

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

**MINUTES OF THE RISK MANAGEMENT COMMITTEE  
MEETING OF FEBRUARY 10, 2021**

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A regular meeting of the Risk Management Committee was held on February 10, 2021, via videoconference.

**MEMBERS PRESENT:** George Rodericks, Chair, Atherton  
Julie Carter, Dublin  
Lisa Lopez, Half Moon Bay  
Suzanne Creekmore, Tiburon

**MEMBERS ABSENT:** David Benoun, Newark  
Jeremy Dennis, Portola Valley

**OTHERS PRESENT:** Jon Paulsen, General Manager  
Katie Sullivan, Assistant General Manager [*left during agenda item 6.F.*]  
Terrie Norris, Risk Control Manager  
Joe Costamagna, Transfer of Risk Manager  
Ritesh Sharma, Finance Manager  
Daria Hoffmann, Analyst

**1. CALL TO ORDER:**

The Regular Meeting of the PLAN JPA Risk Management Committee meeting was called to order at 11:08 a.m.

**2. INTRODUCTIONS:**

Roll call was taken, and it was determined there was a quorum present.

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

*Julie Carter moved to approve the agenda as posted. Suzanne Creekmore seconded the motion. A roll call vote was taken and the motion passed unanimously by George Rodericks, Julie Carter, Lisa Lopez, and Suzanne Creekmore.*

**4. PUBLIC COMMENTS:**

None.

**5. CONSENT CALENDAR:**

*Julie Carter moved to approve the following item: A) Minutes from the October 8, 2020, Risk Management Committee Meeting. Lisa Lopez seconded the motion. A roll call vote was taken and the motion passed unanimously by George Rodericks, Julie Carter, Lisa Lopez, and Suzanne Creekmore.*

**6. RISK CONTROL MATTERS:**

**A. Law Enforcement Liability Risk Management**

Terrie Norris, Risk Control Manager, reminded the Committee of the session on Law Enforcement Liability at the December 9, 2020, Strategic Planning Session. Attendees of the session provided several recommendations for additional support and resources including:

- Dedicated police department grant funding;
- Officer and supervisor level training support;
- Assistance in managing and implementing department policy updates;
- Provision of a resource to audit current department policies and procedures; and
- Formation of a Law Enforcement Risk Management Networking Group.

Staff also recommended developing risk management information and/or training regarding Police Explorer/Cadet/Youth program risk exposure management in response to feedback from the PLAN Executive Committee and the exposure results revealed by the 2020 Law Enforcement Liability member survey results. Staff is working towards finding the tools to provide the support for the program risks.

Jon Paulsen, General Manager, briefly reviewed staff's concern regarding Law Enforcement Liability claims.

Discussion ensued regarding 21<sup>st</sup> century policing and community expectations. The committee supports the recommendations for additional support and resources with an idea to include police chiefs and police staff in the Risk Management Committee.

Mr. Paulsen informed the Committee of different options for additional support:

- Increased Law Enforcement Liability training within the current risk control program
- Quarterly sessions with expert speakers and target assessments; and/or
- Utilizing a consultant for developments and updates to policies

The committee discussed the options presented and the costs associated with each.

Staff was directed to research what is required of members and the funding needed to provide the additional support in the 2021/22 program year.

## **B. Urban Forest Risk Management**

Ms. Norris reminded the Committee of the open discussion during the December 9, 2020, Strategic Planning Session which focused on tree exposures. Items discussed included:

- Inventorying trees;
- Pruning schedules;
- Risk assessments to identify at-risk and high-risk trees in high risk exposure areas;
- Notification of tree-owners regarding non-public trees that boarder public areas;
- Tree removal policies/procedures;
- Tree ordinances;
- Types of high-risk trees commonly found in the Bay Area; and
- Formalize Urban Forest Risk Management Program.

Staff turned to the Committee for insight on the most important items. Discussion ensued regarding formalizing a Urban Forest Risk Management Program. Staff was directed to survey members on existing Urban Forest procedures.

The Committee provided a recommendation to staff regarding all future surveys which directed them to include suggestions on by whom surveys should be completed by in future correspondences.

### **C. Cyber Risk Management**

Mr. Paulsen reminded the Committee of the positive feedback to beta tests of cyber risk assessments at the December 10, 2020, Board of Directors meeting. Seven members were selected to participate in the beta testing. Each member will receive \$1,400 to move forward with the process.

The seven agencies participating are City of Campbell, City of East Palo Alto, City of Los Altos Hills, City of Milpitas, City of Newark, City of Saratoga, and Town of Tiburon.

*Julie Carter moved to recommend the Risk Management Committee recommend to the Executive Committee i) approval of subsidizing the cost of the first seven cyber risk assessments at a rate of \$1,400 each; and ii) amend the current Sedgwick Risk Control contract to allow for the provision of these additional services at member negotiated scope and expense (unsubsidized) going forward. Lisa Lopez seconded the motion. A roll call vote was taken and the motion passed unanimously by George Rodericks, Julie Carter, Lisa Lopez, and Suzanne Creekmore.*

### **D. Update on the 2020/21 Risk Control Plan**

Ms. Norris provided the Committee on an update on the 2020/21 Risk Control Plan.

#### **COVID-19 Prevention Plan Emergency Temporary Standard**

On November 20, 2020, the Cal/OSHA Standards Board passed the COVID-19 Prevention Plan (CPP) Emergency Temporary Standard which went into effect on November 30, 2020. On February 1, 2021, staff distributed a customized COVID-19 Prevention Plan with a recommendation for conditions on Consideration 1, a minor outbreak, and Consideration 2, a major outbreak, in the workplace.

