

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
BOARD OF DIRECTORS MEETING
April 15, 2004 – 7 p.m.
Foster City Community Building, Foster City, CA**

MINUTES

1. Call to Order/Pledge of Allegiance/Roll Call – 7:00 p.m.

Ira Ruskin, Chair, called the meeting to order and led the flag salute. Acting Secretary Art Jensen called the roll. Eighteen (18) members were initially present, constituting a quorum. Additional members arrived after roll call. A list of directors present (20) and absent (8) is attached.

2. Comments by the Chair: Mr. Ruskin announced that he had sent a letter requesting a meeting with San Francisco Mayor Gavin Newsom to discuss a number of issues of vital interest to BAWSCA. Principal among these is assurance that the departure of Pat Martel and installation of a new team to operate the regional water system will not result in delay in execution of the Capital Improvement Program or deterioration of overall service.

He also reported that he had sent Congressman Lantos a letter protesting the proposed increase in San Francisco's Hetch Hetchy fees and suggested member agencies may wish to bring up the possibility of making a similar response at their councils or boards.

On the budget for next year, Mr. Ruskin stated he was pleased and reassured by the board's positive reaction to the presentation of the preliminary budget at the previous meeting. He noted the board's ease with the budget process and general level of spending for next fiscal year. He suggested the board apply its collective experience and judgments to the nine results to be achieved. Because the board felt the level of detail was appropriate, he recommended that the board avoid becoming deeply involved in details. He said the board should hold the general manager accountable for delivering the nine results and give him a reasonable level of resources to get the job done. Ruskin also stated that the organization needs to keep focused on the interests of the customers, and to evaluate the budget in terms of what they receive for the cost to them.

Mr. Ruskin stated that he believed it would be appropriate to dissolve the Start-up Advisory Committee in June and to replace it with a policy advisory committee that would provide the general manager and the board with advice related to the nine results to be achieved this coming year. He also suggested there be a subcommittee to advise the general manager on issues related to initiating negotiation of a new Master Contract with San Francisco. He said he would be discussing the new committees with the Vice-Chair, SUAC chair, and others and welcomed suggestions from board members to help him formulate his recommendations.

In closing his remarks, Mr. Ruskin reminded the board of previous discussion about the need to help the communities served by the member agencies to cope with the human and economic impacts of a major water outage, whether caused by man or nature. He noted that directors could be helpful by discussing this with their local agencies.

3. SFPUC Report: No report.

4. **Public Comments (non-agendized items):** Chair Ruskin introduced Marnie Tuel, Program Director of Kollage Community School for the Arts, developer of an award-winning water conservation education program for elementary students called "Our Water" that a number of BAWSCA member agencies have sponsored in schools within their service area.

Ms. Tuel referred to four pieces of artwork on display that are part of a 27-piece exhibit that Kollage will be taking to China for an international children's art exchange in partnership with Recycle Works of San Mateo County. Included in the exhibit will be artwork and poetry by students from Half Moon Bay, Pacifica, and Belmont.

5. **Consent Calendar:** Explaining that he had a possible conflict of interest relative to the action on the contracts for legal counsel and strategic counsel, Chair Ruskin recused himself from action on the Consent items and turned the meeting over to Vice Chair Beecham. Mr. Beecham explained that the Consent Calendar consisted of the Minutes of the March 18 meeting, a request for an increase in legal counsel's budget to \$325,000, and a request for authorization to expend up to the full budget of \$90,000 for strategic counsel.

Director Cooper requested removal of items 5-B and 5-C from Consent.

M/S/C (O'Mahony/Parle; abstention by Cooper) that the Minutes of the March 18 BAWSCA meeting be approved.

Director Cooper said she had concerns regarding the total amount and how to evaluate the fees, number of hours, and lack of description of tasks by strategic counsel, and questions regarding the overall amount being spent for legal fees. She requested fuller documentation of these consultants' expenses in the future. Director O'Mahony said she felt that legal counsel's explanation of his expenses was reasonable, especially considering the time involved in pursuing the arbitration settlement with San Francisco.

MSC (O'Mahony/Livengood; unanimous) that the Board approves increasing the maximum compensation payable to Hanson Bridgett for FY 2003-04 Legal Services by \$40,000, to a total of \$325,000 for all services provided.

M/S/C (Hershman/O'Connell; Cooper dissenting) that the Board authorizes the General Manager to spend up to the existing maximum of \$90,000 in the contract with Harlan L. P. Wendell for strategic counsel.

6. **Action Calendar:** Chair Ruskin rejoined the meeting and Vice-Chair Beecham turned the gavel back to him.

