

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD POLICY COMMITTEE

October 12, 2016 – 1:30 p.m.

BAWSCA Offices, 155 Bovet Road, San Mateo, 1st Floor Conference Room

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| MINUTES |
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1. **Call to Order: 1:30 p.m.:** Committee Chair Dan Quigg called the meeting to order at 1:30 pm. A list of Committee members who were present (9), and other attendees is attached.

The Committee took the following actions and discussed the following topics:

2. **Comments by the Chair:** Committee Chair Dan Quigg welcomed the members of the Committee.

3. **Public Comments:** There were no comments received from the members of the public on items not included on the agenda.

4. **Consent Calendar:** Approval of Minutes from June 8, 2016 meeting.

Director O'Connell made a motion, seconded by Director Larsson, that the minutes of the June 8, 2016 Board Policy Committee meeting be approved.

The motion passed unanimously.

5. **Action Item:**

- A. **Annual Review and Consideration of Statement of Investment Policy:** Ms. Sandkulla reported that BAWSCA reviews its investment policy annually. The last review done in September of 2015 required no changes to the policy. Legal counsel's review of applicable State law confirms that the current policy reflects language consistent with State regulations.

In conjunction with this year's review of the policy, alternative investment options for BAWSCA's general operating fund of approximately \$1.6M were also examined. Currently, BAWSCA's investment tools include bank deposits and Local Agency Investment Fund (LAIF). BAWSCA's Senior Administrative Analyst, Christina Tang, conducted the review of possible investment alternatives in consultation with BAWSCA's Investment Advisor.

The review was a 2-part analysis that first surveyed the investment tool used by the Sacramento Regional Water Authority, a public Joint Powers Authority that operates like BAWSCA, and four member agencies whose annual operating budgets are lower than \$16 million. The results showed that four of the five agencies are using LAIF as their only investment tool in addition to bank deposits. The other agency uses Government-Sponsored Enterprise (GSE) securities.

BAWSCA then performed a side-by side comparison of investment alternatives including LAIF, U.S. Treasury Securities, and GSE securities.

U.S. Treasury Securities and GSE have a minimum fund requirement of \$10M, which is significantly larger than BAWSCA's current \$1,654,411 general operating fund. Based on BAWSCA's high liquidity needs and relatively small general operating fund that is funded by annual assessments paid on a quarterly basis, the LAIF and bank deposits are the most appropriate and cost effective investment options for BAWSCA. No changes to the current investment policy are recommended.

Director Benton noted that he is part of two other financial committees for the county, and those bodies prefer LAIF over the County pool for stability and flexibility.

Members of the Committee concurred with the results of the analysis and the staff recommendation. But given the rising interest rate environment and the November election, committee members suggested a review of the policy on a regular basis.

Legal Counsel, Allison Schutte noted that while agencies are no longer required to review its investment policy on an annual basis, BAWSCA chooses to continue to do so.

Ms. Sandkulla stated that consideration of other secure vehicles, including the San Mateo County Investment Pool will be included in the next annual review.

Director Mendall made a motion, seconded by Director O'Connell, that the Committee recommend the Board to re-affirm the current Statement of Investment Policy.

The motion passed unanimously.

- B. Amendment to Policies and Procedures for the Purchase of Equipment and Supplies/Award of Contracts: Ms. Schutte reported that BAWSCA adopted a Procurement Policy in 2004 which established rules for procurement of services, equipment, construction and real property. Over the years, the policy is reviewed to ensure it conforms with the wishes of the Board. In 2012, the policy was amended to adjust the limits of the CEO/General Manager's spending authority from \$10,000 to \$25,000 primarily to avoid delays in procurement since the Board only meets six times a year.

The proposed amendments update the CEO/General Manager title, and clarifies that the "best value" evaluation methodology should be used for all services except those covered by the Mini Brooks Act (Gov. Code Sect. 4525), which specifically applies to a set of professional services and provides specific rules to doing a qualifications based analysis before entering into negotiations. Cost is not considered in the selection of a consultant, but can be negotiated and must be fair and reasonable.

