

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD POLICY COMMITTEE

April 14, 2021 – 1:30 p.m.

Zoom Video Conference

DUE TO COVID-19, THIS MEETING WAS CONDUCTED AS A TELECONFERENCE PURSUANT TO THE PROVISIONS OF THE GOVERNOR’S EXECUTIVE ORDERS N-25-20 AND N-29-20, WHICH SUSPEND CERTAIN REQUIREMENTS OF THE RALPH M. BROWN ACT.

MINUTES

1. **Call to Order:** Committee Chair, Tom Zigterman, called the meeting to order at 1:34 pm. Nine (9) members were present at roll call. One (1) member arrived after roll call. A list of Committee members who were present (10), absent (0) and other attendees is attached.

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

2. **Comments by Committee Chair:** Committee Chair Zigterman welcomed members of the Committee and reviewed the general procedures for conducting the meeting virtually to ensure efficiency in completing the necessary business.

He noted that the Committee’s consideration of the agenda items are critically important to the agency’s operational success and financial performance on behalf of the member agencies and its water customers. He noted that all actions by the committee will be done by roll call vote.

3. **Public Comments:** Public comments were provided by Dave Warner.
4. **Consent Calendar:** Approval of Minutes from the February 10, 2021 meeting.

Director Mendall made a motion, seconded by Director Jordan, that the minutes of the February 10, 2021 Board Policy Committee meeting be approved.

Director Kuta noted an irregularity with a sentence on the 2nd page, 3rd line of the minutes. Ms. Tang clarified that the sentence should state “...saves the agencies over \$3.5M collectively...”

Director Mendall agreed to amend the motion, seconded by Director Jordan, that the minutes of the February 10, 2021 Board Policy Committee meeting be approved with the noted correction.

The motion carried unanimously by roll call vote.

5. **Action Item #1:**

- A. **Second Amendment to Hanson Bridgett’s FY 2020-21 Professional Services Contract:** Ms. Sandkulla reported that legal expenses associated with completing critical work plan items for this current fiscal year has exceeded what was budgeted, particularly on efforts with the WSA amendment, the Bay Delta Plan, and the FERC relicensing process. In an effort to keep the budget tight in FY 2020-21, Legal

Counsel's budget was set at a level that did not anticipate for concurrent increased levels of activities for all three efforts.

The Board authorized the first amendment at its March meeting, in which it was noted that a second amendment will follow, once the amount needed to complete the necessary work is determined.

The use of the Balancing Account to fund the proposed second amendment is recommended in an effort to manage the financing of the budget this fiscal year and for FY 2021-22. With the Board's budget feedback received in March, expenses in the current fiscal year were analyzed to identify what efforts qualify to be funded by the Balancing Account.

Ms. Sandkulla reported that expenses incurred for the strategy implementation and core conservation program implementation are eligible for reimbursement to BAWSCA from the WSA Balancing Account. Those efforts include the Los Vaqueros Expansion Project feasibility study, potable reuse exploratory plan, and work with the Bay Area Regional Reliability Partnership, which totals to approximately \$153K. In addition, there is approximately \$44K associated with the implementation of core conservation programs such as the Landscape Education Program, and Water Efficient Leak Protection efforts with the member agencies.

Resolution 2020-02 was adopted by the Board in September 2020 following extensive discussion on establishing a policy around the use of the Balancing Account. Ms. Sandkulla reported that while the Balancing Account is primarily used for rate stabilization, the WSA allows for the Board to make a determination on the use of the Balancing Account if certain conditions, particularly maintaining a positive balance over a required number of years, are met.

The Board's adopted policy set forth by Resolution 2020-02 requires written findings that justify the allocation of the positive balance. The staff memo included in the agenda packet provides the required findings along with a copy of Resolution 2020-02.

Ms. Sandkulla presented the key findings which includes:

- the proposed appropriation of \$197K will not have a discernible impact on the wholesale rates in the next five years, or the need for funds for a Wholesale Revenue Coverage Reserve;
- the Water Management Charge is not a preferred method of funding the expense at this time given the size of the positive balance in the Balancing Account and the budget needs, and;
- at this time, there is no other competing interest that requires the Balancing Account to be reserved in its entirety rather than as a funding source for these specific budget items.

