

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
BOARD OF DIRECTORS MEETING
May 20, 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. Twenty-Four (24) members were initially present, constituting a quorum. Director John Weed arrived at 9pm. A list of directors present (25) and absent (3) is attached.

2. Comments by the Chair: Mr. Ruskin reported on the continued effort with the General Manager in pressing for a meeting with San Francisco Mayor, Gavin Newsom. He cited Mayor Newsom's comments on the performance of the SFPUC published in the San Francisco Chronicle on May 19th. He stated that the concerns with San Francisco's performance will be the subject of the meeting that BAWSCA is requesting to have with the Mayor. Mr. Ruskin asked SFPUC General Manager, Pat Martel to provide an update on the Hetch Hetchy fee increase during her remarks.

Mr. Ruskin acknowledged the members of the Start-Up Advisory Committee for their efforts on the budget process and results. He stated that the Budget for FY 04-05 will be on the agenda for the June 17th meeting. Mr. Ruskin announced that the Start-Up Advisory Committee has completed its task, and will soon cease to exist. He stated that a proposal for a new committee is on the agenda for Board consideration.

Lastly, Mr. Ruskin announced that Office Manager, Georgie Easter, is retiring after 9 years of service with the Bay Area Water Users Association (BAWUA) and her 5 months of service with Bay Area Water Supply and Conservation Agency (BAWSCA). He presented Georgie with a gift of a framed photograph of Hetch Hetchy in honor of her years of service. Georgie accepted the frame and took the stand to say thank you. She stated that she has learned a great deal about water as a commodity and as a political force. She commended the board and the agency for its efforts in ensuring a supply of reliable water. In closing, she shared a famous quote by Mark Twain, "Whisky is for drinking and water is for fighting over."

3. SFPUC Report: Ms. Martel announced that this was her last official SFPUC report and thanked the BAWSCA board and staff for their support and respect for the job that she has done as general manager of SFPUC. She expressed her confidence on Mayor Newsom's recommendation for Susan Leal to be the SFPUC general manager, and encouraged BAWSCA to support Leal.

Ms. Martel shared her opinion that developing a good relationship and partnership between BAWSCA and SFPUC is necessary to achieve the goals of the CIP. She offered her assistance to BAWSCA as a public citizen who cares and is passionate about the water system.

In regards to the Hetch Hetchy fee increase, Ms. Martel stated that Senator Diane Feinstein and Congresswoman Nancy Pelosi have argued against the fee increase and that the Modesto and Turlock Irrigation Districts have also joined forces with San Francisco in opposing the raise in the fees. As of May 11, the information provided by San Francisco's Washington lobbyist is that neither the House of Representatives nor the Senate has included any budget reconciliation instructions. The absence of such instructions suggests the fee increase will not progress further in the current year. She said news will be made available to Mr. Jensen so that the Board and members will be informed of the issue.

Ms. Martel stated that SFPUC is aware of the concerns about chloramination and would like to take the lead in addressing them by gathering detailed, scientific reasons and facts. SFPUC is involved in several efforts including the AWWA research project on long-term disinfection and strategies for minimizing NDMA, and initiating a working relationship with public health agencies in San Mateo, Santa Clara and Alameda Counties. Results and updates of the efforts will be provided to BAWSCA when they are available. She announced that three documents, Chloramination Questions and Answers, NDMA White Paper, and NDMA Fact Sheet, have been provided for distribution.

It was reported that the CIP schedule has been revised and the changes shorten the schedule by 1 year. BAWSCA will be provided a draft for review and comment prior to commission action and submittal to the State. Ms. Martel reported that under the Energy and Water Development Appropriation Act, a Permit Office is being formed to ensure the timely action on permit applications associated with the CIP. San Francisco anticipates the office to be opened by the end of May.

Lastly, Ms. Martel announced that the Harry Tracy and Sunol Treatment Plants received the partnership for Safe Water Awards out of the 424 treatment plants that participated in the program.