Among the list of services, the most relevant to BAWSCA includes engineering and environmental services.

Ms. Schutte explained that the proposed amendment expands the policy language associated with services to include the use of "best value" evaluation methodology for all service procurements with the exception of the itemized services that are part of the Mini-Brooks Act. Furthermore, additional language, while it was the pre-existing rule, clearly states that if BAWSCA is procuring the services listed under the Mini-

Brooks Act, the selection process must follow specific rules and that Legal Counsel would ensure proper implementation.

Director Guzzetta noted a correction on the language for the second part of the recommendation so it aligns with the amended policy of ranking the proposers based on qualifications first, before costs.

Legal Counsel agreed and stated that the proposed amended procurement policy uses the wording from the actual statutory language, and is correct. The summarized recommendation in the staff report and slide should be corrected as follows:

2. Contracts for services listed under Government code Section 4525 et seq. must be **selected initially ranked** based solely upon qualifications, without using costs as a determining factor.

In response to committee members' questions, Ms. Sandkulla stated that there are typically fifteen contracts a year, five of which are over \$25,000. Most of them are standing contracts, which must be in place in the beginning of the fiscal year. One to two contracts a year may be new due to a cost-share arrangement or specific services needed for an effort BAWSCA may be participating in with another public agency.

Because many of the professional services contracts are an extension of staff, a list of the contracts is brought to the Committee and the Board during the development of the fiscal year work plan and operating budget. The scope of work and costs for each professional services are provided in a staff report included in the May agenda packet as part of the proposed fiscal year work plan and operating budget that is adopted by the Board.

Additional professional services required during the course of the year are brought to the Committee and Board for approval if they are above \$25K. Service contracts below \$25K are reported to the Committee and Board, but do not require Board approval. Service contracts that come through the course of the year are very few. For example, one that is coming up next month is an agreement supporting a new program administrator for the Washing Machine Rebate Program.

Director Breault stated that while the majority of BAWSCA's service contracts are typically already known by the Board before the work plan and budget is adopted, the review of existing state law ensures that our policy and practice are in conformance.

Director Vella made a motion, seconded by Director O'Connell, that the committee recommend Board adoption of the proposed resolution revising the Procurement Policy to update the CEO/General Manager's position title and clarify the following, with the noted correction:

1. The "best value" evaluation methodology should be used for all services procurements, with the exception of contracts for services listed under Government Code Section 4525 et seq.
2. Contracts for services listed under Government Code Section 4525 et seq. must be initially ranked based solely upon qualifications, without using cost as a determining factor.

The motion passed unanimously.

6. Reports

- A. SWRCB Draft Substitute Environmental Document: Ms. Sandkulla reported that on September 15th, the State Water Resource Control Board (SWRCB) released a report called the, Recirculated Draft Substitute Environmental Document in Support of Potential Changes to the Water Quality Control Plan for the San Francisco Bay-Sacramento/San Joaquin Delta Estuary: San Joaquin River Flows and Southern Delta Water Quality (SED).

The SWRCB establishes water quality objectives to protect beneficial water uses in the Bay-Delta. They do this through a document titled, Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan).

Through the SED, the SWRCB is proposing an update to the 2006 Bay Delta Plan on two specific elements, which include the San Joaquin River flow objectives, to protect fish and wildlife, and Southern Delta Salinity objectives.

The first Draft SED was released in 2012 in which SWRCB proposed a 35% unimpaired flow between February through June on the Stanislaus, Tuolumne, and Merced Rivers to protect fish and wildlife. BAWSCA and the SFPUC provided 1) detailed comments stating that the SED was inadequate in analyzing the full effects of water shortages in the San Francisco Bay area, and 2) an analysis of the socio-economic impacts of the water shortages. The San Francisco Regional Water System (SFRWS) relies upon the Tuolumne River Watershed for 85% of its water supply. Based on all the comments received, SWRCB pulled back and released a new SED on September 15th, 2016.