Ms. Sandkulla explained that the Water Management Charge is another WSA-enabled funding mechanism available to BAWSCA, that has been previously used for the development of BAWSCA's Long-Term Reliable Water Supply Strategy (Strategy), which was a multi-year and multi-million dollar effort. The Water Management Charge is not the appropriate funding mechanism for an expense of

this size. Additionally, given the current size of the Balancing Account, its use for this purpose will not significantly impact the balance or its planned use moving forward.

Ms. Sandkulla presented the recommendation and welcomed questions and comments from Committee members.

Director Kuta asked if the \$25K addition to Hanson Bridgett's contract presented in agenda item #5C is included in the total not-to-exceed contract amount of \$1,006,500.

Ms. Sandkulla explained that the proposed second amendment to Legal Counsel's contract is for FY 2020-21. Item 5C, which asks the Committee to recommend Board authorization for the CEO to add scoping work to Hanson Bridgett's contract for a cost of \$25K, is for the work needed to support the bond refunding activity in FY 2021-22. The Board will consider action in May to adopt the FY 2021-22 Budget and Work Plan, including the \$25K scope for Hanson Bridgett for the bond refunding efforts.

Director Pierce asked if legal counsel's budget for FY2021-22 should be increased given this year's increased expenses associated with un-anticipated legal questions and concerns on the WSA amendment.

Ms. Sandkulla explained that negotiations on the WSA amendment was essentially completed as the FY 2020-21 budget was developed and adopted in May 2020. But in July 2020, there were a series of very specific and legal questions associated with the minimum purchase that engaged legal counsel in an effort to resolve them over a period of 5-6 months. The effort is now complete with the exception of putting a packet together for the member agencies to support adoption.

Director Pierce suggested to include that information in the packet that goes to the Board for the May meeting.

Director Cormack commented that \$606K for legal's FY 2020-21 budget was a significant drop following actual expenses of \$818K in FY 2019-20. However, she recognizes the optimistic approach and understands the un-anticipated developments that led to all three efforts happening at the same time. She asked if there are activities in FY 2021-22 that the agency is being overly conservative on, and for how long has Hanson Bridgett provided services to BAWSCA.

Ms. Sandkulla stated that while she cannot predict what may happen in FY 2021-22, there is no activity she can identify at this time that she is not sufficiently allocating funds for, or any that may require her to come back to the Board. In FY 2020-21, Legal Counsel's conservative budget allocation was a deliberate response in light of the COVID-19 situation and other developments in the midst of planning the FY 2020-21 budget.

Ms. Sandkulla reported that Hanson Bridgett has provided legal services since BAWSCA's inception, and served BAWSCA's predecessor organization, BAWUA.

Ms. Schutte added that Hanson Bridgett's service started when Palo Alto hired the firm for litigation against the City and County of San Francisco in the 1970s.

Director Wood asked for clarification on whether Requests for Proposals (RFPs) are done for professional services after a number of years.

Ms. Sandkulla stated that BAWSCA's procurement policy does not require that process. However, approximately 5 years ago, the Board requested a review of the consultants' hourly fees to ensure that the rates BAWSCA pays are at or below market rates. The review indicated that the consultant rates were below market rate, and that BAWSCA was getting good value for its consultant services. Since then, BAWSCA has maintained rate increases below cost of living. Ms. Sandkulla added that BAWSCA benefits on consultants' historical knowledge of the agency and the service area. This enables the consultants to perform the job well and effectively.

With the noted corrections on the typing errors, Director Wood made a motion, seconded by Director Larsson, that the Committee recommend the Board authorize the CEO/General Manager to:

- 1. Amend the professional services contract with Hanson Bridgett by \$200,000 for a total not-to-exceed amount of \$1,006,500, and**
- 2. Authorize the request for a transfer of \$197,000 from the Balancing Account to BAWSCA in accordance with BAWSCA's Balancing Account Policy, Resolution # 2020-02;**
- 3. Increase the approved FY 2020-21 Operating Budget by \$197,000 to \$4,360,179**

The motion carried unanimously by roll call vote.

- B. Amendment to Strategic Counsel's FY 2020-21 Professional Services Contract: Ms. Sandkulla reported that as with Legal Counsel, Strategic Counsel has been heavily involved with the efforts on the Bay Delta Plan, the FERC relicensing process, and the minimum purchase transfer WSA amendment. The work of Strategic Counsel has exceeded the anticipated levels, and additional work is needed moving forward to protect the interests of the member agencies and their water customers.