A. Adopt Purchasing Procedures and Guidelines: General Manager Art Jensen explained that BAWSCA is required by law to have purchasing procedures that establish the parameters for purchases according to amount, type of purchase. The proposed policy provides such guidelines, establishing a \$10,000 limit for the General Manager's authority without prior board approval. He noted that this amount may need to be raised if the board adopts a less frequent meeting schedule.

Director Livengood asked whether the policy would assure that large purchases could not be made by dividing them into multiple small purchases that fall below the \$10,000 threshold. Mr. Jensen responded that the policy had a requirement that all purchases

under \$10,000 and any leases be reported to the board at the next meeting. There is also a cap on authority for change orders.

Director Kinney inquired whether there were situations, such as emergencies, in which BAWSCA would not have the time to obtain multiple bids. Mr. Jensen responded that because BAWSCA's current business is primarily administrative in nature, it would rarely encounter a need for an emergency purchase.

Director Reynolds asked whether "any lease" also includes any sub-lease. Legal counsel said that it could but does not specify that. Director Reynolds suggested that the policy be amended to specifically add "or sub-lease."

Director Goff noted that there is no reference to the budget in the policy, that is, whether an expenditure was permitted by the budget or not. Legal counsel said that it is implicit that any contemplated expenditure would be within the overall budget.

M/S/C (Beecham/Parle; unanimous) that the Board adopts, by roll call vote, Resolution No. 2004-04, approving the "Policies and Procedures for the Purchase of Equipment and Supplies and the Award of Contracts," subject to amendment by inserting the words "and sublease" in Section II, Purchase or Lease of Real Property.

7. Reports

A. Start-up Advisory Committee (SUAC): SUAC Chair Aldyth Parle reported that the committee continues to focus on policy items and is working well together.

B. General Manager's Report:

1. Policy Calendar: Mr. Jensen reviewed upcoming items on the Policy Calendar, including a State water conservation grant coming to the board in May. East Bay Municipal Utility District (EBMUD) will be administrator of the grant, which will double the amount available for washing machine rebates. Items under "Water at a Fair Price" include an upcoming report by Kelling, Northcross, Nobriga (KNN) in May, and review of a proposed standard form of contract for BAWSCA in anticipation of FY 2004-05 consultant contracts being brought to the Board for approval in June. Discussion of BAWSCA meeting frequency will be taken up by the SUAC in May.
2. FY 2004-05 Budget Preparation Update: Mr. Jensen reported that staff is developing a response to Director's Wykoff suggestion that BAWSCA consider what could be done next year to examine water supply alternatives.

He also noted that refinements to the proposed budget that will be presented to the SUAC in May include use of interns in lieu of consultants for selected tasks, and provision for reimbursement of staff time associated with the voluntary water conservation programs such as washing machine rebates and commercial and industrial audits. Benefits costs refinements are also being considered. The formation of a reserve policy, as suggested at the last meeting, is being examined. Negotiations are underway by Cal Water to see if its assessments can be collected by San

Francisco using the monthly water bill. San Francisco would then remit the assessment amount to BAWSCA.

Director Parle commented that she felt that the amount of budget detail was very appropriate.

3. BAWSCA Insurance Program: In an effort to determine whether BAWSCA, BAWUA, and the Regional Financing Authority have the appropriate levels and types of insurance, staff has submitted an inventory of all insurance currently held to legal counsel for review.

Asked whether there were any issues regarding authority for renewals, Mr. Jensen said all insurance premiums were under \$10,000.

Chloramine Conversion Issues: Mr. Jensen reported that some agencies have received questions and concerns from residents about whether the conversion to chloramines causes a potential threat to public health or other impacts. He explained that chloramine is a combination of chlorine and ammonia which mixes and forms a molecule that's different from either of its components once it's in the water. The water industry's view is that chloramine provides some benefits over using chlorine alone. Unlike chlorine, chloramine does not form the same levels of THMs, considered precursors to cancer... The San Francisco Department of Health has been asked to evaluate the safety of the chloramine conversion, and their basic finding is that it is not a health concern. A copy of a letter released by the San Francisco Department of Health was distributed to the board and public at the meeting. While he said the questions will be taken seriously, Mr. Jensen said that the letter from the San Francisco Department of Health suggested it was not a matter of extreme urgency. Mr. Jensen stated that his future actions on behalf of the board would be to obtain opinions from the State Health Department and the Health Departments of Alameda, Santa Clara, and San Mateo counties; to post his letters of inquiry and the responses on the BAWSCA website so the public can access them. He said all questions would be treated seriously and issues would be brought to the board's attention as needed, with an assessment of the degree of urgency.