Ms. Sandkulla explained that BAWSCA's analysis of the 2012 SED forecasted water shortages between 42% - 52% on the SFRWS for an extended period, similar to the 1987 – 1992 drought. SFPUC's economic analysis indicated that the supply shortages would result in up to an annual impact of 140,000 - 188,000 jobs lost in the Bay Area, and \$37-\$49 billion in decreased sales transactions.

Ms. Sandkulla stated that the San Francisco Bay Area region has not had anything close to the level of cutback that is anticipated to result from implementation of the flow objectives identified in the SED, and a supply shortage of this magnitude will have significant impacts. The region achieved an average of 26% water use reduction for all water supplies, not just SFPUC, with a required 15% reduction for June 2015 to May 2016. This was for a duration of one year at a low demand level.

The new SED proposes a 40% unimpaired flows from February – June, and an adaptive implementation with flows ranging from 30% - 50% of unimpaired flow depending on conditions. New pieces to the proposal include a recommendation of non-flow measures, state of emergency change provisions, and a framework for accepting voluntary agreements that meet or exceed the proposed objectives to protect fish and wildlife.

BAWSCA is working very closely with the SFPUC to evaluate the impacts of the proposal on water supply and the economy.

BAWSCA's job is to address the public policy question and make it clear with the decision-makers at the SWRCB, and the public, that the larger Bay Area region, not just San Francisco, will be significantly affected by the water shortage.

BAWSCA is requesting that the environmental and economic impacts of any shortage on the System, and the associated lost of jobs and delayed development in the region, be fully and adequately analyzed, and that these impacts be given at least equal weight with the other elements of the SWRCB's subsequent deliberations and decision making.

BAWSCA is preparing comments on the adequacy of the CEQA document in conjunction with the SFPUC, and will be working with member agencies and allies to secure comment letters and support for BAWSCA's position.

The deadline for comments was extended from November 15th to January 17, 2017. The hearings remain on November 2, 4 and 10, 2016. The SWRCB is planning to consider approving the proposed Bay Delta Plan amendments in early 2017.

There are 2 ways the plan can be implemented. One way is through the Federal Energy Regulatory Commission relicensing of the Don Pedro Project. A second way is through the Water rights proceedings and action. It is unclear which mechanism will be used, but either way poses a significant and serious impact to the region.

The SFPUC is updating its analysis of the economic impact to include the changes that have occurred in the past four years, including the region's economic changes and information learned from the drought.

In response to Director Benton's question, Ms. Sandkulla stated that the percentage of non-residential water use in the BAWSCA service area is less than 40%. The amount of industrial water use in the Bay Area is in pockets. The SFPUC's socio-economic model is built on each of the member agencies' characteristics, which are very different. It looks at the types of non-residential customers by classification code, parks versus factories, and includes different levels of analysis which makes the model robust, useful and defensible.

Director Benton asked whether the comments provided on the first SED were considered, accepted or ignored. Ms. Sandkulla stated that she just started her review of the document, and can only suspect that the SWRCB has not recognized that the impacts to the Bay Area region is critically important and is something they need to equally consider in their deliberations.

Peter Drekmeier, Policy Director for Tuolumne River Trust (TRT), provided public comments, as did Sprek Rosekrans, Executive Director of Restore Hetch Hetchy.

Director Mendall suggested that Ms. Sandkulla meet with TRT to get the same set of facts.

Director Schmid noted that ABAG's Draft Plan Bay Area 2040 Preferred Scenario, which forecasts significant amount of growth, should be shared with the SWRCB.

Ms. Sandkulla agreed and reported that the ABAG report was distributed to BAWSCA member agencies emphasizing the importance to provide comments on the document. While BAWSCA will submit comments from the water perspective, responses received from agencies will be critical as they are more directly related to land use.

- B. Water Supply Conditions: Ms. Sandkulla reported that the total system storage is currently at 80% of capacity, and water banks are nearly full at 99%.

The current total deliveries have a slight summer increase but continue to be below the 5-year average, and more importantly, below the voluntary 10% water use reduction. There was a week in September of warm indian summer weather that increased the water use, but immediately decreased as soon as temperatures cooled down. This indicates the ongoing conservation efforts demonstrated by the water customers.