Strategic Counsel's budget and billing rate has been held at the same level for 14-years. Mr. Wendell's services started with BAWSCA's predecessor organization, BAWUA, and was instrumental in the creation of BAWSCA.

Director Cormack asked if the basis of the contract amendment is rate change, increase in the number of hours, or both?

Ms. Sandkulla stated that the amendment is based on an increase in the number of hours.

There were no further comments from Committee members or members of the public.

Director Cormack made a motion, seconded by Director Larsson, that the Committee recommend the Board authorize the CEO/General Manager to amend the professional services contract with Management Communications by \$35,000 for a total not-to-exceed amount of \$185,000.

The motion passed unanimously by roll call vote.

- C. Potential Refunding of BAWSCA's Revenue Bond Series 2013A – Action Needed to Proceed: Ms. Tang provided a report on the actions needed as a follow up to the potential refunding of the Revenue Bond Series 2013A previously discussed by the Committee in February and the Board in March. Based on the staff's evaluation, refunding is only applicable to the callable portion of 2013A bonds in a par amount of \$163.8 million that can be redeemed starting April 1, 2023. The objective of the refunding is to save water customers money. Based on the findings, a tax-exempt refunding is preliminarily determined more appropriate than a taxable advance refunding.

A preliminary estimate of total net present value savings is over \$20 million, assuming current rates with a modest cushion for adverse changes. The estimated annual savings from the Bond refunding is approximately \$2 million, in addition to the existing \$3.5 million savings each year until 2034 as a result of the original issuance of the 2013 bonds and the prepayment program. Assuming that the tax-exempt refunding is delivered in early 2023, and the principal amortization is not accelerated, the member agencies' collective annual bond surcharge would be reduced by approximately 8%, effective FY 2023-24.

There are actions needed to be taken by the Board in order to proceed with the preparation of the refunding effort in FY 2021-22. Those actions include the Board's authorization of the CEO/General Manager to include additional scoping to the FY2021-22 professional service contracts of three consultants, for the non-contingent portion of the refunding work.

Additional scopes of work for the non-contingent portion of the refunding work will be negotiated on Orrick's bond counsel services for a not-to-exceed amount of \$55K, KNN's municipal advisory services for a not-to-exceed amount of \$40K, and Hanson Bridgett's legal counsel services for a not-to-exceed amount of \$25K. The amounts total to \$120,000 which will be funded by the excess bond stabilization fund as part of the FY 2021-22 budget.

Ms. Tang noted that the actions are being brought to the BPC now to begin the necessary substantial discussion with the Board regarding refunding structure including the bond surcharge setting methodology. Staff anticipates presenting results from the evaluation to the BPC in August.

In response to Director Mendall's request for clarification, Ms. Sandkulla explained that the second amendment to the Hanson Bridgett contract under Item 5A is for work that needs to be completed in FY 2020-21. The \$25K allocation for Hanson Bridgett under this item 5C is for work in FY 2021-22 that will be included in the FY 2021-22 budget which will be adopted by the Board. It is being brought to the BPC now and to the Board in May for approval of the tasks so that work specifically for the bond refunding can begin as soon as July 1, 2021.

Ms. Schutte confirmed that this allocation of tasks and budget is specifically for the bond refunding. While the consultants have been engaged with BAWSCA on this effort, the work will officially kick-off as of July 1, 2021.

Director Mendall asked about the \$300K allocation for the non-contingent refunding expenses against these three items which total \$120K.

Ms. Tang explained that the difference between the \$300K and \$120K (\$180K) is to cover the other non-contingent portion of the cost of issuance. This includes credit rating agency fees, trustee fees, and the verification agency fees. The \$120K is part of the \$300K budget for the Bond refunding, and is being called out separately for greater and more detailed discussions.

Director Kuta asked if the estimated net present value savings of \$20M is gross or net, whether the rates of Orrick and KNN are competitive, and if Orrick's costs are contemplated in the \$1-1.2M costs for the bond refunding.

Ms. Tang stated that the estimated savings of \$20M is a net present value savings. She reported that the rates for KNN in FY 2021-22 will be the same as FY 2020-21. She added that based on the consultant rate evaluation done 5-years ago, KNN's rates for BAWSCA are below market value. She noted that Orrick provides specialized legal services on bond issuance and Orrick has confirmed that their rates in FY 2021-22 will remain the same as FY 2020-21. Orrick's costs are contemplated in the total estimated \$1-1.2M cost for refunding.

