

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
BOARD OF DIRECTORS MEETING****July 17, 2008 – 7 p.m.
Foster City Community Building, Foster City CA**

MINUTES

1. Call to Order/Pledge of Allegiance/Roll Call – 7:05 pm

BAWSCA Chair, Rosalie O'Mahony, called the meeting to order and led the salute of the flag. Art Jensen, called the roll. Twenty (20) members of the board were present, constituting a quorum. A list of directors present (20) and absent (7) is attached.

2. Comments by the Chair: Chair O'Mahony reported that AB 2437 was signed into law by the Governor. The bill amends AB 1823 and extends the state oversight on the San Francisco Public Utilities' (SFPUC) Water System Improvement Program (WSIP) until 2015. It also closes a loophole in the AB 1823 to ensure that reviews of the WSIP changes by the California Seismic Safety Commission (CSSC) and the California Department of Public Health (CDPH) takes place in a timely manner.

AB 2437 is the fourth legislative bill BAWSCA has successfully supported on behalf of the BAWSCA member agencies and its customers. The success of the legislation is a result of BAWSCA's sound draft of the bill, Assembly member Ira Ruskin's leadership, and Mayor Newsom's support that was obtained by Assembly member Ruskin, Mayor Reed, Mr. Jensen, and Mr. Wendell. This accomplishment demonstrates the credibility BAWSCA and its member agencies have in the state legislature.

AB 2175 (Laird) is a pending conservation legislation Mr. Jensen is following closely with Assembly member Ruskin who recently provided an important amendment to protect BAWSCA's legislated authorities.

As Mr. Jensen previously informed the BAWSCA board at its May meeting, the SFPUC has asked the SF Planning Department to examine a new alternative as it finalizes the Program Environmental Impact Report for the WSIP. If the SFPUC adopts this water supply alternative, it could result to the interruption of water deliveries to San Jose and Santa Clara. The mayors of San Jose and Santa Clara have written to Mayor Newsom strongly opposing the alternative, and requesting a conference between the three mayors and Mr. Jensen. Further explanation will be provided by Mr. Jensen during his report.

As a result of San Francisco voters' approval of Measure E, all San Francisco Public Utility Commissioners will be terminated as of noon on August 1st, and replaced by commissioners appointed by the Mayor and approved by the San Francisco Board of Supervisors. There are three critical decisions the newly appointed SFPUC commissioners will face over the next twelve months include:

1. Adopting a specific set of program goals, projects, and environmental mitigation measures once the PEIR has been certified;

2. Securing approval of future large contracts, bond measures, and rate increases by the SF board of supervisors; and
3. Approving the new water agreement between San Francisco and its wholesale customers, currently being negotiated by BAWSCA and San Francisco.

Chair O'Mahony hopes for continuity between the current and new commissioners, and looks to Mr. Harrington for further information on the status of the appointments.

Chair O'Mahony noted that there will be no closed session performance evaluation by the board following the open session of the meeting. There is a special closed session meeting of the Board Policy Committee following adjournment of the board meeting.

3. **Board Policy Committee Report:** Committee Chair John Fannon stated that the board policy committee deals with important matters to bring to the board's attention. The diversity of opinion expressed in meetings and the thoughtful discussions by committee members on issues important to the member agencies are impressive. He reported that he is currently working with the Board Chair to include additional members in the committee.

Committee meetings are regularly attended by members of the public including Peter Drekmeier from the Tuolumne River Trust and other interested parties to observe as the committee considers policy matters and provides advice and guidance to the General Manager.

At the June 11th meeting, the committee discussed the proposed water conservation/recycling implementation plan. Conservation is a high priority of BAWSCA, in which the board agreed at its first meeting six years ago, to build a strong strategy for developing creative programs with positive results. BAWSCA has earned the reputation it well deserves.

