

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

**June 8, 2011 – 1:30 p.m.
155 Bovet Road, 1st Floor Conference Room**

MINUTES

1. Call to Order: 1:32 p.m.

Committee Chair Larry Klein called the meeting to order at 1:32. Six (6) members of the committee were present, constituting a quorum. A list of the directors present (6), absent (3) and members of the community attending is attached.

2. Public Comments: There were no public comments.

3. Consent Calendar:

- A. Approval of the Minutes from the April 13, 2011 meeting: The Committee approved the minutes from the meeting of April 13, 2011.
- B. Review and Consideration of BAWSCA Statement of Investment Policy: The Committee voted unanimously to recommend Board approval of the proposed modification to the Investment Policy language.

Director Pierce made a motion to approve Consent Calendar Items #4A and 4B, seconded by Director Quirk. The motion passed unanimously.

4. Action Calendar:

- A. Review and Consideration of Changes to Rules of the Board: This item was moved from consent calendar to action calendar. Recommended changes to the Rules of the Board include: 1) adding a process for filling vacancies of the Vice Chair; 2) citing the Board Policy Committee as a standing committee; and 3) adjusting weighted voting to reflect the acquisition of two member agencies by the California Water Service Company.

An additional change staff was asked to consider is whether the BPC Chair or Vice Chair could be authorized to act as Board Chair if the Chair and Vice Chair of the board are absent. Two questions were posed for Committee discussion:

- 1. While the Board officers are elected, the Committee officers are appointed. One question presented for discussion was whether their status as appointed, as opposed to elected officers is important to Board members.
- 2. Would the Policy Committee officer have the full authority of the Chair, or limited authority, and should the period to act as Chair be specified?

Legal counsel Allison Schutte added an additional question of whether the authority should be restricted to the items on the agenda for which the person is acting as Chair.

The Committee agreed with the three changes recommended in the staff memo, and discussed the questions related to Committee officers standing in for Board officers. The Committee concluded that a Committee officer should be authorized to conduct a Board meeting in the absence of the Board Chair and Vice Chair. The Committee also concluded that the person's authority should be limited to conducting the meeting and items on that meeting's agenda. The Committee discussed that the Board might need to consider and vote on expanding the person's authority beyond the agenda for the given meeting to accommodate emergencies and critical items that need to be added to the agenda.

Director Quirk moved that the Committee recommend Board approval of the proposed changes as presented in the staff memo, and direct legal counsel to come back to the Board with additional language that states a Committee officer could conduct a Board meeting in the absence of the Board Chair and Vice Chair, provided that the limitation of the authority to be within the agenda for the given meeting, with the exception of the Board's vote to expand the authority to accommodate emergencies and additional items that need to be added to the agenda. Director Anderson seconded the motion. The motion passed unanimously.

- A. Professional Services Contract with CSG Engineering: Ms. Sandkulla reported that in order to complete the adopted Work Plan for FY 2011-12 and achieve the critical results needed next year, additional technical support for water conservation and water supply activities is needed during a period of an approved and legally required leave of absence. The necessary requirements to provide the additional support BAWSCA needs are met and exceeded by Ed Cooney with CSG Consultants, Inc.

Mr. Cooney has fifteen years of experience in sustainable city program development and is specifically knowledgeable of BAWSCA's water conservation programs. He has demonstrated proficiency in managing grant programs, which will be critical for BAWSCA as it receives the Prop 84 Grant next fiscal year. It is the most complicated grant BAWSCA has ever received because it is for three separate programs. Setting it up correctly from the start is important.

Director Pierce asked if there are any issues in terms of supervision or conflict of interest since he is under contract to one or more BAWSCA agencies. Ms. Sandkulla stated that no issues on conflict of interests are expected, and noted that Mr. Cooney has the ability to integrate with BAWSCA staff and perform a portion of the work at BAWSCA's office site which addresses the issue of supervision.

Director Pierce moved that the Committee recommend Board authorization for the CEO to negotiate and execute a contract with CSG for up to \$40,000 to provide as needed technical assistance and support services for water resources activities in FY 2011-12. Director Piccolotti seconded the motion. The motion passed unanimously.

- B. Professional Services Contract with EKI: Ms. Sandkulla reported that under the proposed professional services contract with EKI, that firm would update a spreadsheet tool specifically developed for member agencies by EKI this last year. The spreadsheet tool is used by agencies in doing their SB7x7 (20% reductions in per capita water use by 2020) analysis and many agencies have found it useful for completing their 2010 Urban Water Management Plans (UWMP).