Asked about the possibility for Federal Government assistance on the CIP, Ms. Martel reported that the SFPUC is not a beneficiary of Federal funding. Some projects, such as desalination, may be eligible, but Federal Funding for the entire CIP is very slim.

4. **Public Comments (non-agendized items):** None

5. **Consent Calendar:**

M/S/C (Parle/Hershman) that the Minutes of the April 15 BAWSCA meeting be approved, the Monthly Budget Status Report be received and filed, and the Guidelines to Public Access to Records be approved.

Director Reynolds submitted changes to the Guidelines for Public Access to Records to correct an error and clarify a sentence.

6. **Action Calendar:**

A. Authorize Agreements to Implement Grant Funding for the Washing Machine Rebate Program: Nicole Sandkulla reported that the State granted \$2.1M to eight (8) regional water agencies, including BAWSCA, to augment the Washing Machine Rebate

Program (WMRP). BAWSCA will be receiving \$236,250 of the total grant. The grant money provides additional funding for agencies that elect to participate in the rebate program. Ms. Sandkulla noted that the program is budget-neutral and will be paid for by the agencies that choose to participate. To move forward, Ms. Sandkulla explained that BAWSCA will need to enter into an agreement with East Bay Municipal Utility District (EBMUD), the administrator of the State grant, and to negotiate and execute a contract with the selected Program Administrator of the WMRP. Director O'Connell commented that she participated in the program a couple of years ago and the machine that she purchased provides a 25% savings on her water bills.

M/S/C (O'Connell/Tissier; unanimous) that the board authorize the general manager to enter into both agreements needed to access grant funds and administer the rebate program.

- B. Authorize Execution of a Professional Service Contract with Kollage Community School for the Arts to implement the "Our Water" School Education Program:** Nicole Sandkulla reported on the continued success of the "Our Water" elementary school arts program. The program is budget neutral and will be paid for by the agencies that choose to participate. To move forward, Ms. Sandkulla explained that BAWSCA will need to enter into an agreement with Kollage Community School for the Arts.

M/S/C (O'Connell/Cooper; unanimous) that the board authorize the general manager to execute a contract with Kollage for continuation of the water conservation education program.

- C. Authorize Execution of a Professional Services Contract with John H. Whitcomb to Implement the Large Landscape Conservation Services Program (LLCSP):** Ms. Sandkulla reported that the success of the current large landscape budgets and audits have been exemplary for the four (4) member agencies that are currently participating. Ms. Sandkulla explained that the LLCSP allows participating agencies to cost-effectively implement large landscape water budgets and water use surveys. John Whitcomb currently provides the services of the program and offers the most responsive and cost-competitive services.

M/S/C (Cooper/Vella; unanimous) that the board authorize the general manager to execute a contract with John H. Whitcomb to provide large landscape conservation services.

- D. Frequency of BAWSCA Board Meetings:** Chair Ruskin reported that at the Start-Up Advisory Committee meeting held on May 5, the committee agreed to reduce the frequency of meetings so that more staff time could be devoted to producing results. Members of the committee did not have any specific recommendations, but a bi-monthly schedule had been discussed. Mr. Jensen described the increased number of meetings staff has had to plan, prepare and conduct since the formation of BAWSCA. He recommended board consideration of a bi-monthly schedule of board and committee meetings. Alternatives were to continue monthly meetings or to conduct bi-monthly meetings.

Director Cooper offered the opinion that a monthly meeting schedule might assure that communications with San Francisco are completed in a timely manner in regards to the CIP, and maintain communication among the board members particularly given that BAWSCA is a new agency.

Director O'Mahony believed that bi-monthly meetings would be an advantage and that the decision could be changed if business required more meetings.

Director Kasperzak supported bi-monthly meetings and suggested at least two study sessions each year. He also suggested the meetings could be longer and that more items could be placed on the consent calendar.

Director Reed noted that the alternative to decreasing meeting frequency was to increase the budget and staffing to support the administrative load of monthly meetings.