In conjunction with BAWSCA's previous discussion on conservation, Director Fannon asked the staff of the Town of Hillsborough to provide a report of its conservation programs and the dollar amount saved. The result is very positive and impressive for the small community of Hillsborough with 11,000 residents and 3,800 houses. The 5th Grade Conservation Kit program, for example, cost Hillsborough \$15,000 to implement, and yielded a savings of close to 1 million gallons of water in the year 2007.

Director Fannon offered to provide Art copies of Hillsborough's report for distribution to member agencies, whose savings can potentially be more significant because of the sizes of their communities.

Other matters covered at the June 11th meeting was a report on the WSIP status, legislative updates, and a closed session to establish guidelines for the evaluation of the CEO and General Manager. The guidelines for the employee evaluation will be discussed in a special meeting of the Committee in closed session, immediately following the Board's adjournment tonight.

4. **Chief Executive Officer and General Manager's Report:** Mr. Jensen reported that BAWSCA's annual conservation report will be distributed in the summer, and will be available on BAWSCA's website.

BAWSCA as well as individual member agencies continue to track AB 2175 (Laird) which was discussed with the board at its meeting in May. It is currently in Senate Appropriations Committee and is being amended. One of the concerns raised at the last board meeting was the reference to “water as a public trust”. The language now reads “water as a public resource”.

Mr. Jensen reported that the “Intent” section of the bill now refers to the desire by the legislature to ensure efficient use and avoid waste and unreasonable use of water. The significance of the “Intent” section of the bill remains under review.

With respect to the potential impacts of the bill to member agencies, Mr. Jensen stated that the bill appears to have some flexibility for agencies to satisfy the terms of the bill.

Current Water Supply Conditions: Mr. Jensen reported that water customers are currently exceeding the goal of reducing water use by 10%. Water use is down nearly 12% for the entire region between April 10th through July 9th. The South and East Bay achieved a 13% reduction. The Peninsula achieved 19 % and San Francisco achieved 5%. The Water Saving Hero is in full swing and was kicked off by a press conference with Mayors Newsom, and Mayor Chuck Reed.

Water System Improvement Program (WSIP) – Status Report: Nicole Sandkulla presented BAWSCA’s assessment of the WSIP’s current status in the same format it was provided to the board in March 2007. BAWSCA’s progress assessment examines the water customer’s interests relative to project scopes, schedules and costs, as well as the program’s trajectory toward being completed within scope, schedule and budget. BAWSCA’s review focuses on the customers questions and concerns, and notes achievements and the presence or absence of problems.

The latest quarterly report reflects the updates to the WSIP scope, schedule and budget adopted by the commission in February. Ms. Sandkulla noted that the overall program completion of 11.5 % vs. 11.3 % planned completion is expected following a major revision and adoption of the revised program.

Director Seidel asked what 11.5% measures, as he looks at progress in terms of the amount of concrete poured, steel used, and facilities online. Ms. Sandkulla explained that the SFPUC looks at how much value have been spent in construction and how much is needed to be in construction. Planning and environmental work doesn’t have concrete value, and determining the earned value in the early stages can be difficult and may require a judgement call on how far progress is being made.

Ms. Sandkulla reported that the scope and budget appear appropriate. Scopes to some of the projects were refined during planning and design, but they appear consistent with the Level of Service (LOS) goals. During the review process, BAWSCA commented its concerns with water supply reliability through the Alameda Siphon #4 project, and the Harry Tracy Water Treatment Plant Project. The California Seismic Safety Commission (CSSC) and the Department of Public Health (CDPH) expressed the same concerns in their review of the WSIP changes. BAWSCA is tracking SFPUC’s response to the concerns.

Scopes have not been narrowed to stay within the schedule and budget, however, some scopes do reflect attention to achieving project goals and budget. BAWSCA's comments continue to focus on achieving the goals reliably.

Project scopes were a part of SFPUC's realignment effort, and projects with scope changes account for the increase of \$139 million. BAWSCA will continue to review project scopes and resolve questions with the SFPUC to see if projects remain within scope.

