

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
BOARD POLICY COMMITTEE**

**June 9, 2010 – 1:30 p.m.
155 Bovet Road, 1st Floor Conference Room**

MINUTES

1. Call to Order: 1:30 p.m.

Committee Chair Irene O’Connell called the meeting to order at 1:30. Ten (10) members of the committee were present, constituting a quorum. A list of the directors present (10) and absent (1), and members of the community attending is attached.

2. Public Comments: There were no public comments.

3. Reports:

A. Comments by Chair and Committee Members: Committee Chair O’Connell welcomed the members of the Committee and thanked them for their continued efforts in providing input and advice on issues important to BAWSCA and its member agencies. She stressed the regional emphasis members of the Committee and the Board must have in addressing the challenges that face BAWSCA and its member agencies, including the development of a Long-Term Reliable Water Supply Strategy (Strategy). The agenda requests the Committee’s input and advice on action items regarding Phase IIA of the Strategy.

The performance evaluation of the CEO and General Manager will be continued during closed session.

B. Reports by the Chief Executive and General Manager: In concurrence with Chair O’Connell’s comments, Mr. Jensen referenced California Water Code Section 81301 to emphasize BAWSCA’s regional role and authorities. It states that BAWSCA is “A multicounty agency authorized to plan for and acquire supplemental water supplies, encourage water conservation and use of recycled water on a regional basis.”

Meeting Calendar: Mr. Jensen reviewed a calendar presenting policy issues and related requests for action that will come before the Board over the next 12 months. In addition to policy items requiring Board consideration and action, there will be regular reports on vital matters, such as San Francisco’s progress with rebuilding the regional water system and implementation of the new Water Supply Agreement.

Pending Legislation Updates: Mr. Jensen reported the status of three pieces of State legislation. AB 2488 (Ruskin) which amends BAWSCA’s enabling statute, was passed to the Senate Committee on Local Government and is scheduled for a hearing on June 16th. AB 2483 (Coto) repeals and replaces SCVWD charter legislation. It is currently in the Senate Rules Committee waiting for assignment. BAWSCA’s issues have been addressed by the author.

AB 1955 (De La Torre) limits elected officials from holding 2 public offices that are incompatible simultaneously. It is currently in the Senate Local Government Committee. BAWSCA's legal counsel provided a written opinion that this bill will not affect members of BAWSCA's Board of Directors.

Schedule for updates to BAWSCA and RFA Conflict of Interest Codes: Staff is currently working with legal counsel to determine what, if any, changes are needed to the BAWSCA and RFA Conflict of Interest Codes. The BAWSCA Conflict of Interest Code will be brought to the Board in September for review and consideration of any recommended changes. The RFA Conflict of Interest Code could be brought to the RFA Board in January 2011.

Final Settlement Agreement Crediting Wholesale Customers: John Ummel, Sr. Administrative Analyst reported that a final Settlement Agreement was reached for disputed issues regarding the wholesale revenue requirement for 2005-06 and 2006-07. The wholesale customers will be credited \$2.66M as a result.

Mr. Ummel explained that prior to the beginning of each fiscal year, the SFPUC estimates the amount of wholesale revenue that will be required to cover anticipated costs and the amount of water the Wholesale Customers are expected to purchase. The actual SFPUC costs and the amount to be charged to the wholesale customers are determined at the end of the year. An independent auditor hired by the SFPUC reviews the SFPUC accounts and calculations. Contract provisions allow BAWSCA review materials to verify the costs and whether they were fairly allocated to the Wholesale Customers.

The independent auditors follow a formula and have a limited scope, while BAWSCA looks at all aspects including consultant expenses and capital projects.

Mr. Ummel stated that adjustments occur because of unintended errors. Typically, costs may be misallocated due to lack of knowledge, differences of opinion, and misinterpretation of cost allocation provisions.

