

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD POLICY COMMITTEE

December 9, 2020 – 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 Chambers, called the meeting to order at 1:30 pm. A list of Committee members who were present (8), absent (1) and other attendees is attached.

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

2. **Comments by Committee Chair:** Committee Chair Chambers welcomed members of the Committee and reviewed the general procedures for conducting the meeting virtually. 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, Peter Drekmeier, Spreck Rosekrans, and Carol Steinfeld.
4. **Consent Calendar:** Approval of Minutes from the October 14, 2020 meeting.

Director Pierce made a motion, seconded by Director Larsson, that the minutes of the October 14, 2020 Board Policy Committee meeting be approved.

The motion carried unanimously by roll call vote.

5. **Action Calendar:**

- A. **Mid-Year 2020-21 Work Plan, Budget and General Reserve Review:** Ms. Sandkulla stated that a critical task at the end of the calendar year is BAWSCA's annual mid-year review of the work plan and budget. The review process evaluates the progress made in achieving the results planned for the fiscal year, and provides the opportunity to make necessary course corrections. Included in the staff memo is Table 1 which presents the current status of each item in the work plan adopted by the Board in May 2020.

Ms. Sandkulla was pleased to report that as a whole, implementation of the work plan is on schedule and on budget. However, there are changes on the scope of two work plan items that are being recommended as a result of the review.

The first is associated with the Potable Reuse Exploratory Plan (PREP) Phase 3 Study. This work involves a partnership with Silicon Valley Clean Water (SVCW), SFPUC, the Cities of San Mateo and Foster City, and Cal Water. The effort examines the potential for potable reuse through the effluent produced by SVCW's wastewater plant coupled with effluent produced by the wastewater treatment plant

that serves San Mateo and Foster City. Completion of the work was anticipated in FY 2020-21, but progress is delayed while the project MOU is being amended as necessary to ensure that it addresses all the issues at hand. The delay was also associated with the impacts of COVID-19 as agencies worked to address county health and safety requirements. Work will continue, but completion will be in FY 2021-22.

The second change is reducing planned efforts on 2 new subscription conservation programs for FY 2020-21. The work plan anticipated the implementation of 3 to 4 new subscription programs. The residential self-audit tool and irrigation hardware rebate programs are on track for implementation by July 2021. However, two new programs, the landscape area measurement program and the leak detection/certification program, are delayed.

The landscape area measurement program is a support program for member agencies that provides an “as-needed” service. It brings an outside consultant onboard with expertise to refine and confirm the landscape area measurement that the state will use in its new water efficiency guidelines. The program development has been slowed down as a result of delays at the state level in providing those guidelines. That information is needed from the state before the program can be further developed to ensure that it is aligned with the state’s new efficiency guidelines that are currently under development.

The leak detection/certification program is intended to develop a pool of experts, through a very specific training and certification program, in detecting leaks that are not surface evident. These certified experts will be accessible to the water customers in the region. This program currently does not exist anywhere, and BAWSCA is in close coordination with the Valley Water in developing this program in the most effective way. Work will continue on this effort to gain more information in the next 6 months such that a program could be implemented as early as FY 2021-22.

Ms. Sandkulla presented the status of efforts in each area of the work plan categories and noted key highlights and developments

The area of Water Reliability includes several categories including facility reliability, which involves BAWSCA’s oversight of the SFPUC’s WSIP, 10-year CIP, and Asset Management. Ms. Sandkulla reported that the SFPUC is scheduled to adopt an Asset Management Policy (Policy) by the end of calendar year 2020. This is a result of the Water Supply Agreement (WSA) amendment, negotiated with the SFPUC and adopted by each of the member agencies in 2018, which requires the SFPUC to develop and submit, to the Commission for approval, an Asset Management Policy applicable to the Regional Water System. SFPUC’s Policy takes into consideration BAWSCA’s findings and recommendations from an audit of SFPUC’s asset management practices that BAWSCA conducted and completed in FY 2019-20. BAWSCA was engaged in reviewing and providing comments on the Policy, and Ms. Sandkulla noted that the SFPUC’s adoption of the Policy is a positive development in this critical area.