Progress of projects is within the phases as planned, although there are condition assessments on some projects that remain to be completed. The quarterly report is based on the schedule adopted in February 2008, and by definition, projects are on schedule. The overall program completion was shifted six months to December 2014. Three projects are delayed at least 6 months, including the Calaveras Dam Replacement project, the Program Environmental Impact Review (PEIR) by 5 months, and the San Antonio Backup Pipeline by 4 months. Five projects are delayed by 3 months or less. The Capuchino Valve Lot Improvements were completed 6 ½ months early.

The SFPUC submitted its report to the CSSC and CDPH on the adopted WSIP changes. The report was submitted on March 31, 2008, and assessments from the CSSC and CDPH are expected in August.

A key issue is the schedule of the PEIR being delayed 5 months. The release is expected in September, and certification is expected by the end of October. The delay will impact the Bay Division Pipeline #5, and potentially other projects if the progress remains off track. Environmental work remains critical to project schedules.

With new project budgets adopted in February, the current program budget is 3% over what was adopted in November 2005. There appears to be sufficient project contingencies if project costs during the planning phase exceed the phase budget.

To date, construction bids appear very close to the engineer's estimates. BAWSCA will continue to assess this portion of the program, and provide additional information at the September board meeting. The sufficiency of the escalation allowance of 3.5 % per year was a significant part of the risk assessment done by the SFPUC in November 2007. The result of that assessment indicated that there is a 40 % probability that the cost escalation will be equal or less than the estimated 3.5 % per year. Conversely, there is a 60% probability that cost escalation will exceed 3.5%. The SFPUC will periodically review the cost escalation and will make necessary steps.

Director Pear commented that he would have expected a 50 % probability that cost escalation will be equal or less than 3.5 %. Ms. Sandkulla explained that during the risk assessment, it was too early in the process to determine whether there would have been significant cost implications to have said that cost escalations would be more or less than 3.5%. The SFPUC recognizes its importance, and that is a decision that has been deferred until further information is gathered.

Currently there are no known problems that would indicate that projects will not remain within budget. The SFPUC adopted and is implementing a Risk Mitigation Action Plan that came out of the risk assessment work completed in November. The risk assessment effort identified areas of risk to project schedules, scope and budget, and identified specific actions.

Environmental work is now detailed in individual project schedules, and the right of way activities are now planned and scheduled. The SFPUC has implemented all components of a QA/QC program, and there is value engineering conducted on selected projects. The implementation of the risk mitigation action plan allows the SFPUC to take appropriate actions when needed, and those actions are reported in the quarterly reports.

Ms. Sandkulla reported that Tony Irons, a key person in bring the program up to its current status, is retiring at the end of the summer. He brought on Julie LaBonte as the Program Director a year and half ago, and she is staying on board. Nicole stated that she expects no issues with Tony's retirement.

Further changes to leadership that may affect the WSIP include changes in the commissioners as a result of Measure E. Mayor Newsom has expressed his consideration of running in the 2010 gubernatorial race, and the San Francisco Board of Supervisors have six out of 11 seats up for re-election in November. BAWSCA will follow the developments of the potential changes, and how it may impact the program.

Director Guzzetta asked to see at the next meeting, the graph that was previously presented to the board, which shows the program and the dollars spent. He asked how delayed are the projects and if there are discontinuities out in the future. Ms. Sandkulla stated that BAWSCA shares the same concerns about Alameda Siphon #4 and the Harry Tracy Water Treatment Plant as the CSSC and CDPH, and expects a decision from the Commission in the fall.

Ms. Sandkulla stated the successful completion of the environmental work is critical. The program schedule is very aggressive and there will not be much time in between completion of environmental work, shutdown and construction. It's a critical issue, which has been raised with the SFPUC. The SFPUC understands the environmental work's criticality and is giving it the level of attention it needs.