Director Cormack asked for further explanation on the origins of the \$3.5M savings each year until 2034, the 8% reduction in bond surcharges beginning FY 2023-24, and the estimated \$2M savings in addition to all that.

Ms. Tang explained that the estimated \$3.5 savings is from the original 2013 bond issuance and prepayment program that bears an estimated total present value savings of \$62M. On an annual basis, the member agencies have collectively been saving over \$3.5M compared to how much they would have had to pay to San Francisco without the bond issuance. The potential refunding presents an estimated \$2M savings in addition to the \$3.5M. The bond refunding would provide an 8% reduction in the member agencies' collective annual bond surcharge beginning FY 2023-24.

In response to Director Chambers, Ms. Tang noted that the \$3.5M savings is from 2013 when the bonds were issued through 2034 when the bonds mature. The estimated \$2M savings would be from 2023, when the refunding bonds would be delivered, until 2034.

Ms. Schutte further clarified that the costs being presented for the professional services contracts for KNN, Orrick and Hanson Bridgett are for preliminary work on the bond refunding that will not be folded into the fees to issue the bond refunding. The fees for the bond refunding have not been negotiated yet. This process allows BAWSCA to hire the necessary experts to evaluate and address the uncertainties, and identify a concrete fee to negotiate for the actual transaction of the bond refunding.

This process was previously done for the 2013 bond issuance. Ms. Schutte stated that typically, all costs are folded into the total costs of issuance, however, this model is recommended for the best interest of the member agencies and their water customers.

Director Pierce suggested to include all the clarifications that have just been provided in the staff report for the Board in May.

Director Mendall suggested to include a timeline of next steps in the staff report that goes to the Board, including the anticipated discussion in August.

Director Mendall made a motion, seconded by Director Larsson, that the Committee recommend that the Board approve the following additional scope of services to be included in the three professional services contracts for the purposes of initial planning and preparation for the refunding of 2013A bonds in FY 2021-22

- 1. Additional scope of service in Orrick's on-going legal services contract for the non-contingent portion of the bond counsel services with a not-to-exceed amount of \$55,000**
- 2. Additional scope of service in KNN's on-going financial advisory services contract for the non-contingent portion of the refunding municipal advisory services with a not-to-exceed amount of \$40,000**
- 3. Additional scope of service in Hanson Bridgett's on-going legal counsel services contract for the non-contingent portion of the legal counsel services for the refunding with a not-to-exceed amount of \$25,000**

The motion passed unanimously by roll call vote.

- D. Approval of Renewal to the Office Lease: Ms. Sandkulla reported that the lease for the BAWSCA office expires in September 2021. BAWSCA Office Manager, Deborah Grimes, reached out to the management firm and negotiated a lease extension that is favorable to BAWSCA.

The current lease offers the option to extend at market rate. BAWSCA's current lease rate is \$4.22 per square foot. The negotiated extension provides a reduced lease rate of \$4/sq. ft. starting October 1, 2021, an annual 3% increase under a 64-month lease term with 60 months paid and four months rent abatement. The annual 3% increase is consistent with past lease agreement for this location. The negotiated terms translate to a rate of \$4.02/sq. ft. per month over the entire lease term of 64-months, and provides BAWSCA a savings of \$61K in FY 2021-22. This savings is rolled into the Operating Budget funding plan that is on the committee agenda for discussion and action.

Director Jordan asked if other locations were considered physically and virtually.

Ms. Sandkulla reported that Ms. Grimes was able to look at a neighboring building, and review the market rates for four (4) properties in the area. Given the timing of the agreement negotiation, the market rates were increasing and the rates negotiated were the most competitive. Ms. Sandkulla further explained that previous assessments of properties outside of San Mateo 5 years ago confirmed that the current location is central for the member agencies.

Director Kuta asked if extension of work from home opportunities were considered to reduce square footage needed for the office.

Ms. Sandkulla stated that the team has been working from home and has been doing so effectively. However, she stated that staff is a small team that benefits from proximity with each other on a regular basis. While she anticipates some needs for flexibility, she expects a full return to what it was pre-pandemic in order to be the most effective team that we can be.

Ms. Sandkulla corrected the recommendation on the slide to specify that the extension is at an initial term of \$4/sq. ft. with a 3% annual increase.

Members of the Committee expressed their appreciation for Ms. Grimes' alacrity and effectiveness in negotiating a competitive lease extension.