Ms. Sandkulla reported that as part of the water conservation regulations in 2015, twenty-two BAWSCA agencies were included in a group of water providers that are required to report its water use directly to the State on a monthly basis. According to those data, the mandatory savings target for that group of twenty-two agencies for the time period of June 2015 – May 2016 was 15%. Ms. Sandkulla reported that the twenty-two BAWSCA agencies achieved an overall savings of 24% over that same period, and a savings of 26% for the period of June 2015 - August 2016, the latest data available.

A part of the new conservation requirement that became effective June 1, 2016 is a self-certification process where agencies have to go through a specific formula to self-certify whether they have enough water for a multiple-year drought. If not, they are required to adopt a new water conservation standard to ensure sufficient supplies. Of the twenty-two BAWSCA member agencies, only three have a required conservation standard. Averaged out among the twenty-two agencies, this calculates to less than 1% conservation standard. In other words, the agencies are achieving a 24% savings against a requirement of less than 1%.

Ms. Sandkulla noted that the region's low water use data are indicative of how the service area continues to strive for conservation. However, BAWSCA's water saving achievements conflict with the message from the State that conservation efforts are rapidly decreasing. There are discussions at the state level intended to help clarify the perception, and BAWSCA will follow the developments carefully.

Ms. Sandkulla added that in FY 2015-16, 9 out of the 26 member agencies had residential customers who used less than 55 gpcd. The overall average residential water use was 60 gpcd across the region. Before the drought, the standard public health and safety guideline was 50 gpcd. The state average during the drought was 82 gpcd. BAWSCA agencies used 27% less than the state average.

Ms. Sandkulla stated that the San Francisco Bay Area is the largest region with the lowest per capita use in the State, and this is something that will become critically

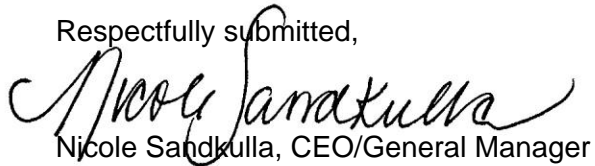
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important to San Francisco and BAWSCA agencies as the region looks at the future risks, and investments.

- C. CEO's Letter: There were no discussion on the item.
 - D. Board Policy Committee Calendar: There were no discussion on the item.
7. **Comments by Committee Members**: In response to Director Mendall, Ms. Sandkulla stated that the budget discussion process will be executed the same way as last year's process, starting with a Board study session in January.
8. **Adjournment**: The meeting was adjourned at 2:35pm. The next meeting is December 14, 2016.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nicole Sandkulla", written in a cursive style.

Nicole Sandkulla, CEO/General Manager

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Attachments: 1) Attendance Roster

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BOARD POLICY COMMITTEE –October 12, 2016

Roster of Attendees:

Committee Members Present

Dan Quigg, City of Millbrae (Chair)
Gustav Larsson, City of Sunnyvale (Vice Chair)
Jay Benton, Town of Hillsborough
Randy Breault, City of Brisbane/GVMID (BAWSCA Chair)
Rob Guzzetta, California Water Service Company
Al Mendall, City of Hayward (BAWSCA Vice Chair)
Irene O'Connell, City of San Bruno
Gregg Schmid, City of Palo Alto
Louis Vella, Mid-Peninsula Water District

BAWSCA Staff:

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| Nicole Sandkulla | CEO/General Manager |
| Adrienne Carr | Sr. Water Resources Specialist |
| Andree Johnson | Sr. Water Resources Specialist |
| Christina Tang | Sr. Administrative Analyst |
| Lourdes Enriquez | Assistant to the Chief Executive Officer |
| Allison Schutte | Legal Counsel, Hanson Bridgett, LLP |

Public Attendees:

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| Karla Dailey | City of Palo Alto |
| Peter Drekmeier | Tuolumne River Trust |
| Michelle Novotny | San Francisco Public Utilities Commission |
| Spreck Rosekrans | Restore Hetch Hetchy |
| Paul Sethy | Alameda County Water District |