Director O'Mahony asked what BAWSCA's concerns are with the Harry Tracy Water Treatment Plant and how those issues are being resolved? Ms. Sandkulla stated that the plant is in an active earthquake zone. A geotechnical analysis recently done on the plant identified two additional earthquake strands, or small faults, that ran near the facility. This raised new questions as to what impacts will this have on the plant, and whether the plan should be reconsidered? The SFPUC is making an assessment and is determined to provide the commissioners with a recommendation in September about how to address the seismic risks to the plant. The plant is critically important to remain in operation following seismic events, as it treats water from major sources of supply; the Crystal Springs and San Andreas reservoir.

Nicole reported that the San Francisco Planning Commission's approval of the EIR for the New Crystal Springs Bypass Tunnel Project has gotten some negative attention from local landowners, and an appeal has been filed with the San Francisco Board of Supervisors. The appeal was withdrawn, and the project is now moving forward.

Mr. Jensen reported that the SFPUC's new alternative for the PEIR is based on limiting wholesale purchases to 184 mgd until 2018. Mr. Jensen explained that the alternative is being examined because of the sensitivity to diversions from the Tuolumne River and desire to see the seismic retrofit of the regional system proceed without further delay.

Unlike San Francisco's water contracts with its other 25 wholesale customers, the contracts held by San Jose and Santa Clara allow San Francisco to stop their water deliveries. The SFPUC's new alternative limits available supplies to less than projected purchases, and could result in cutting off deliveries from the regional water system to these two cities. Once the PEIR is certified, the SFPUC is not restricted to selecting any specific one alternative, but must adopt a program that is covered by the analysis in the PEIR.

Mr. Jensen stated that a critical question is whether wholesale customers can make it to 2018 with a limit of 184mgd. It may be possible, but with unknown costs and impacts. The board was provided with copies of letters to the San Francisco Planning Department and Mayor Newsom from the Mayors and staff of the cities of San Jose and Santa Clara. The letters encourage the San Francisco Planning Department to carefully study the impacts of the alternative. BAWSCA is working with the cities of San Jose and Santa Clara, Santa Clara Valley Water District, San Francisco, Ed Harrington, and Mayor Newsom's office to ensure that the alternative gets the proper review and consideration.

5. SFPUC Report:

SFPUC General Manager, Ed Harrington reported that he and his staff continue to meet and work with BAWSCA staff on the Water Sales Agreement and other issues with a positive and healthy working relationship that is appreciated by all.

Mr. Harrington reported that the Environmental work remains a key topic and is currently a major challenge for most of the project managers of the WSIP. The PEIR schedule is now being managed more aggressively. Mr. Harrington reported that he sits in meetings held twice a week with SFPUC staff, city attorneys, the Planning Department, and outside consultants. Weekly deliverables are reviewed and specific issues are discussed and worked through towards an identified course of action to rid of the lags that used to occur in terms of correspondence and interaction. The question of meeting the September deadline is asked at every meeting, and currently, the probability is at about 80% and is getting higher.

It is important that the PEIR gets done, and that the other EIRs follow very quickly. SFPUC will be going back to the San Francisco Planning Department many times in the next year and half for certification of EIRs. It is important to get a good momentum in the beginning, as was done in the first successful certification of the New Crystal Springs Bypass Tunnel (NCSBPT) Project EIR.

Several BAWSCA member agencies were at the hearing supporting the EIR and SFPUC's mitigation measures with the issues that concern homeowners in the area. The SFPUC will continue to work and take care of the communities that will be impacted by the NCSBT and other projects.

Mr. Harrington asked for BAWSCA's continued assistance as the NCSBT EIR and future EIRs move through the process. He reported that although an appeal on the NCSBT EIR, was withdrawn, advisory measures will be reviewed by the San Mateo County for approval before the project can proceed. The SFPUC may call upon BAWSCA member agencies in the San Mateo County to testify on the importance of this project and of the WSIP. Nevertheless, the momentum gained from the successful certification of NCSBT is important as the environmental work is on the critical path.