Director Pierce made a motion, seconded by Director Cormack, that the Committee recommend the Board authorize the CEO/General Manager to extend the current lease for a period of sixty-four months at an initial rate of \$4 per square foot with a 3% annual increase.

The motion passed unanimously by roll call vote.

- E. Proposed Fiscal Year 2021-22 Work Plan, Results to be Achieved, and Operating Budget: Ms. Sandkulla presented the proposed work plan which continues to address the critical issues identified between now and 2050 discussed with the Board back in January. The issues include BAWSCA's continuing role in managing the Water Supply Agreement with San Francisco to protect the member agencies' financial and water supply interests; administering BAWSCA 2013 Bonds including the potential refunding; oversight of the SFPUC's WSIP, 10-year CIP and Asset Management; participating in the State Water Board's Bay Delta Plan and FERC relicensing proceedings to protect the regional water supplies; implementing BAWSCA's Long-Term Reliable Water Supply Strategy and its Core and Subscription conservation programs; and providing drought support to member agencies.

Ms. Sandkulla reported two changes in the work plan in response to the feedback received at the March Board meeting to reduce the work plan and budget in a way that allow for a smaller assessment increase.

The first change is the deletion of a budget allocation for outside consultant or other support related to drought assistance for member agencies. This change does not remove drought support efforts from the work plan. BAWSCA will continue to provide drought support to member agencies at a staff-level. If additional resources prove necessary during the year, the existing budget will be reviewed as a source of

funds. The second change is the reduction of \$61K in office rent costs as a result of the negotiation of the lease renewal.

The adjustments result in a proposed operating budget that is 15% greater than the current budget. Ms. Sandkulla noted that \$631K of the FY 2021-22 proposed budget increase is associated with the bond refunding, demand study refresh, and Strategy scoping.

The proposed operating budget fully funds the estimated OPEB annual required contribution, and includes a budget allocation that would allow for a 2.15% COLA adjustment to top step salaries and merit allowance. This presents a total water customer cost of \$2.58 per person, an increase of 0.38 cents from FY 2020-21.

A pie chart was presented to show that the budget and work plan continues to focus on ensuring a reliable supply, representing 48.4% of the agencies' overall efforts in comparison to operations, fair price, and water quality. Ms. Sandkulla noted that the fair price portion of the work plan and budget has increased to reflect efforts on refunding the bonds.

Ms. Sandkulla presented BAWSCA's funding principles for developing the budget and noted the Board's strong recognition of the importance of maintaining a General Reserve.

The estimated expenditure for FY 2020-21 is 94% of the budget. Ms. Sandkulla will continue to monitor expenses in light of increased legal activities. The estimated unspent funds from FY 2020-21 that will be transferred to General Reserve at the end of the year is \$243,600. A significant portion of these savings are associated with salary and benefits savings resulting from the transition of several new staff members.

Ms. Sandkulla referenced the guidelines that the Board set for itself about the use of the General Reserve. The Board adopted Resolution 2018-02 which serves as the General Reserve guideline that states, *"...it is a prudent financial measure to maintain surplus funds in a reserve in order to provide funds for urgent but unanticipated expenses and for one-time, non-recurring expenses to moderate variations in annual assessments."*

And for budgetary purposes, the guidelines provide that *"...the minimum balance in the General Reserve is twenty percent of the budget year's operating expense"* and *"...the maximum balance in the General Reserve is thirty-five percent of the budget year's operating expense."*

The funding sources available to BAWSCA for FY 2021-22 operating budget includes

- member agency assessments, the General Reserve;
- use of the WSA Balancing Account in accordance with the WSA and Balancing Account Policy; and,
- use of the 2013 Bond Stabilization Fund in accordance with the bond covenants.

Ms. Sandkulla noted that the budget for FY 2020-21 had 0% assessment increase. Use of the WSA Balancing Account has been identified as appropriate for efforts on the Demand Study Refresh and Strategy scoping. Use of the Stabilization Fund has also been identified as appropriate to fund a portion of the cost associated with the bond refunding.

Four funding options were analyzed and presented to the Committee. The options were developed based on calculations that meet the goal of keeping the assessment increase at a minimum, while maintaining a General Reserve that is within BAWSCA's General Reserve budgetary guidelines. In addition, in response to the prior request from Director Mendall, the calculation for each option provide two calculations to show the General Reserve as 1) a percent of total budget, and 2) as a percent of total budget minus one-time expenses associated with the bond refunding and the water supply project.