The spreadsheet tool enhances member agencies' ability to develop their individual SB7x-7 targets and provides a perspective on the potential benefits of complying with SB7x-7 individually, as a region, and/or as part of a sub-region. BAWSCA and agencies expected that the spreadsheet tool would need to be updated to reflect revised population and water demand information the agencies prepared for their UWMP's. Ms. Sandkulla noted that what was not expected was the State's addition of a 4th method for meeting the 20% by 2020 requirement. Agencies have asked that this method be added to the spreadsheet tool to enhance its value to them.

Director Pierce moved to recommend Board authorization of the CEO to negotiate and execute a contract with EKI for up to \$15,000 to provide technical services for the update of the SB7x-7 Spreadsheet Tool for FY 2011-12. Director Klein seconded the motion. The motion passed unanimously.

- C. Professional Services Contract with Brown & Caldwell: The adopted Work Plan for FY 2011-12 includes the continuing development and support for the Water Conservation Implementation Plan (WCIP). One of the major outcomes of the WCIP was the development of the water conservation database. It is a web based tool where member agencies enter data of their water conservation efforts and all the necessary information needed to develop the Annual Survey. The agencies valued a consistent collection of data on water conservation efforts, and the database serves as a central place to enter and store data for future access or analysis.

The contract for this coming fiscal year includes a training session for new agency staff member(s) and refresher training for existing staff. The contract also provides on-call support to accommodate changes needed as a result of evolving conservation programs and to improve key features and user experience.

In response to Director Pierce's question, Ms. Sandkulla stated that the database could be used to support an estimate how much water agencies are saving, although that work is not included in the FY 2011-12 Work Plan.

Mr. Jensen noted that the consistent method of reporting water conservation efforts among all the agencies is a benefit for both BAWSCA and the member agencies. In the future, BAWSCA agencies should consider whether to adopt uniform practices for collecting and reporting water use data. Data currently vary from one agency to another. Two examples are: a) multiple family dwellings may be categorized as residential accounts by one agency and as commercial accounts by another, and b) large landscape irrigation may be measured by dedicated irrigation meters and categorized as an irrigation account by one agency and lumped into total commercial use by another. A uniform approach might be difficult to agree upon and implement, but would make comparisons and trend analyses easier and more meaningful.

Director Quirk suggested the consideration of a larger service contract so that data from earlier years that have more normal periods can be entered. Nicole stated that the database includes data from as far back as 2004. However, because the information in 2004 was gathered by agencies independently, the data categories are not as rigorously defined as the data entered following development of the database.

Moving forward, Ms. Sandkulla also stated that historical water use information from past annual surveys will be entered into the database.

Director Pierce asked if agencies are notified when BAWSCA responds to requests for information from the State. Mr. Jensen stated that BAWSCA informs agencies about inquiries it receives for information specific to an agency.

Director Quirk moved that the Committee recommend Board authorization of the CEO to negotiate and execute a contract with B&C for up to \$50,000 to provide training and as needed technical support services for the implementation of the WCDB in FY 2011-12. Director Pierce seconded. The motion passed unanimously.

- D. Review and Consideration of changes to the General Reserve Policy: When the reserve was discussed during budget preparation for FY 2011-12, the CEO was asked by the Committee and the Board to report on: 1) potential risks to agency revenues and expenditures; 2) using the reserve funds to provide “float” between the beginning of a fiscal year and the receipt of revenue for that fiscal year; 3) the appropriate size of BAWSCA’s reserve fund; 4) purposes for which the fund could be used; 5) how the fund would be managed if it grew beyond the guidelines; and 6) how the balance would be restored if the fund were drawn down below a desired minimum.

Mr. Jensen reviewed that the purpose of BAWSCA’s General Reserve Policy is to enable the agencies to apply resources to urgent and unforeseen needs without imposing special assessments on member agency budgets during a fiscal year, to fund one-time expenses, and to moderate variations in annual assessments. Mr. Jensen noted that with regard to addressing unforeseen events, the reallocation of funds in the current budget to meet all or a portion of the need will always be considered prior to requesting the use of reserves.

Mr. Jensen reported that unlike a typical water agency or city utility department, BAWSCA’s reserves do not have to cover emergency operations and short-term loss of revenue. Because BAWSA’s revenues are not based on water sales, BAWSCA’s revenues would not be affected by an interruption of water deliveries.

Possible uses of BAWSCA’s reserve include arbitration related to administration of the Water Supply Agreement, special studies and audits, legislative affairs, necessary legal actions, and response to unforeseen events that might affect the health, safety and economic well-being of the water customers, and that relate to BAWSCA’s purpose, goals and authorities.

BAWSCA’s largest historical expenditure was \$570,000 in 1996, which was 25% of a \$2.3M Operating Budget. The projected reserve balance at the end of FY 2010-11 is approximately \$900,000 or 34% of FY 2011-12 Operating Budget.