Mr. Harrington explained that the current economic condition is generating competitive bids consistent with or less than the assumed 3.5 % per year escalation rate. As an example, a project estimated at \$18M by engineers came back with a bid at \$13M. Mr. Harrington stated that it is to our benefit to get the bidding done under the current market situation.

Mr. Harrington reported that Mayor Newsom has sent a list of commission appointees to the San Francisco Board of Supervisors for their confirmation. The Mayor's list includes Ann Moller-Caen for the finance seat, Richard Sklar for the water and power utility management seat, F.X. Crowley for the at-large seat, Francesca Vietor for the environment seat, and Nora Vargas for the ratepayer and consumer advocate seat. Mr. Harrington reported that the President of the Board of Supervisors expects confirmation of at least a quorum by August 1st so that there will be no lapse in the SFPUC's ability to function. Furthermore, the commission will be asked at the July 22nd meeting to authorize the General Manager to perform functions of the organization critical for continued operations.

Director Weed asked how frequently the SFPUC evaluates the risk of bond interest rates and the potential impact on the total cost of the program and water rates. Mr. Harrington informed the board that the SFPUC is in contact with bond rating agencies on a regular basis. Refunding bonds were issued last week with slightly better rates than existed four months ago.

- 6. Public Comments:** Jeff Hoel, from the Citizens Concerned About Chloramines, reported recent activities on chloramines. Wynn Grich of Union City commented on water quality.

- 7. Consent Calendar:**

M/S/C (Pierce/Swegles/One Abstention) that the Minutes of the May 15, 2008 BAWSCA Board meeting be approved; that the Monthly Budget Status Report as of May 31, 2008, Quarterly Investment Report as of June 30, 2008, and the Directors' Reimbursement Report be received and filed.

8. Action Calendar:

- A. Authorization to Issue a Request for Proposal for the Water Conservation/Recycling Implementation Plan: Mr. Jensen stated that the objective of the study is to develop an implementation plan for the conservation and recycled water commitments that have been made to date. The implementation plan will be specific in identifying who is to do what and by when.

The “who” clearly refers to BAWSCA and the member agencies in joint effort to achieve the committed amounts of conservation. The “what” refers to conservation measures local agencies will implement and those BAWSCA will implement on their behalf. The “when” refers to the timeline and schedule for achieving conservation.

The board approved a budget of \$120,000 for the study. BAWSCA is working with agency representatives in developing the scope of work. The effort takes full advantage of plans already prepared by member agencies to avoid duplication of work.

Eight bullet points representing the key elements of the scope of work were presented to the board. Director Siedel suggested that the scope include preparations of financing mechanisms, in which the RFA may have a role. He also recommended that the monitoring progress emphasize “that successful programs can be expanded and accelerated...”. Mr. Jensen will consult with legal counsel about the authority of the RFA to fund the study.

Director Weed suggested that there should be a common method of reporting amongst the agencies on what is being done as well as the achieved results.

Director Swegles suggested looking into sub meters in mobile home parks and multi family dwellings as a means to encourage conservation. Sunnyvale is considering an ordinance to require sub meters in newly constructed homes, townhomes, apartments, and mobile home communities. A survey the city has done shows a potential savings of up to 25% for these customers. Director Swegles offered the Chair a copy of the ordinance once it is passed.

Director Pierce suggested having a cursory look at the locations of recycled water projects and neighboring jurisdictions where it might be used, as the study looks at and updates information on feasible wastewater recycling projects. Director Weed inquired about the consideration of desalination in the scope.

Mr. Jensen emphasized the timeline of 2030 in achieving the conservation commitment, and stated that bolder initiatives such as recycling and desalination, as critical as they may be, would be considered for a more ambitious study of longer term solutions.