Another category under Water Reliability is BAWSCA’s implementation of its Long-Term Water Supply Strategy (Strategy). Ongoing efforts include, but are not limited

to, providing assistance to the member agencies in completing their state-required Urban Water Management Plans (UWMP) by July 1, 2021, as well as maintaining engagement in the Los Vaqueros Expansion (LVE) project in keeping with SFPUC continued role in LVE as a Local Agency Partner.

The Strategy's near-term supply solutions speaks to the implementation of water conservation programs and drought response. BAWSCA will be hosting its second symposium for Advanced Metering Infrastructure (AMI) in Spring 2021 to provide regional coordination and the opportunity for robust conversations among the member agencies in support of their AMI implementation and data management. Work will continue in the execution of subscription and core conservation programs.

Water Reliability also includes protecting the member agencies' water supply interests in the administration of the WSA. An area of increased efforts and critical progress which was anticipated to be completed by Summer of 2020, is the WSA amendment associated with enabling agencies to transfer a portion of their minimum purchase requirement coupled with an individual supply guarantee to another agency in need of additional supply. BAWSCA has been facilitating negotiations among the member agencies and SFPUC on this critical amendment, which has required more time than anticipated this fiscal year. Negotiations are nearly done and the SFPUC is scheduled to consider the proposed amendment in January followed by the member agencies.

Ms. Sandkulla noted the progress in the efforts on the Bay-Delta Plan and FERC relicensing process. It continues to be a critical area that will require robust conversations and significant work.

Lastly under Water Reliability, is BAWSCA's work in recording and tracking member agencies' water use information which allows BAWSCA to be a reliable source of information for the region. BAWSCA's Annual Survey presents the most detailed and informative data on the member agencies' water use, and therefore, has become the source of information for many other agencies. Similarly, BAWSCA's Annual Conservation Report details all BAWSCA's efforts for water conservation. Work on these reports are underway and will be available on the website later this fiscal year.

The area of Water Quality in the work plan is critical for BAWSCA and one in which the final level of activity is difficult to predict because BAWSCA's work in this area is generally on an as needed basis in response to issues with the Regional Water System. There is a Joint Water Quality Committee that is set up in the WSA that is chaired and co-chaired alternatively between BAWSCA and the SFPUC. The Committee monitors water quality concerns and ensures that issues are addressed by the SFPUC in a timely manner.

The area of Fair Price involves the administration of the WSA to protect the financial interests of the member agencies with the SFPUC, as well as managing capital debt and BAWSCA's bond issuance.

Ms. Sandkulla noted that the mid-year review also looks at the budget spending to date and management of the General Reserve. Ms. Sandkulla reported that as of

December 4th, the General Reserve balance is \$1,139,243, or 28% of the current operating budget, which is within the agency's guidelines for the General Reserve.

Typically, any additional resources needed to achieve the fiscal year's work plan are identified during the mid-year review and the General Reserve is considered as a source of funding. Ms. Sandkulla was pleased to report that the work plan is on budget, and there are no recommended changes to the General Reserve as part of the mid-year work plan and budget review.

The staff recommendation for the Committee's consideration is to recommend Board approval of the modification of the work plan as presented.

Chair Chambers called upon each member of the Committee for their comments and questions.

In response to Director Larsson, Ms. Sandkulla explained that BAWSCA will continue its work on the leak detection/certification program with a focus on broadening the scope to identify what the process will entail to develop that certification program. The intention is to reach out to experts and gain better understanding, as well as input, to develop a proper scope in FY 2021-22.

Director Larsson appreciated the clarification on what level of effort can be expected in the upcoming fiscal year and agrees that it is an innovative and exciting program.