The funding options provide assessment increases of 2%, 4%, 5%, and 7% and a corresponding General Reserve balance with the 2 calculations for the General Reserve. Ms. Sandkulla noted that all options rely upon the transfer of unspent funds to the General Reserve, the use of \$331K from the Balancing Account, and use of \$300K from the Bond Stabilization Fund for the bond refunding. The difference between the options are the levels of assessment increase and the resulting percentage of the General Reserve.

Ms. Sandkulla recommends option 3, which provides a 5% assessment increase and a General Reserve level that falls within BAWSCA's General Reserve budgetary guideline of maintaining a balance between 20%-35%, for both calculations.

Ms. Sandkulla noted that given the 0% assessment increase in FY 2020-21, a 5% increase presents a fair and moderate increase compared to the higher percent increase in the preliminary analysis for funding the FY 2021-22 budget.

In response to Director Jordan, Ms. Sandkulla explained that the proposed budget does not include any financial contribution to address San Francisco's unfunded pension liabilities. For BAWSCA's unfunded pension liability, it was previously discussed by the Committee in February that given the size of the assessment increase that would result if unfunded pension liability was included in the budget, Ms. Sandkulla suggested that the Board address the matter in the Fall as it looks at the end-of-year financial picture and the value of the year-end funds that go into the General Reserve.

Director Kuta referenced SFPUC's Chief Financial Officer, Eric Sandler's presentation at the March Board meeting, particularly regarding ongoing concerns related to the SFPUC's Water Enterprise OPEB at \$163.7M, and pension liability for water only at \$178.1M. He asked how some focus on those liabilities can be included in the work plan for FY 2021-22 or the subsequent fiscal year?

Ms. Sandkulla stated that she suspects the effort would involve substantial analysis to identify an approach since it is a City and County of San Francisco system, as opposed to an SFPUC system. The level of work on such an effort is not yet evident, and Ms. Sandkulla would prefer to consider scoping the work first and allow for the

conversation to continue into a subsequent fiscal year. She will also add it to the list of future challenges to ensure that it remains on BAWSCA's attention.

Director Pierce suggested that the analysis on San Francisco's unfunded pension liabilities should include the impacts, if any, on the member agencies.

In response to Director Kuta, Ms. Sandkulla explained that the scoping budget for the Strategy back in 2007 was \$117K because it represented a level of analysis that member agencies had never done before, and the available tools that the member agencies did not have. Now that BAWSCA and the member agencies have the modeling tool and the demand projections study, as well as the knowledge gained from the pilot water transfer planning and experience with ongoing regional projects on alternative water supplies, a \$54K budget for re-scoping of the Strategy is appropriate.

Director Wood made a motion, seconded by Director Larsson, that the Committee recommend the:

- 1. Proposed FY 2021-22 Work Plan and Results to be Achieved;**
- 2. Proposed Operating Budget of \$4,783,794;**
- 3. Proposed funding plan of a 5% assessment increase, a transfer of \$281,676 from the General Reserve, a transfer of \$331,000 from the Balancing Account, and use of \$300,000 in excess Stabilization Funds for funding the Operating Budget; and**
- 4. Authorization of a request for a transfer of \$331,000 from the Balancing Account to BAWSCA in accordance with BAWSCA's Balancing Account policy, Resolution No. 2020-02.**

Director Mendall expressed his appreciation for staff's extra efforts in developing a work plan and operating budget that meets the Board's requests.

Director Chambers clarified that the motion refers to Option 3, as he supports that option because it provides flexibility should the estimated unspent funds of \$243K does not carry over to the General Reserve.

Director Larsson also expressed his appreciation for staff's work, but noted caution on the use of the Balancing Account. He referenced the substantial assessment increase 6 years ago that followed several years of very low to no assessment increases. While he supports the proposed budget and is pleased that the funds are available in the Balancing Account to fund appropriate efforts in the workplan, he noted that the Balancing Account may not always be accessible as a funding resource. The more the agency gets used to using the Balancing Account, the greater the risks in having a large assessment increase at some point in the future.

Director Cormack echo's the committee members' appreciation for the work that staff did, as well as Director Larsson's suggestion to be mindful with the

use of the Balancing Account. She trusts that staff will remain watchful. She supports the staff recommendation.