Mr. Ummel noted that SFPUC General Manager, Ed Harrington and Deputy General Manager, Todd Rydstrom take financial management and accuracy very seriously. In the future, BAWSCA can expect the SFPUC to place increased emphasis on avoiding systemic errors. Mr. Ummel stated that the new Water Supply Agreement provides the auditor greater latitude in conducting the audit and the ability to identify and focus the examination on areas of greatest risk.

Mr. Ummel reported that the credit of \$2.66M to Wholesale Customers will help soften the rate adjustments previously anticipated for the following year.

5. Discussion Item:

Board consideration of whether BAWSCA should take a position on the State Water Bond Ballot Initiative: At the May 20th Board meeting, Chair Fannon directed the BPC to take under

advisement whether the State Water Bond Measure should be brought to the BAWSCA Board for consideration, as suggested by Director Weed.

The Committee was presented with issues that would require analysis for the BAWSCA Board to take an informed position. Mr. Jensen reported that analyses would be needed to determine how much money would be spent on what, who would benefit and who would pay. It would also be important to understand the trade-offs that were incorporated when the initiative was drafted, and the projects, actions and costs that are not covered by the initiative. Most importantly, it would be prudent to identify the value and potential consequences of BAWSCA taking a position, particularly because BAWSCA member agencies may not necessarily share common interests on all matters contained in the bond measure.

Director Quirk stated that member agencies have different positions and would not be able to take a unanimous vote on a position. He recommends against the BAWSCA Board taking a position.

The Committee voted unanimously to recommend against the BAWSCA Board to take a position on the State Water Bond Ballot Initiative, and to report the Committee's recommendation by way of the BPC summary report.

Director Abrica asked whether there is any value to putting the item on the next Board agenda for the Board's consideration. Director O'Connell replied that the Committee was tasked with evaluating whether or not to recommend the item to be brought to Board for consideration, and the Committee decided not to do so.

6. Action Calendar:

Professional Services Agreement for BAWSCA and BAWUA Financial Auditing Services:

Mr. Jensen reported that BAWSCA's auditor, C.G. Uhlenberg, has completed its second three-year contract with BAWSCA. A conventional limit on an auditing firm's consecutive engagement is on the order of six years, and it was necessary for BAWSCA to select a new firm.

Requests for Proposals (RFP) were sent to five firms. Four firms responded. Following interviews and evaluation of each firm's responsiveness, experience, technical qualifications, approach and costs, Chavan and Associates (C&A) was selected and is recommended for a three year audit engagement beginning FY 2010-11.

Mr. Jensen noted that Sheldon Chavan worked for C.G. Uhlenberg as the New Business Manager during C.G. Uhlenberg's audit with BAWSCA in FY2006-07. Mr. Chavan has not been involved with BAWSCA's audit in the last four years.

The Committee voted unanimously to recommend that the Board authorize:

1. The CEO/General Manager to negotiate a three year contract for auditing services with Chavan & Associates, beginning with FY 2010-2011, to provide auditing services for FY 2009-10 and the succeeding two years;
2. The Board Chair to execute the contract on behalf of the Board.

Review and Consideration of Changes to the Statement of Investment Policy: Mr. Jensen reported that BAWSCA's current Policy provides that a maximum of \$100,000 may be deposited with any bank or savings association and limits the maturity of any certificate of deposit to 12 months. The amount of \$100,000 reflects the standard maximum deposit amount previously set by the Federal Deposit Insurance Corporation (FDIC).

The FDIC temporarily increased the amount to \$250,000 effective through December 21, 2013. The maximum amount will revert back to \$100,000 unless the FDIC extends the increase. Mr. Jensen stated that BAWSCA's policy places priorities on safety, liquidity, and return on investment, in that order. Staff recommends changing the Policy to increase the maximum allowable deposit in FDIC-insured accounts to \$250,000. Additionally, staff proposed that the Policy be revised to 1) state that the CEO/General Manager may, rather than shall, annually submit the Policy to the Board for review each year, to reflect current guidelines; and, 2) to update the title of the CEO/General Manager.