Director Mendall appreciated the formatting of Table 1 in the memo to effectively convey the status and progress of each effort in the various areas of the workplan. He stated his support for the recommendation.

Director Pierce supports the proposed recommendation to the work plan. She finds the formatting of Table 1 helpful, and suggested that stating whether the causes for the delays in the efforts are internal or external would be helpful for the Board. She looks forward to the discussion on water sustainability and how it will be integrated into the work plan and budget for the coming fiscal year.

Directors Wood and Zigterman echoed the committee members' comments and stated their support for the staff recommendation.

Director Jordan suggested including a reference to the status of the LVE project's Joint Power Authority (JPA) development in terms of BAWSCA's respective engagement in that part of the project.

Ms. Sandkulla can make that clarification to the Board at the January Board meeting. BAWSCA is actively involved with the other local agency partners on LVE, not as direct participants, but as agreed upon by the BAWSCA board. Part of that involvement is reviewing the JPA agreements and looking at the SFPUC's role in the project and what it means in the interests of the wholesale customers.

Director Kuta thanked the staff for the progress on the work plan and supports the proposed recommendation. He asked if the CEO/General Manager anticipates being underbudget given the shift in the work efforts.

Ms. Sandkulla explained that the savings from the efforts being shifted are going towards work that is the next item on the agenda for Committee discussion and action.

Director Mendall made a motion, seconded by Director Wood, that the Committee recommend the Board approval of the modification of Work Plan Item 2a “PREP Phase 3” and Item 3c “Implement New Subscription Programs” in the FY 2020-21 Work Plan.

The motion passed unanimously by roll call vote.

- B. Professional Services Contract Amendment with Woodard & Curran, Inc. to provide as Needed Specialized Water Resources Services: Water Resources Manager, Tom Francis reported that on July 1, 2020, as documented in the Monthly Budget Report presented to the Board in July, BAWSCA entered in a \$25K agreement with Woodard & Curran under the CEO/General Manager’s discretionary spending authority. The agreement was to provide specialized resources needed to continue efforts in achieving the results in the work plan while filling two staff vacancies and managing coverage for a maternity leave.

Mr. Francis noted that the agreement with Woodard & Curran allowed continued access to Andree Johnson, and provided BAWSCA the most time and cost-effective way to maintain productivity on work already in progress while training a new hire, filling a vacancy, and managing a temporary leave.

The initial budget of \$25K will be expended by December 2020, and an additional \$25K is proposed to extend the agreement through the end of FY 2020-21. The extension will provide continued resources needed during the ongoing training and transitional period. While the scope of the agreement remains the same, the recommendation is to amend the existing agreement to reflect the additional \$25K, increasing the contract amount to \$50K, which requires board approval.

The professional services will continue to be provided by Andree Johnson who, in her prior role as BAWSCA’s Sr. Water Resources Specialist, has institutional knowledge to guide BAWSCA staff in providing the critical support member agencies need on a number of conservation programs. Specifically, Ms. Johnson will support BAWSCA in assisting member agencies with their Urban Water Management Plan (UWMP) updates. BAWSCA’s critical role in assisting member agencies in this task include coordination with the SFPUC in developing common language and technical data incorporated by member agencies into their UWMPs. Most importantly, BAWSCA serves as a resource to member agencies’ questions and discussions throughout the process and Ms. Johnson’s experience with the UWMP process in 2015 is providing guidance to BAWSCA’s new Sr. Water Resources Analyst.

Additionally, Ms. Johnson is closely working with BAWSCA staff on the management of conservation programs, development of new conservation programs for implementation in FY 2020-21 and FY 2021-22, and preparation of the Annual Survey and Conservation Reports.

Mr. Francis noted that some of the work plan elements may be compromised without the support from Ms. Johnson through Woodard & Curran. Particularly, the development of the new conservation programs can greatly benefit from Ms. Johnson's proficiency in the industry and her familiarity with the member agencies' unique needs as individual agencies, and as a region.