Mr. Jensen stated that the existing policy demonstrates that the agency is responsible about its use of funds and management of agency reserve levels. It offers a guideline for a maximum balance of 25% and a minimum of 20%. The upper bound is reasonable and prudent, and the minimum provides a reasonable basis for how quickly the reserve should be replenished. Mr. Jensen noted that while the 5% difference between the maximum and minimum is small, the range provides a reasonable guideline, which the Board can modify if it so chooses.

The existing Policy states that, *“If the ending reserve balance is estimated to fall outside the guidelines..., the budget shall include a prudent and practical schedule for restoring the reserve balance to within those guidelines.”*

A question for the Board’s consideration is whether to draw the reserve down by pursuing an activity that is not included in next year’s Work Plan. Mr. Jensen stated that he would benefit from the Committee’s comment and discussion of the status and management of the reserve, and recommends that the discussion of the status and possible uses of the projected reserve be addressed in the mid-year budget review.

Director Quirk asked if it is expected that money will be taken out of the reserve in FY 2011-12. Mr. Jensen said that the Board-approved budget includes the use of \$38,000 from the reserve. He went on to explain that BAWSCA budgets conservatively and spends prudently, meaning that the use of outside consultants and technical support is contracted on an as needed basis consistent with the Work Plan and results to be achieved. Because BAWSCA typically under spends its Operating Budget by 8 to 10 percent, the small transfer from the reserve may not be needed.

However, it is difficult to predict whether the current Operating Budget will always be under spent. For example, Mr. Jensen noted that upcoming activities associated with the Federal Energy Regulatory Commission (FERC) relicensing of New Don Pedro Reservoir may raise issues that require greater BAWSCA involvement than anticipated in the budget.

Director Quirk commented that given the likely occurrence of the budget being underspent, resulting in a growing reserve, the Board can consider one of three options, which includes taking on a project, reducing the assessments, or transferring the money to fund the Long-Term Reliable Water Supply Strategy.

The Committee discussed other agencies’ maximum reserve amounts and ranges, and how the reserves are managed when the balance goes beyond the maximum. Chair Klein recommended that the maximum number should be made real as opposed to being a guideline. BAWSCA should have a cap to the amount of money the agency keeps, and if it goes above the maximum, it should be spent in a meaningful way or returned to the member agencies.

The Committee discussed that one potential downside of a one-time decrease in assessments is the need to re-justify returning to the prior level. One alternative to a one-time reduction of the assessments is to write a check to the member agencies.

Director Quirk asked if it would be feasible to look into what might be causing the current low water use. Mr. Jensen stated that is one of the more important and reasonable items of work that is being considered. BAWSCA is in the process of evaluating the scope of such a study, and noted that one challenge is to identify who will oversee the work done by an outside consultant.

Legal counsel stated that the current policy does dictate that the use of the general reserve should be a part of the budget setting process. A budget amendment will be required if an activity is identified for which a portion the Board votes to use a portion of the General Reserve.

Following discussion, Director Quirk moved that the Committee:

- **Recommend Board adoption of a resolution at the July 21st Board meeting to amend the Policy so that the guideline for the range in the General Reserve is changed from 20% - 25% to 20% - 35% of the Operating Budget,**
- **Advise the CEO to present the options for potential uses of the reserve funds to conduct work not budgeted for FY 2011-12, including why current water use is low and additional concerns in drought years, for the Committee's discussion in August, and for possible Board action in September; and,**
- **Recommend to the Board that the projected state of the reserve and alternatives for managing the reserve balance be discussed at mid-year prior to developing the FY 2012-13 budget.**

The motion was seconded by Director Klein. The motion passed unanimously

5. Reports:

- A. Board Policy Calendar Revisions: The re-schedule of the CEO's performance review to September is the only change to the BAWSCA Board Policy Calendar since it was presented to the Board at its meeting in May. Mr. Jensen noted a possible conflict with events associated with League of California Cities (League) in September. Committee members who are involved with the League stated that the annual conference and expo will be held in San Francisco on September 21st -23rd, and should not create a major conflict with BAWSCA's September 15th meeting.
- B. Long-Term Reliable Water Supply Strategy – Schedule for Policy Decisions: As reported to the Committee in March and to the Board in May, Ms. Sandkulla re-stated that the overall schedule of the Strategy was changed, and the current slowdown in activity is allowing a re-assessment of timing for additional water supply needs. The re-assessment is necessary because of continued low water use, and the changes to water use projections that are expected from the agencies' Urban Water Management Plans (UWMP's). A complete analysis of UWMP's will be done during the summer.
- Through the Fall, project information and data gaps will be completed and water supply needs in normal and drought years will be updated based on the new UWMP's so that appropriate adjustments to the scope and schedule can be made.
- C. SFPUC Water System Improvement Program - Update: Ms. Sandkulla reported that the SFPUC will release a "Change Order Notification and Report" for the WSIP on Friday, June 10th. The report will include the proposed modifications to the scope, schedule and budget of the WSIP, and its release will initiate a 30-day review period required by law.
- Ms. Sandkulla clarified that the "Change Order Notification" the SFPUC will release on June 10th refers to proposed modifications to the WSIP. The SFPUC gave it this title because it is a notification to the State and water customers of the changes to the program. It is *not* a report on construction change orders.
- The Commission is expected to act on the proposed modifications at its meeting on July 12th. The Commission's adoption of the proposed changes, followed by the SFPUC's submittal of a report on those changes, will trigger State review by the California