Director Guzzetta recommended that the CEO/General Manager continue to submit the Policy to the Board for review every 3-years, and expressed his support for the other changes. Director Wykoff highly recommended that the Policy be reviewed annually because it is important for the public to know what the policy is.

The Committee voted unanimously to recommend Board approval of a revised Statement of Investment Policy that:

1. Increases the maximum amount from \$100,000 to \$250,000 to be deposited with any bank or savings association; and
2. Updates the title of the CEO/General Manager; and
3. Maintains the requirement that the Policy be submitted annually for Board review.

Long-Term Reliable Water Supply Strategy (Strategy): Ms. Sandkulla presented the Strategy's recommended technical evaluation criteria, professional services contracts and funding plan for the Committee's discussion and recommendation to the Board.

Review of Technical Evaluation Criteria. The criteria are divided into six groups and provide policy makers a basis for making future decisions. The Committee was asked to comment whether the criteria are clear and provide the types of information needed for making policy decisions. Ms. Sandkulla noted that the technical criteria do not include information on the allocation of project benefits and costs, which must also be considered when policy decisions come before the Board.

The six groups of evaluation criteria are: 1) Increase Supply Reliability; 2) Provide High Level of Water Quality; 3) Reduce Cost of Water Supply; 4) Increase Potable Water Use Efficiency; 5) Reduce Environmental Impacts; 6) Increase Implementation Potential.

Committee members suggested ways to provide greater clarity and understanding.

Director Wykoff noted that it was unclear how water quality would be measured or compared. Director Guzzetta recommended having a benchmark or specific water quality goal. Ms. Sandkulla noted that the report contains specific water quality measures that relate to the intended use (e.g., potable versus non-potable) and said clearer wording would be prepared for the Board presentation.

Director Wykoff questioned the use of the phrase “reduce environmental impacts.” Ms. Sandkulla stated that the purpose of that criterion is to distinguish the environmental impacts of each project relative to the others. Director Fergusson suggested the ability to mitigate immediate and long-term environmental impacts should be characterized.

Director Fergusson commented that simplicity in the regulatory environment would be valuable for increasing implementation potential. Ms. Sandkulla agreed and noted that regulatory requirements were already included in the characterization of “supply reliability.”

Director O’Connell recommended emphasizing that the list of criteria serves as a comparative tool against other projects.

The Committee felt that the presentation format of the criteria was effective and would facilitate discussion with the Board.

Professional Services Contracts and Funding for the Strategy. Ms. Sandkulla reported that the initiation of the Strategy’s Phase IIA requires Board consideration and action on a five part recommendation:

- a. Authorize the CEO/General Manager to negotiate and execute a contract with CDM to develop Phase IIA for a cost not-to-exceed \$2,100,00;
- b. Amend the existing contract with Hanson Bridgett to provide legal services in support of Phase IIA of the Strategy with an increased cost of \$76,000;
- c. Amend the existing contract with Bud Wendell to provide strategic counseling services in support of Phase IIA of the Strategy with an increased cost of \$46,000;
- d. Authorize a \$100,000 contingency to cover additional, and currently un-budgeted work associated with the completion of Phase IIA, and authorize the CEO/General Manager to spend this money provided any and all use of this fund, and associated contract amendments, are reported to the Board; and
- e. Enact the Water Management Charge to fund Phase IIA work up to a not-to-exceed amount of \$2,322,000.

Ms. Sandkulla reported that the estimated cost of Phase IIA is \$2,322,000. The results to be achieved include updated estimates of the timing and magnitude of needed water supplies, identification and development of project(s) recommended for implementation at the completion of Phase IIA, identification of projects requiring additional field investigation as part of Phase IIB, identification of projects to be further evaluated in Phase IIB for mid-term implementation, and identification of projects to be further evaluated in Phase IIC to meet long-term supply needs.