The amendment to the agreement will not have a fiscal impact on the budget that was adopted by the Board in May 2020. Funding is available within BAWSCA's existing conservation program budget that can be reallocated to avoid impacts on the overall work plan. The recommendation for an additional \$25K to extend Woodard & Curran's professional services can be accommodated within BAWSCA's adopted budget.

The proposed action is for the Committee to recommend the Board to authorize the CEO/General Manager to negotiate and execute a contract amendment with Woodard & Curran that would increase the total not-to-exceed contract amount to \$50,000 for as-needed specialized water resources services for FY 2020-21.

Chair Chambers called upon each member of the Committee for their comments and questions.

Director Larsson was pleased that BAWSCA is able to utilize Ms. Johnson's institutional knowledge through Woodard & Curran, and stated that it is a cost-effective way to support and train staff quickly but efficiently. He is supportive of staff recommendation.

Director Mendall stated his support for the recommendation and asked if \$50K includes some cushion given the significant staff challenges.

Mr. Francis stated that it is sufficient because a significant part of the work was in the first half of the fiscal year, in which a workshop for the UWMPs was held. The work for the second half of the year involves guidance for staff and member agencies, and addressing unexpected issues that may come up.

Director Pierce supports the recommendation and is pleased that staff is receiving training from Ms. Johnson.

Director Wood supports the recommendation and appreciated the CEO's effective management and connection with staff, that enables an ongoing professional opportunity for both parties.

Directors Zigterman and Jordan were pleased with and were supportive of the recommendation.

In response to Director Jordan, Mr. Francis stated that Ms. Johnson will strictly serve as a consultant and her hours will be based on BAWSCA's need for her services. If BAWSCA wants to hire Woodard & Curran in the future, it will be on a project specific request.

Director Kuta agrees with the comments made and sees the approach as the most logical way to meet the resource need for continuing work efforts while training new staff. He asked what policy BAWSCA has for staff who leaves and come back.

Legal Counsel, Allison Schutte, explained there is no implications to BAWSCA on this particular agreement with Woodard & Curran. There is a Retired Annuitant rule that requires a 6-month break in-between services with prior employees, but it is not applicable in this case since Ms. Johnson's services are through a consultant firm versus hiring her independently.

Director Larsson made a motion, seconded by Director Kuta, that the Board to authorize the CEO/General Manager to negotiate and execute a contract amendment with Woodard & Curran that would increase the total not-to-exceed contract amount to \$50,000 for as-needed specialized water resources services for FY 2020-21.

The motion passed unanimously by roll call vote.

6. Reports and Discussions:

- A. BAWSCA's Pension Liability Funded Status Update: Finance Manager, Christina Tang, reported that BAWSCA's CalPERS pension plan funded status was provided to the Board at its November 19, 2020 Board meeting. In response to the Board's feedback that further discussion is needed, Ms. Tang presented further information for the Committee's discussion purposes in looking at the available options for voluntary additional pension funding.

Ms. Tang presented the same table used at the November Board meeting that shows BAWSCA's current liability funded status. As of June 30, 2019, BAWSCA's current Unfunded Accrual Liability (UAL) is \$740,356, which is scheduled to be paid off by June 30, 2038. Per CalPERS, the measure of funded ratio is the assessment of sufficiency of the plan assets to cover future employer contributions. BAWSCA's current funded ratio is 80.8% which is higher than most member agencies based on everyone's CalPERS pension actuarial evaluation reports for the miscellaneous plans as of 2019.

In light of the rise and volatility of CalPERS pension costs, many public agencies have voluntarily chosen to set aside or contribute additional pension funding to address their long-term pension liabilities. Ms. Tang presented three options currently available for the Board's consideration in addressing BAWSCA's current UAL.