Legal Counsel, Ray McDevitt explained that the statutory obligations on public agencies require that they formally adopt a revised schedule of meetings.

Chair Ruskin called for a vote by a show of hands for those in favor and those opposed. The motion passed

M/S/C (Beecham/O'Mahony) that a bi-monthly meeting schedule be adopted.

Mr. McDevitt stated that a resolution will be brought to the Board at the June meeting to amend the Rules of the Board reflecting the decision.

- E. Board Committees:** Chair Ruskin reported that the SUAC will complete its task in June and that he proposes that the board form a new committee called the Board Policy Committee that will continue the functions of advising the general manager and the board regarding policy matters.

Director Wykoff asked if the committee participants need to be or should be approved by the full board. Mr. Jensen noted that the Rules of the Board permit the board to authorize the Chair to select the members of a committee. The proposal before the board is written in that manner.

M/S/C (Tissier/O'Connell/Wykoff, Craig opposed) that the Board approves the formation of a standing committee called the Board Policy Committee, and that the Board authorizes the Chair to select the members of the committee.

It was requested by Director Goff that the minutes from the Policy Committee meetings be provided in the board packets prior to the board meetings. Mr. Jensen explained that the staggered schedule for board and committee meetings could permit the draft minutes of committee meetings to be included in board packets.

Mr. Ruskin announced his intention to form the formation of an ad hoc committee, called Negotiation Start-Up Advisory Committee, that will advise the

board and the general manager how to prepare for negotiation of the new master water contract. The ad hoc committee will have a term of 1 year. The members of the committee will be chosen by the Chair of the BAWSCA board and will promote a balanced representation of the three (3) counties.

- F. Board Compensation:** Mr. Jensen explained that the board has the authority to compensate directors attending committee meetings or providing other service rendered at the request of the board of directors. It may do so by adopting an ordinance pursuant to Water Code sections 20200-20207. Mr. Jensen reported that after thoughtful deliberation at the SUAC meeting, the committee members elected to refer the matter to the board without a recommendation. He then described pros and cons cited in the committee meeting.

Mr. Jensen explained that if the board wished to compensate directors for attendance at events other than board meetings, it would need to schedule a public hearing and receive any public comments prior to considering an ordinance.

Director Reynolds said the board might consider a limit on the number of committees an individual might serve. Director Cooper noted most agencies pay for committee meeting attendance and that public officials' time is valuable. Mr. McDevitt, responding to a question by Director Craig, noted the board could limit an individual's compensation to a specified amount each month regardless of the number of meetings attended. Director Wykoff thought compensation for attending board meetings was sufficient. Director Tissier thought compensation was appropriate given the number of meetings that might be required for the issues before the organization. Director Beecham agreed.

Director Kasperzak moved that a hearing be scheduled for June 17. Director Cooper seconded.

Director Beecham suggested that if one was reasonably sure they would vote against compensation, that they vote against having the public hearing so one would not be held without purpose. Chair Ruskin called for a vote by a show of hands.

M/S/C: (Kasperzak/Cooper: Passed by show of hands 14:10)

7. Reports

- A. Start-up Advisory Committee (SUAC):** Mr. Ruskin thanked Committee Chair Aldyth Parle for her leadership of the Start-Up Advisory Committee which has now completed its task. Ms. Parle requested the members to stand for recognition, and stated that BAWSCA's efforts address one of the significant issues facing the Bay Area.

B. General Manager's Report:

1. Policy Calendar: Mr. Jensen reviewed the upcoming items that will be completed by June 30th and stated that selected results will be presented to the Board at the July Meeting. He reported that the June Board meeting will be a significant meeting

because it will include consideration of the FY04-05 Budget, several contracts, and other items.