7. **Adjourn to Closed Session:** Because of time constraints among Committee members, the Committee adjourned to closed session at 2:50pm to ensure participation of all members who are present.
8. **Reconvene to Open Session:** The Committee re-convened to open session at 3:25pm. Ms. Sandkulla continued with her presentation on the Strategy to discuss how the water management charge could be applied to fund the Strategy.

Staff recommends that the Water Management Charge be allocated to all agencies in proportion to their FY 2000-01 water purchases from the SFPUC, in the same manner as the assessments.

M/S/C (Wykoff/Pear/Unanimous) that the Committee recommend board approval of the five separate board actions required to initiate Phase IIA, and a sixth recommendation regarding the allocation of the Water Management Charge:

1. **Authorize the CEO/General Manager to negotiate and execute a contract with CDM to develop Phase IIA for a cost not-to-exceed \$2,100,00;**
2. **Amend the existing contract with Hanson Bridgett to provide legal services in support of Phase IIA of the Strategy with an increased cost of \$76,000;**
3. **Amend the existing contract with Bud Wendell to provide strategic counseling services in support of Phase IIA of the Strategy with an increased cost of \$46,000;**
4. **Authorize a \$100,000 contingency to cover additional, and currently un-budgeted work associated with the completion of Phase IIA, and authorize the CEO/General Manager to spend this money provided any and all use of this fund, and associated contract amendments, are reported to the Board; and**
5. **Enact the Water Management Charge to fund Phase IIA work up to a not-to-exceed amount of \$2,322,000.**
6. *Allocate Water Management Charge to all agencies in proportion to their FY 2000-01 water purchases from the SFPUC (same as assessments).*

Chair O'Connell reported the committee discussion during closed session. The committee recommends that a 3.01% COLA increase be applied to the CEO/General Manager's salary.

M/S/C (Wykoff/Craig/Unanimous) that the committee recommends board approval of a 3.01% COLA increase to the CEO/General Manager's salary.

9. **Consent Calendar:**

Approval of the minutes from April 14, 2010.

M/S/C (not recorded/ not recorded/Unanimous) that the minutes of the April 14, 2010 meeting be approved.

10. Comments by Committee Members: No additional comments were made.

11. Adjournment: The committee adjourned at 3:30pm. The next meeting of the committee is August 11, 2010 at 1:30pm in the 1st floor conference room of the BAWSCA office building.

Respectfully submitted,



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

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Attachments: 1) Attendance Roster

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
Board Policy Committee
June 9, 2009**

Attendance Roster

Committee Members Present:

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|---------------------------|--|
| Irene O'Connell (Chair) | City of San Bruno |
| Rob Guzzetta (Vice Chair) | California Water Service Company |
| Ruben Abrica | City of East Palo Alto |
| Robert Craig | Westborough Water District |
| John Fannon | Town of Hillsborough |
| Kelly Fergusson, Chair | City of Menlo Park |
| Matt Pear | City of Mountain View |
| Barbara Pierce | City of Redwood City |
| Bill Quirk, Vice-Chair | City of Hayward |
| Ron Swegles | City of Sunnyvale |
| Rick Wykoff | Esterro Municipal Improvement District |

Committee Members Absent:

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| Ron Swegles | City of Sunnyvale |
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BAWSCA Staff Members Present:

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| Arthur Jensen | Chief Executive Officer/General Manager |
| Nicole Sandkulla | Sr. Water Resources Engineer |
| Anona Dutton | Water Resources Planner |
| John Ummel | Sr. Administrative Analyst |
| Lourdes Enriquez | Assistant to the CEO/General Manager |
| Patrick Miyaki | Legal Counsel, Hanson Bridget, LLP. |

Guests:

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| Bob Anderson | Purissima Hills Water District |
| Linda Craig | League of Women Voters, Bay Area |
| Peter Drekmeier | Tuolumne River Trust |
| Marilyn Mosher | City of Hayward |
| Nico Procos | City Of Palo Alto |
| Craig Von Bargen | CDM |
| Sharyn Saslafsky | SFPUC |