Option 1 is to make Additional Discretionary Payments (ADP) of UAL. CalPERS allows employers to make ADPs at any time and in any amount to reduce the UAL and future required contributions. Employers can also use ADPs to stabilize annual contributions as a fixed dollar amount, or a percentage of payroll. Making an ADP during a fiscal year does not set a precedence for future years, nor does it change the remaining amortization period of UAL.

Ms. Tang presented a table that shows BAWSCA's estimated FY 2021-22 employer contributions of \$201,522 based on the current 30-year funding target, and four

alternatives with different levels of ADPs ranging from \$2K to \$103K. With limited information provided in the CalPERS report, Ms. Tang explained that the calculation between the funding target and the ADP amount is unclear given that BAWSCA is almost half-way through the 30-year amortization term. If the committee is interested in the exact impact or benefit of the different levels of one-time ADPs, a consultation with the actuary will be needed.

Option 2 is to re-amortize annual UAL contributions. CalPERS allows employers to pay off the UAL more quickly than required based on an alternative "Fresh-start" amortization schedule. Ms. Tang presented a table that illustrates BAWSCA's current 30-year amortization schedule with a minimal required employer contribution to UAL and an expected payoff by 2038. The same table provides two examples of the "Fresh-start" alternative that results to interest savings; a 15-year amortization schedule with a fixed payment amount of \$73,594 each year between now and 2035, and a 10-year amortization schedule with fixed payment amount of \$95,433 each year between now and 2030.

Option 3 is to make contributions to prefunding trusts. Ms. Tang reported that there are various pre-funding trust programs available to allow employers to set aside funds that can be used to offset future growing pension liability. This method serves as a rainy-day contingency fund to pay for future pension liability contribution. A benefit of this method is that the prefunding trust allows the employer to invest in higher yielding investment options and generate greater interest earnings. The funds accumulated in the trust can be used to prefund future ADPs, annual UAL payments or future normal cost payments.

In October 2020, BAWSCA conducted a survey of all member agencies who maintain pension benefit plans under CalPERS. The results show that nine city governments and one water district have established an irrevocable IRS Section 115 to voluntarily prefund future required employer pension contributions.

Ms. Tang reminded the Committee that the presentation is for information purposes only, in response to the feedback received from the Board following the November Board meeting. Staff has no recommendation at this time given BAWSCA's relatively high pension liability funded ratio of 80.8%. Staff is looking for the BPC's feedback on the options presented. Feedback received will be used as guidance for additional investigation the Board requests. The feedback will also serve as guidance for any consideration of additional funding that should be included in the preparation of the FY 2021-22 Operating Budget.

Chair Chambers called upon each member of the Committee for their feedback and questions.

Director Larsson commented that BAWSCA seems to be doing its best with what appears to be a moving target given that the UAL is based on projections and assumptions. It seems that the UAL can change if CalPERS' rate of return performs better or worse than their target, and therefore; even if BAWSCA gets to 100% funded, it could still end up being under-funded in the future depending on how CalPERS' target performs.

Ms. Tang confirmed this understanding and added that because the UAL is a result of actuarial analysis based on various assumptions, including the discount rate. In response to Director Larsson's question about why BAWSCA's current 30-year amortization schedule under Option 2 peaks at 2033 and drops by 80% in year 2034, Ms. Tang explained that it is, again, based on assumptions and projections, but can be further clarified with CalPERS.

Director Larsson stated that while CalPERS can provide clarification on the reason behind the peak and the sudden drop, the answer provided now may not be relevant in the future as the numbers can change anytime. He anticipates BAWSCA's budget will have naturally increased proportionately and the peak does not present a concerning percentage of BAWSCA's expected future budget.

Director Larsson stated his perspective on when the UAL should be paid down. First is if the annual payments are large and volatile relative to an agency's budget. But it appears to be a relatively manageable percentage to BAWSCA. Second is if the peak payment becomes a significant part of the budget. But BAWSCA's current peak does not appear to be excessive. Third is the future interest payments; therefore, a quantification of the interest savings for the 15 and 10-year amortization would be helpful. Otherwise, BAWSCA's current plan seems sustainable and can entertain the question of how it can be improved.