#### **AB685**

In November 2020, staff provided templates for AB685 which authorized Cal/OSHA to shut down workplaces and cite workplaces for failure to protect employees against COVID-19.

On February 1, 2021 Risk Control staff distributed:

- a Semi-Customized CPP template;
- a Flowchart to share with employees to help them know what to do if experiencing COVID-19 symptoms, test positive for COVID-19, or come in contact with someone who has tested positive for COVID-19;
- An Employer's FAQ to guide employers regarding what to do when employees report symptoms and/or positive tests;
- Information on the location of webinars for:
  - COVID-19 Prevention Plan Development, How-To
  - COVID-19 – What Every Employee Needs to Know (updated to include the training specified in the CPP).

Ms. Norris noted staff is continuing to monitor the COVID-19 restrictions and assess which trainings and evaluations can happen virtually. Risk Control Services will continue in a safe manner while still providing members with assistance.

Discussion ensued regarding tracking employee completion of the webinars. Risk Control staff will develop a quiz for members to send to employees to determine completion of the webinar course.

#### **E. Review of 2020 Sewer and Stormwater Summit**

Ms. Norris reminded the Committee of the Sewer and Stormwater Summit which occurred virtually on October 15, 2020. 54% of PLAN JPA members attended, a 29% increase from 2019.

Because the Summit was moved online, PLAN JPA received a refund of \$3,007 from the initial \$12,000 deposit for the event. Staff looks forward to the possibility of holding the event virtually in the future.

#### **F. Contractual Risk Transfer Update**

Joe Costamagna, Transfer of Risk Manager, was present and provided an update regarding the following:

##### Timely Topic

California Civil Code 2782 places clear restrictions on the extent of indemnity that can be required of a design professional and a construction contractor. Overreaching indemnity

requirements can result in the nullification of the entire indemnity agreement, leaving the member with no indemnity protection from its consultant/contractor.

#### Design Professionals

Included in Civil Code 2782.8's definition of "Design Professional" are architects, engineers, land surveyors, and landscape designers – all common contractual parties for cities in the PLAN JPA. The code requires that the city's indemnity obligation be restricted to the design professional's "negligence, recklessness or willful misconduct."

Staff developed a split indemnity clause for use by the members.

#### Construction Contracts

Civil Code 2782(b) restricts the level of indemnity a public agency can require of a construction company. It is important to clearly state in contracts that the contractor is not required to indemnify the member for the member's active negligence: in the exceptions portion of the indemnity clause, use "except when caused by the active negligence or sole negligence of the City". This will clarify the member's intent to not violate 2782(b).

The Committee requested staff distribute the language to the members for utilization.

### **G. Consideration of the 2021/22 Risk Control Plan**

Ms. Norris reviewed the proposed 2021/22 risk control service plan with the committee. The plan includes:

#### Focused Member Services

This program would provide special one-to-one risk control services initiated by risk control staff to members with an Experience Modifier (Ex-Mod) greater than 120% (based on the Approved 2020/21 Operating Budget). The purpose of the services would be a "getting to know you" meeting with each member to explore what risk control issues most important to address. Through doing so, the goal would be to reduce loss experience and Ex-Mod.

#### Development of Focused Self-Assessments Materials

Risk Control staff continues to build materials related to risk management self-assessments. The documents will include focused self-assessment forms for each of the risk management topics; risk management best practices related to each topic; and a selection of documents associated with the risk management assessment topics. The library

of materials will be posted on the Sedgwick Risk Control Resources webpage as each is development.

#### Risk Control Service Days on Request

Members may request risk control services to assist with liability and employee safety risk management programs.

#### Driver Training

Defensive driver trainings are continuing virtually upon request.

#### Driver Ride-a-long Evaluations

Driver ride-a-longs will resume upon request after COVID-19.

#### Resource Development

The focus for the 2021/22 resource development services would be: Urban Forest Risk Management; Law Enforcement Risk Management; and Wildfire Loss Prevention. To reduce exposures, staff will develop tools and resources to members on these topics.

#### Regional Training

At least four regional trainings will occur including the Sewer and Stormwater Summit. Seven trainings have already occurred for 2020/21, with another scheduled for March.

#### Oversight of the Risk Management Fund Reimbursements

Staff provides a review of the submissions for Risk Management Fund Reimbursements to ensure submissions are within the program guidelines and submitted by authorized personnel, and provide guidance as needed regarding proposed expenditures. Provide routine reports regarding how members are using the Risk Management Reimbursement Grant funds.

#### Unlimited Phone and Email Consultation

Members can reach Risk Control staff via phone and email with questions and for guidance.

#### Sedgwick Risk Control Website Resources

Members have access to the Sedgwick Risk Control website which houses numerous resources related to risk control.

Discussion ensued on staff hosting a Town Hall for members to attend and ask questions on varying topics. The Committee expressed interest and directed staff to prepare a town hall on vaccinations and risk management issues, specifically in relation to COVID-19.

*Julie Carter moved to recommend approval of the proposed 2021/22 Risk Control Service Plan to the Board of Directors. Lisa Lopez seconded the motion. A roll call vote was taken and the motion passed unanimously by George Rodericks, Julie Carter, Lisa Lopez, and Suzanne Creekmore.*

7. **CLOSING COMMENTS:**

A. **Risk Management Committee**

None.

B. **Staff**

None.

8. **ADJOURNMENT**

The Regular Meeting of the PLAN JPA Risk Management Committee was adjourned at 12:41 p.m.



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Katie Sullivan, Assistant Board Secretary