Department of Public Health (CDPH) and the California Seismic Safety Commission (CSSC) to determine whether the changes increase risks to public health and safety.

BAWSCA is currently reviewing the March Quarterly Report that was released in late May. Ms. Sandkulla noted that the quarterly report will serve as the technical appendix to the change order report the SFPUC is about to release.

BAWSCA's early observations are that the WSIP was 40% complete as of April 2011, the program completion will be delayed by 8 months, and the total regional cost is projected to be \$148M under the approved budget adopted in 2009. BAWSCA's review will be to answer the following key questions: 1) Will projects continue to meet the Level of Service goals, 2) have completion dates for projects been extended, 3) is there is an increased risk to public health and safety, 4) will the program be completed within budget, and 5) will the water customers benefit from the construction bid savings?

BAWSCA will forward its conclusions and recommendations in a letter that will be sent to the Commission in early July.

Mr. Jensen noted that the new Water Supply Agreement between San Francisco and the wholesale customers includes a provision that San Francisco promises to complete the WSIP by December 31, 2015. BAWSCA will work closely with legal and strategic counsels to ensure that project delays are addressed appropriately.

Strategic Counsel, Bud Wendell emphasized the Board's and the Committee's credibility depends on closely monitoring and responding responsibly to the status of the WSIP.

In response to Chair Klein, Ms. Sandkulla stated that the Board will be provided a copy of BAWSCA's comment letter in advance of the Commission action on July 12th. Mr. Jensen noted that the Board leadership will be kept informed during the process, and will be invited to testify should significant issues require their presence. There are expected issues with the schedule and budget, but Mr. Jensen noted that a more critical issue is holding the SFPUC accountable for the provisions included in the agreement.

- D. BAWSCA Landscape Education Program - Update: Ms. Sandkulla reported that the Landscape Education Program will be modified to include hands-on workshops to provide additional support that encourages attendees to apply what they have learned in their own backyards. BAWSCA will look into partnerships with outside organizations such as Acterra and StopWaste.org with the goal of reducing the overall cost and duplication of efforts.
- E. Update on Board Vacancies: With the exception of Santa Clara Board of Supervisors appointment for the Stanford service area, all appointments for expiring terms on the BAWSCA and RFA Boards have been made or scheduled. One new appointee is Ms. Jamie McCleod for the City of Santa Clara. Former BAWSCA and RFA Board Director, Mike Kasperzak, is scheduled to be appointed at Mountain View's council meeting on June 14th.

F. Status of Lease Negotiation: The negotiation of a new 5-year lease is complete and was signed on June 7th. The lease base rent is \$2.20/sq. ft. with an annual increase in base rent fixed at 3%/year. The office will move to Suite #650 following office configuration or by August 1st.

6. Comments by Committee Members: No further comments were made by members of the Committee.

7. Adjournment: The meeting was adjourned at 3:30 to the next regularly scheduled meeting on August 10, 2011 at 1:30 p.m. which will be held at 155 Bovet Road, 1st Floor Conference Room, San Mateo.

Respectfully submitted,



Arthur R. Jensen, Chief Executive Officer and Secretary

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Attachments: 1) Attendance Roster

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
Board Policy Committee
June 8, 2011**

Attendance Roster

Committee Members Present:

Larry Klein	City of Palo Alto
Ruben Abrica	City of East Palo Alto
Robert Anderson	Purissima Hills Water District
Tom Piccolotti	North Coast County Water District
Barbara Pierce	City of Redwood City
Bill Quirk	City of Hayward

Committee Members Absent:

Rob Guzzetta	California Water Service Company
Randy Breault	City of Brisbane/GVMID
Irene O'Connell	City of San Bruno

BAWSCA Staff Members Present:

Arthur Jensen	Chief Executive Officer
Nicole Sandkulla	Sr. Water Resources Engineer
Anona Dutton	Water Resources Planner
Lourdes Enriquez	Assistant to the CEO/General Manager
Allison Schutte	Legal Counsel, Hanson Bridget, LLP.

Guests:

Peter Drekmeier	Tuolumne River Trust
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