2. FY 2004-05 Budget Update: Mr. Jensen reported that the budget that will be presented to the board in June includes resources for examination of water supply alternatives, salary revisions and a new position recommended by the SUAC. He stated that the FY 03-04 budget is \$1.82M and that a projected spending is \$1.66M. The draft budget for FY 04-05 has a current refined estimate of \$1.83M from the \$1.86M that was in the preliminary budget presented in March. He noted that the development of a reserve policy for BAWSCA funds will be brought forward in the Fall of 2004. Mr. Jensen also announced that the method of collection of Cal Water's BAWSCA assessment has been resolved.
 3. Chloramine Update: Mr. Jensen reported that some customers have raised questions about possible health and other adverse impacts associated with chloramines. He explained that BAWSCA's action plan presented at the board meeting held on April 15, is to obtain opinions from qualified health officials and to then provide the board with ongoing status reports. Staff is currently working with San Francisco to obtain opinions from qualified sources. The materials will be provided at the June and July board meetings.
- C. Water Conservation Assistance Programs:** At a prior board meeting, the board requested that information on BAWSCA's water assistance programs be provided to the board as well as member agency staff persons. Nicole Sandkulla presented the current programs, a summary of the program results and a preview of the programs for FY 04-05. The current program includes the Washing Machine Rebate Program (WMRP). The 13 agencies currently participating have paid over 5,700 and created an estimated savings of 90 acre feet per year. Another program is the Large Landscape Conservation Services Program (LLCSP) that has four agencies currently participating. The LLCSP allows the consultant, with the agency's authorization, to gather information from the agencies' irrigation meter database and develop budget profiles that will be used to educate customers on their water usage. This program creates significant reductions in irrigation usage. The "Our Water" School education program brings artists to 4th grade classrooms in the Alameda, Santa Clara and San Mateo Counties to teach water conservation through the arts. The program currently has six participating agencies.

Another program, the Water Awareness Poster Contest also reinforces the conservation message through art and rewards the schools and children with recognition and cash awards. This program had 10 agencies participate in FY 03-04. Because of declining interests in the Water Awareness Poster Contest, it will not be continued in FY 04-05. All the other programs as well as a New Commercial, Industrial and Institutional Audit Program will be offered to interested agencies in FY 04-05. Other potential programs include the Rinse and Spray program which involves distributing spray nozzles to save energy and water.

Asked about the cost saving value of Washing Machine Rebate Program and the purpose of the State grant, Ms. Sandkulla explained that the cost saving value depends on the machine and that pay back period is less than 10 years. She also clarified that the state program provides matching funds that agencies may use to increase the rebate amount to customers or increase the number of rebates issued.

Directors Kasperzak and Cooper suggested efforts be made to find other ways to fulfill more than the school education program's goals in less expensive ways. Ms. Sandkulla responded by reporting on Kollage's successful partnership with the Kraft Foundation to offer the program to 4 classrooms rather than 2 in the City of Menlo Park. Ms. Sandkulla also noted that she will discuss further possibilities with Kollage.

D. Alternatives and Considerations for Financing Regional Water System

Improvements: Mr. Jensen stated that the way BAWSCA member agencies will pay for the water system improvements will affect the future cost of water for each agency's customers and the overall business relationship with San Francisco. The information being presented tonight will serve as a precursor to the coming negotiation of a master contract. The information will also help the board evaluate any proposal to use the Regional Financing Authority (RFA) as a funding mechanism for the Capital Improvement Program (CIP).

BAWSCA's Financial Advisor, Mr. David Brodsky, noted an underlying assumption that the CIP will likely be debt financed, due to its large cost compared to annual revenues. Mr. Brodsky then presented what he considers to be the two fundamental methods that BAWSCA member agencies could pay for their share of the costs of the CIP.

Utility Method was the first method presented. It is the method prescribed by the current contract. Mr. Brodsky explained that the method is common with investor-owned utilities. Under this method, member agencies pay depreciation plus a return on asset value. CIP costs would be repaid over the lives of the assets, which range between 10 to 80 years. The Utility Method charges the member agencies after the projects have been completed. He noted as its disadvantages, the method spreads the cost over a relatively long period of time, and is complicated to calculate.

