops and to contact her directly with their thoughts and ideas.

9. ADJOURNMENT

The Meeting of the PLAN JPA Claims Committee was adjourned at 2:52 p.m.



Katie Sullivan, Assistant Board Secretary