Chair Ruskin suggested creating an information packet on the chloramine conversion for the board. Members of the audience were invited to make public comments.

Mr. Winn Parker introduced himself as a professional who does intellectual property analysis for licensing of medical laboratory work worldwide, licensed clinical medical technologist and former consultant to the World Health Organization. He cited studies and news articles that suggest there is a link between chloramine and the potential for DNA breakage of human cells and lead poisoning from the leaching of lead from copper pipes transmitting chloraminated water. He said there were alternate technologies such as reverse osmosis, ozonation, ultraviolet light, and laser plasma technology, that could be equally or more effective, particularly against viruses. He concluded by urging that more investigation be done because there are too many risks and uncertainties associated with chloramines.

Ms. Marilyn Robacheck stated that she has had a rash since February that she cannot explain and attributes it to the change in the water. She said she felt the citizens of the entire service area should have had an opportunity to express their concerns

before San Francisco made this change in their water. Chair Ruskin explained that the SFPUC has the sole authority for the decision whether to utilize chloramine for disinfection. Director O'Connell said that the switch to chloramination was made as a result of requirements in federal legislation.

C. Report on SFPUC Special Hearing, March 29: Mr. Jensen reported that the March 29 hearing addressed the SFPUC's ongoing performance and proposed organizational changes. The day following the hearing, the SFPUC announced that General Manager Pat Martel had been asked to resign. Mr. Jensen emphasized that BAWSCA should not expect any delay in implementation of the CIP because of changes in SFPUC staffing or structure. Asked whether the separation of City and Regional Operations will help BAWSCA, Mr. Jensen said he thought it would.

D. Arbitration--Settlement of Unresolved Cost Issues: Legal counsel Ray McDevitt explained that the SFPUC has agreed to settle issues related to prior year accounting of costs for a septic system design at Sierra facilities and double counting of certain other expenses. The total settlement amount is \$3,725,000. As a result of negotiations by BAWSCA staff and legal counsel with SFPUC staff and the city attorney, the SFPUC has agreed to a number of corrective actions that should mitigate, if not eliminate, such issues arising in the future. The corrective actions include: 1) implementation of a project control system; 2) creation of an enterprise asset management system; 3) compliance auditor advice; and 4) development of a revised construction contract bidding form. Several directors expressed concern that San Francisco was unable to perform the accounting functions and maintain accurate records of project costs in a reliable manner. They stated that their concern is magnified by the size of the capital improvement program San Francisco is undertaking and the fact that they are expected to pay approximately two-thirds of the total cost. They asked what BAWSCA should do to ensure that the projects will get done on time and that their customers would pay only a reasonable portion of the costs. Mr. Jensen cited that a first step is registering their concerns with Mayor Newsom when they meet with him. Mr. Wendell suggested that a strategic approach, beginning with the meeting with Mayor Newsom, would be needed to see that the work was done to their satisfaction. Chair Ira Ruskin asked Mr. Jensen and Mr. Wendell to return to the board with a strategic plan for accomplishing the board's objectives.

8. Directors' Discussion, Comments, Agenda Requests: None.

9. Date/Time/Location of Next Meeting: Next meeting to be held Thursday, June 17.

10. Adjournment: There being no further business, the meeting was adjourned at 9:10 p.m.

Respectfully submitted.

Arthur R. Jensen, General Manager
and Acting Secretary

ARJ/GE

Attachments: 1) Attendance Roster

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
Board of Directors Meeting
April 15, 2004**

Attendance Roster

Present:

Bern Beecham	City of Palo Alto
Roberta Cooper	City of Hayward
Robert Craig	Westborough Water District
Stan Gage	Los Trancos County Water District
Mike Goff	Stanford University
Marc Hershman	City of Millbrae
Chuck Kinney	City of Menlo Park
Robert Livengood	City of Milpitas
Chris Mickelsen	Coastside County Water District
Irene O'Connell	City of San Bruno
Rosalie O'Mahony	City of Burlingame
Aldyth Parle	City of Santa Clara
Chuck Reed	City of San Jose
Chris Reynolds	Skyline County Water District
Tim Risch	City of Sunnyvale
Ira Ruskin	City of Redwood City
Louis Vella	Mid-Peninsula Water District
John Weed	Alameda County Water District
David Woods	City of East Palo Alto
Rick Wykoff	City of Foster City

Absent:

Randy Breault	Guadalupe Valley Water District
John Fannon	Town of Hillsborough
Mike Kasperzak	City of Mountain View
Peter Nelson	California Water Service Company
Lee Panza	City of Brisbane
Tom Piccolotti	North Coast County Water District
Dan Seidel	Purissima Hills Water District
Adrienne Tissier	City of Daly City