Cash Method was the second method presented and is commonly used by municipal utilities. Mr. Brodsky explained that this method could be used whether the RFA or San Francisco sell bonds. As advantages, Cash Method is simpler to calculate and gets paid off relatively earlier. As a disadvantage, the method is relatively more expensive in the middle years.

In comparing the two methods, Brodsky pointed out that the Utility Method creates a cash flow deficit for San Francisco in the middle years. The significance of that 20-year deficit period is the uncertainty of whether San Francisco would be able to pay the bond debt service as well as ongoing or increasing operations and maintenance costs, or whether the integrity of the system would be compromised by a shortage of funds.

In summary, Mr. Brodsky concluded that the Utility method is not the appropriate method for such a large CIP. The cash method is more appropriate. It is less expensive in the early years. The quantitative comparison is independent of what entity sells the bonds. More importantly, Mr. Brodsky explained that San Francisco would be better positioned to meet its obligations and be more financially able to provide a reliable high quality supply of water.

During the presentation, Mr. Jensen stated that the decision of which method the board chooses is of great significance because it will affect not only their current constituents but also the generations to come.

In closing the presentation, Mr. Jensen encouraged the board to, ask questions and pursue issues with staff. He cited the next steps to be taken. First, identify the key elements in re-negotiating the new master contract. Next, to develop a plan to implement the chosen method and construct ways to mitigate the disadvantages of either method in case San Francisco's views differ from BAWSCA's. Finally, to begin the negotiations of the new master contract.

Director Risch said that when he was on his city's council, they discussed the possibility of using a method that would result in uniform payments, year after year, adjusted by inflation. He asked if something like that is an alternative. Art Jensen replied that a rate stabilization fund, or mechanism, could be considered as a modification to either the two basic methods presented.

Director Kinney asked how the cash flow for the CIP was determined and why the model shows payments extending over 40 to 80 or 90 years.

Mr. Brodsky explained that the 100-year plan model for the Utility Method was built specifically on the CIP and uses the same assumptions that San Francisco uses. He clarified that under the Cash Method, bonds are paid over a total of 40 years (a 30-year bond sold in the 10th year of the CIP will be paid off in the 40th year). He also clarified that under the Utility Method, payments are made over the life of the asset, so that payments begun 8 years from now on an asset having an 80-year life would end 88 years from today.

Director Kinney said this clarified Mr. Jensen's comments that the decisions made now potentially affect several generations.

Director Nelson asked what assumptions were made about San Francisco's retail rates when estimated the deficit conditions cited during the presentation. Mr. Brodsky clarified that the deficit was calculated as the difference between the total bond payments and the portion of wholesale water revenues related to capital improvements. No calculations or assumptions about San Francisco retail rates were necessary.

Director Nelson stated that we don't know how the San Francisco retail customers will pay for the capital improvements, and Mr. Brodsky said, "Correct."

Asked how each agency's water bill might be affected, Mr. Brodsky stated that he will provide Art with information based on the assumptions in his analysis.

E. Strategies to Address the Board's Concerns with San Francisco's Performance:

Strategic Counsel, Bud Wendell presented four strategies to address the concerns about San Francisco's CIP capabilities raised by directors in April. He cited the deeply felt concerns raised by Directors Reed, Gage and perhaps others, about whether the system was going to get rebuilt on time and on budget, and whether the constituents who were going to have to pay the cost have confidence under the current circumstances. He also cited the comments by Mayor Newsom and Commissioner Werbach in the SF Chronicle article about the PUC underscored and added credibility to concerns expressed by BAWSCA's board in April. He stated this is a positive opportunity for the Board to make a significant contribution to getting the job done. Mr. Wendell recommended four strategies.

The first strategy is to tell Mayor Newsom the depth and breadth of their concerns through a collaborative meeting. He stated that in a large bureaucracy, only the mayor can drive the efforts to deal with the board's concerns. There are departments other than the PUC that are going to have to make this big program successful, so the mayor should be the focus. He characterized BAWSCA's actions as collaborative rather than confrontational. The first tactical execution of this strategy is the meeting with Mayor Newsom that the chair and general manager are trying to arrange.