Ms. Tang reported that the estimated present value savings for the 15-year amortization schedule is \$4,900, and \$154,000 for the 10-year amortization schedule. The savings are minimal for the 15-year because BAWSCA currently has 18 years remaining.

Director Mendall noted that Christina's presentation is very similar to information he has seen for the City of Hayward and, from his independent research, is typical for other jurisdictions. He noted that CalPERS has forecasted additional UAL increases that are likely to come in the future as they continue to adjust their actuarial assumptions. They are still working off unrealistically high rate of return estimates of approximately 7%. They will have to adjust that down and will continue to trigger additional UAL increases on member jurisdictions such as BAWSCA.

Given the high funded ratio of 80.8%, Mr. Mendall proposed Option 1, making additional discretionary payments to pay off the UAL as a recommended solution for the Committee to present to the Board for consideration. The Balancing Account has funds in which a portion can be used to pay off the UAL and eliminate payments for the next 18 years for the purpose of providing future rate stabilization for the member agencies.

Based on the estimated present value savings of \$154,000 to pay off the 10-year amortization, a pre-payment on an 18-year amortization can provide significant savings. Additionally, the funds in the Balancing Account are probably projected to earn about 1% for the next 18 years while CalPERS is estimated to earn approximately 7% in the next 18 years. Moving the funds from a low-earning vehicle to a high-earning vehicle can provide BAWSCA significant savings in the long run. Even if CalPERS' earnings go down to 5%, it is still a financial benefit for BAWSCA to pay the UAL off. Mr. Mendall strongly recommends the Committee's consideration of this option.

Director Pierce stated that having seen the fluctuations in the rates and unrealistic expectations from CalPERS, she believes that it is worth looking at Director Mendall's proposal. She would like staff to have a thorough understanding of whether the use of the Balancing Account is applicable for this purpose, how will it be done, and what implications should be considered.

Director Wood supported the consideration of Option 1 as proposed by Director Mendall given BAWSCA's ability to do so and based on the anticipated increase in UAL.

Director Zigterman likes Director Mendall's proposal and was curious to hear staff's feedback on that recommendation.

Ms. Sandkulla deferred the question to legal counsel who has taken an initial look at the WSA language relative to this possibility.

Ms. Schutte explained that the Balancing Account Policy, adopted by the BAWSCA Board in September 2020, requires; for any use of the Balancing Account, written findings about the best use of the funds in light of other obligations. She noted that the Balancing Account funds are directly applied to stabilize Wholesale Water Rates from San Francisco. A direct deposit from the Balancing Account into BAWSCA's operating funds to directly pay a liability such as the UAL is not within the spirit of the language in the WSA. However, the Balancing Account can be used to fund water conservation and water supply projects. As the Balancing Account policy states, written findings must evaluate those projects and the implications of using the Balancing Account funds versus other funding sources such as the Water Management Charge. The Board can consider items under the work plan that can be appropriately funded by the balancing account to allocate operating funds towards additional contributions on the UAL. Ms. Schutte encouraged staff's thorough analysis of SFPUC's future wholesale water rate increases given that the current Balancing Account is dedicated to rate stabilization and future rate increases are anticipated in the next several years. Ms. Schutte noted that wholesale rates have been flat as a result of having the Balancing Account, and emphasized the inclusion of this factor in the written findings. While the scale is extreme between the current balance of the Balancing Account and what is needed to fully fund the UAL, it is prudent to have a thorough analysis in accordance with the policy.

Director Zigterman suggested including an Option 4 that provides the Board the latitude to use the Balancing Account, or not, in that fashion. He agrees with Director Mendall's proposal, and stated that avoided interest has the same financial affect for BAWSCA as revenue. It is an approach worth investigating for consideration by the Board.