Director Jordan appreciates the single digit assessment increase and noted that it is good to address BAWSCA's and San Francisco's unfunded pension liabilities in the next fiscal year rather than letting it accumulate, particularly because San Francisco's may have an impact to the member agencies.

There were no public comments.

The motion passed unanimously by roll call vote.

7. CEO Reports:

- F. Water Supply Conditions: With SFPUC's most recent data, Ms. Sandkulla highlighted keypoints on current water supply conditions and concerning trends. Current reservoir storage on the Tuolumne system is a little over 77% of maximum storage. Hetchy Hetchy and the water bank are both slightly less than normal at this time of year, reflecting the current dry conditions.

In comparison to California reservoirs, Don Pedro is at 68% of normal but State and Federal project reservoirs in Northern California such as Trinity Lake, Lake Shasta and Lake Oroville are at a lower storage level than normal at this time of year.

Hetch Hetchy precipitation is above the lowest level in 1977, but remains lower than median. Upcountry snowpack is on par with last year's, but Ms. Sandkulla pointed out that snow pack typically peaks on April 1st or later. This year, data shows that the snowpack is melting before April 1st and an early run-off period is occurring. Water available to the City increased due to that early runoff, and while it is expected that Hetch Hetchy will fill, but Don Pedro will be slightly less than full by July 1, 2021.

As of January 2021, BAWSCA's total potable water use is lining up with this time in 2021, but is 6% less than January in the drought year of 2013. Ms. Sandkulla noted that the SFPUC has a contractual obligation to provide the wholesale customers the Regional Water System's final water supply availability by April 15th. That information will be shared with the Board and member agencies as soon as it becomes available. She expects the report to indicate water supply use reduction requests.

- G. FERC/Bay-Delta Plan Update: Ms. Sandkulla reminded the Committee that in July 2020, the Final Environmental Impact Statement (FEIS) on the FERC relicensing process was released and identified the Tuolumne River Voluntary Agreement (TRVA) as the preferred FERC alternative. The required Water Quality Certification of FERC is ongoing with the State Board's issuance of the Clean Water Act 401 Certification on January 15, 2021 that includes the Bay-Delta Plan 40% unimpaired flow requirement. BAWSCA, along with the SFPUC and the irrigation districts requested reconsideration of the certification on February 16, 2021.

Ms. Sandkulla reported the there is potential judicial challenge pending the State Board's decision on reconsideration. Additionally, FERC denied the Districts'

request to declare that the State Board waived its 401 Certification authority on January 19, 2021. The Districts may also challenge that determination.

On March 26th the SFPUC held it's third inf a series of workshops on the Bay Delta Plan. Workshop #3 discussed the Bay Delta Plan and SFPUC's "water supply and demand worksheet" tool.

Ms. Sandkulla reported that the SFPUC has a detailed and specific hydrologic model used for evaluating how the water system responds to different demand levels, hydrologic conditions, and new supply sources. SFPUC's worksheet tool presents the modeling results in a way that is easier for the Commission and members of the public to discern the differences between various scenarios. While the modeling capabilities has always existed, this worksheet tool presents the results for everyone to see the tradeoffs between various situations.

Workshop #3 presented modeling results for 10 different future supply and demand options including the TRVA, the 40% unimpaired flow, and the various elements that account for new alternative supply projects, changes to the rationing policy, and changes to the design drought. In each case, the SFPUC presented the assessment of the resulting water supply reliability.

The purpose of the workshop was to put facts and figures out from the modeling information to respond to queries on various conditions.

Presentations were provided by others. Particularly, the Tuolumne River Trust's (TRT) presentation focused availability of supply in drought years noting that TRT believes the design drought is severe and not warranted. Pacific Institute questioned the agencies' demand estimates and postulated that demand will not increase over time as customers continue to embrace water conservation. The California Sportfishing Protection Alliance (CSPA) called for a policy to maintain or reduce demand, suggested that the Bay Delta Plan can be acceptable with inclusion of specific flow rules for dry year sequences, stated that the SFPUC must confront the division of responsibilities for flow of the Tuolumne River between SFPUC and the districts, and called for the creation of a Groundwater Bank in Stanislaus County. Ms. Sandkulla noted that the TRVA calls for a feasibility study for the creation of groundwater banking.

Ms. Sandkulla reported that the Commissioners expressed interest for additional workshops to further review the rationing policy, design drought, and supply/demand dynamics. They were also very open to the continued discussion of options that would result in more flow releases to the Tuolumne River.