The second strategy is to communicate with the media so they can be supportive and help get this job done. The media will be the group that interprets these concerns to the public who are the board's constituents. The tactical execution begins with giving Mayor Newsom the courtesy of telling him our concerns and having the opportunity to understand his point of view.

Third, is to communicate the concerns to local State Legislators. The legislators, in representing their constituents, would be willing to lend their support to getting the job done.

Fourth, is to work and communicate with business allies who rely on water. He cited a 6-12 month implementation schedule, requiring a sustained effort by the board to lead to some dramatic improvements in the huge challenge of getting the water system rebuilt and to protect the health, safety and economic well-being of the water customers..

Director Parle asked if it would be worthwhile to invite Mayor Newsom to one of BAWSCA's board meetings. Mr. Wendell thought that opportunity should be extended by the chair.

Director Craig asked if a collective effort could be made so that it was not an activity by individual, small agencies. Mr. Wendell agreed and responded that the collective effort would be part of how the strategies were implemented.

Director Reed said he thought the strategy is fine but suggested we go to the mayor of San Francisco with more than just concerns. He suggested that we go with a list of specific ideas. He cited as an example how San Jose's capital improvement program went from a \$100 million effort to a \$1 billion effort. He would like to have a report card so that six months from now we can look and see whether our concerns are being adequately addressed. He thought if we are more specific when we meet with the mayor that we will probably get better results.

Mr. Wendell considered the idea excellent and suggested BAWSCA create a set of benchmarks or milestones to measure performance and enable the board to decide whether its concerns are being addressed overtime.

Mr. Kinney asked if we have had regular discussion with the legislators. Mr. Jensen said that there have not been regularly scheduled meetings.

Director Parle asked if it would be possible to reach the congressional delegates with our concerns. Mr. Wendell said these were good ideas and could be made to happen if that is the board's desire.

Chair Ruskin thanked Mr. Wendell for his timely response to the board's request. He stated that these suggestions would be added to the fabric of the four strategies as they are implemented.

8. **Directors' Discussion, Comments, Agenda Requests:** None.
9. **Date/Time/Location of Next Meeting:** Next meeting to be held Thursday, June 17.
10. **Adjournment:** Director O'Mahony moved adjournment. Following a show of hands the meeting was adjourned at 9:30 p.m.

Respectfully submitted.

Arthur R. Jensen, General Manager
and Acting Secretary

ARJ/LE

Attachments: 1) Attendance Roster

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
Board of Directors Meeting
May 20, 2004**

Attendance Roster

Present:

Bern Beecham	City of Palo Alto
Randy Breault	Guadalupe Valley Water District
Roberta Cooper	City of Hayward
Robert Craig	Westborough Water District
John Fannon	Town of Hillsborough
Mike Goff	Stanford University
Marc Hershman	City of Millbrae
Mike Kasperzak	City of Mountain View
Chuck Kinney	City of Menlo Park
Chris Mickelsen	Coastside County Water District
Peter Nelson	California Water Service Company
Irene O'Connell	City of San Bruno
Rosalie O'Mahony	City of Burlingame
Lee Panza	City of Brisbane
Aldyth Parle	City of Santa Clara
Tom Piccolotti	North Coast County Water District
Chuck Reed	City of San Jose
Chris Reynolds	Skyline County Water District
Tim Risch	City of Sunnyvale
Ira Ruskin	City of Redwood City
Dan Seidel	Purissima Hills Water District
Adrienne Tissier	City of Daly City
Louis Vella	Mid-Peninsula Water District
John Weed	Alameda County Water District
Rick Wykoff	City of Foster City

Absent:

Stan Gage	Los Trancos County Water District
Robert Livengood	City of Milpitas
David Woods	City of East Palo Alto