The board was asked to authorize the issuance of the Request for Proposals. Proposals will be evaluated and consultants interviewed during the month of August. A

consultant selection will be presented to the Board Policy Committee for discussion on September 3rd. A recommendation to the board for authorization to execute a contract will be presented at the September board meeting.

Intermediate results of the study will be presented to the board in January 2009. Recommendations may be considered about what should be included in the budget of FY 09-10. Regular updates to the board will be provided until the report is finalized.

In response to a question from Director Klein, Ms. Sandkulla stated that the RFP will be sent to firms outside the traditional scope, such as the Rocky Mountain Institute, Pacific Institute, and RDC. Assuming the board's approval, a distribution list has been developed and will be reviewed with Peter Drekmeier of the Tuolumne River Trust (TRT).

Mr. Drekmeier provided his public comment on the subject, but first stated his appreciation for the conservation successes in the BAWSCA territory and the many positive developments taking place, including the Water Saving Hero campaign, Sunnyvale's submetering ordinance, Cal Water's tiered pricing, and San Francisco's progress with a retrofit on resale ordinance for residential and commercial properties. This ordinance requires sellers to install water efficient devices when property ownership changes.

Mr. Drekmeier offered two recommendations on the conservation/recycling implementation plan. A component that may be developed from the study is a model ordinance that can be adopted by the cities within the BAWSCA service area. An example would be a retrofit ordinance on resale or landscaping, similar to San Francisco's. He would also encourage BAWSCA to consider a cap and trade system which would allow an agency that may not be meeting its demands from conservation, to purchase water from another agency. TRT is eager to work with BAWSCA and support its conservation efforts.

M/S/C (Breault/Klein/Unanimous) that the board authorize the CEO/General Manager to issue a request for proposal for the Conservation/Recycling Implementation Plan.

- 9. Directors' Discussion:** Chair O'Mahony announced that there will be no closed session by the board as noted on the agenda. The Board Policy Committee will meet following adjournment of the board meeting, under closed session, to complete its evaluation of the CEO/General Manager's performance. The Committee will make a recommendation to the board at its September meeting.

Director Weed asked the board to review the proposed Water Bond of \$10 B that is on the November ballot, and determine whether BAWSCA should support it, and have a role in coordinating applications from member agencies to obtain funding for various local water resources projects.

- 10. Adjournment:** The meeting was adjourned at 8:45 pm.

11. Date, Time and Location of Next Meeting: The next meeting is scheduled for September 18, 2008, at 7:00 p.m. in the Wind Room, Foster City Community Center.

Respectfully submitted,

Arthur R. Jensen,
Chief Executive Officer/General Manager and Secretary

ARJ/le

Attachments: 1) Attendance Roster

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
Board of Directors Meeting
July 17, 2008

Attendance Roster

Present:

Randy Breault	Guadalupe Valley Water District
Cyril Bologoff	City of Brisbane
Robert Craig	Westborough Water District
John Fannon	Town of Hillsborough
Kelly Fergusson	City of Menlo Park
Rob Guzzetta	California Water Service Company
Larry Klein	City of Palo Alto
Patrick Kolstad	City of Santa Clara
Robert Livengood	City of Milpitas
Irene O'Connell	City of San Bruno
Rosalie O'Mahony	City of Burlingame
Matthew Pear	City of Mountain View
Barbara Pierce	City of Redwood City
Bill Quirk	City of Hayward
Chris Reynolds	Skyline County Water District
Dan Seidel	Purissima Hills Water District
Ron Swegles	City of Sunnyvale
Louis Vella	Mid-Peninsula Water District
John Weed	Alameda County Water District
Rick Wykoff	City of Foster City

Absent:

Mike Goff	Stanford University
Michael Guingona	City of Daly City
Chris Mickelsen	Coastside County Water District
Tom Piccolotti	North Coast County Water District
Dan Quigg	City of Millbrae
Chuck Reed	City of San Jose
David Woods	City of East Palo Alto