The Commission, however, did not appear focused on being a water supplier, nor did they seem to have a real connection to, or care for, the impacts to the water customers; retail or wholesale. The only Commission references to its Wholesale Customers focused on the projected demands and concerns that growth is overstated.

BAWSCA will remain focused on having the TRVA be evaluated by the State Board as an alternative to the Bay Delta Plan. BAWSCA and the member agencies continue to support the objectives of the Bay Delta Plan and are committed to

working with other stakeholders to protect water quality in the Bay Delta for humans, fish and other wildlife.

BAWSCA firmly believes that the TRVA is the only voluntary agreement ready to be analyzed as an alternative to the Bay Delta Plan at this time, and Ms. Sandkulla stated that this is coming to light as member agencies develop their Urban Water Management Plans (UWMP) and face the realities of the cutbacks that they have to plan for based the SFPUC's supply projections that assumes the currently adopted Bay Delta Plan. BAWSCA's current efforts are on advocating for the State Board to perform the evaluation of the TRVA as an alternative to the Bay Delta Plan.

Director Jordan noted that there is another State mandate that can potentially translate to increased housing units by 40% resulting in water suppliers and cities responding to two conflicting state mandates between water and housing, and somehow it needs to be communicated to the Governor and the SFPUC.

Director Pierce commented on the SFPUC's workshop #3 and the Commission's philosophical shift which she found very disconcerting. It confirmed BAWSCA's need to ensure that SFPUC understands their role as the water supplier for the region.

There were no comments from the public.

8. **Closed Session:** The Committee adjourned to Closed Session at 3:26pm.
9. **Reconvene to Open Session:** The Committee reconvened from Closed Session at 3:45 pm. Ms. Schutte reported that no action was taken during Closed Session.
10. **Comments by Committee Members:** Director Cormack reported that she attended the virtual Water Now Alliance Summit on April 6-8th where the various challenges and opportunities that municipalities and water suppliers have throughout the country were highlighted.
11. **Adjournment:** The meeting was adjourned at 3:47 pm. The next meeting is June 9, 2021.

Respectfully submitted,



Nicole Sandkulla, CEO/General Manager

NS/le

Attachments: 1) Attendance Roster

Bay Area Water Supply and Conservation Agency

Board Policy Committee Meeting Attendance Roster

Agency	Director	Apr. 14, 2021	Feb. 10 2021	Dec. 9 2020	Oct. 14, 2020	Aug. 12, 2020	Jun. 10, 2020	Apr. 8, 2020
Stanford	Zigterman, Tom	✓	✓	✓	✓	✓	✓	✓
Daly City	Manalo, Juslyn	✓	✓	n/a	n/a	n/a	n/a	n/a
Westborough	Chambers, Tom	✓	✓	✓	✓	✓	✓	✓
Palo Alto	Cormack, Alison	✓	✓		✓	✓	✓	✓
Purissima	Jordan, Steve	✓	✓	✓	✓	✓	✓	✓
Cal Water	Kuta, Rob	✓	✓	✓	✓	✓	✓	✓
Sunnyvale	Larsson, Gustav	✓	✓	✓	✓	✓	✓	✓
Hayward	Mendall, Al	✓	✓	✓	✓	✓	✓	✓
Redwood City	Pierce, Barbara	✓	✓	✓	✓	✓	✓	✓
Brisbane	Wood, Sepi	✓	✓	✓	✓	✓	✓	✓

✓: present

☎: Teleconference

April 14, 2021 Meeting Attendance (Via Zoom in compliance with Gov. Order #29-20 due to COVID-19)

BAWSCA Staff:

Nicole Sandkulla CEO/General Manager
 Tom Francis Water Resources Manager
 Danielle McPherson Sr. Water Resources Specialist
 Kyle Ramey Water Resources Specialist
 Christina Tang Finance Manager
 Lourdes Enriquez Assistant to the CEO/General Manager
 Allison Schutte Legal Counsel, Hanson Bridgett, LLP
 Nathan Metcalf Legal Counsel, Hanson Bridgett, LLP
 Sean Herman Legal Counsel, Hanson Bridgett, LLP
 Bud Wendell Strategic Communications
 Dan Cox KNN

Public Attendees:

Paul Sethy ACWD
 John Weed ACWD
 Cheryl Munoz Hayward
 Alison Kastama SFPUC
 Dave Warner Self