Director Chambers agreed to look at the immediate issues with the UAL and the possibilities and benefits of using the Balancing Account. But he stated his concerns on the use of the Balancing Account since it is not always going to have a positive balance. Secondly, CalPERS can change their projected interest rates and the UAL can increase. Another consideration for an ADP is the use of, or a portion of, the excess operating funds at the end of the fiscal year that is typically put into the general reserve. It is another source of funds that has less risks to wholesale rate stabilization. He is pleased that BAWSCA is in a good position with its unfunded

liability, and that the current situation presents no urgent action. If the use of the available funds in the Balancing Account is applicable to address BAWSCA's needs, he supports staff's further investigation for the Board's consideration.

Director Jordan believed that BAWSCA should use its own discount rate assumption to project present value savings. He agrees with Director Mendall's logic of paying off a liability with an interest rate of over 6% versus holding on to funds in the Balancing Account that has 1% interest earning.

He would like to see a solid analysis of how much better, or worse, it would be for the member agencies to pay-off the UAL. If CalPERS' calculations for the 15-year, 10-year and 0-year ADP alternatives are firm as presented, and if the written findings provide justification for an applicable use of funds in the Balancing Account, he believes it is in BAWSCA's best interest to pay off the UAL. It becomes pretty obvious given the disparity between what CalPERS' assumes and what the real market is for the next few years.

Director Kuta stated the CalPERS discount rate hasn't been changed since 2016, and that the underlying conditions are worse than they were back then. He supports a pay-off, and in response to Legal Counsel's information and Director Jordan's comments, those calculations would be required if we drew from the Balancing Account, through whatever mechanism. He does not support Option 2.

Director Mendall supported Director Chamber's suggestion of considering, all or a portion of, the excess funds at the end of the fiscal year to pay off the UAL over a course of 2 or 3 years. This is an excellent Plan B, should the use of the Balancing Account be objectionable. He encourages staff to investigate those two options and provide recommendations to the Board for its consideration for action.

Director Pierce added that a helpful information for the Board would be the SFPUC's plans for the wholesale water rates in the next several years.

Director Larsson stated his support for saving interest that we do not have to pay. He agrees with Director Pierce on having a full understanding of the projected wholesale water rates from the SFPUC over the next several years, if the Balancing Account will be used.

He added that if the Board considers using the excess funds that would otherwise be rolled into the General Reserve at the end of a fiscal year, the impacts that would have on the agency's reserves should be identified. There is a risk trade-off if the reserves are dragged down and there is less margin for future uncertainties. He cautioned against drawing too quickly on the reserves. Overall, however, if BAWSCA can develop a smooth path to saving interest over a period of several years, he agrees that it is a fiscally responsible consideration.

Director Wood reminded the Committee that Mr. Ritchie's report at the November Board meeting indicated a substantial water rate increases in the future. At the same time, she supports BAWSCA's further investigation of the feasibilities of the options discussed so the Board can make an informed and responsible decision.

Director Kuta referred to Option 3 and BAWSCA's ability to set up a trust, in which the interest is used to finance the owed money for the UAL. He asked what flexibility does BAWSCA have with the balance of such a trust. Are the funds accessible to BAWSCA for withdrawal and use for other purposes?

Ms. Tang explained that the pre-funding trusts are irrevocable IRS Section 115 trusts. Funds not used for pension purposes are not accessible to BAWSCA for other purposes. She noted that the same restrictions apply with CalPERS. If, for example, BAWSCA chooses to fully fund the UAL at once, and interest rates go up from 7% to 8%, BAWSCA will be overfunding the UAL and the excess is not refundable to BAWSCA. However, it can be used to fund the normal cost of the other part of the liability.

With no further comments, Committee Chair Chambers thanked members of the Committee for their feedback and recommendations.

Ms. Sandkulla stated that staff will follow the Committee's direction to analyze the financial impact of paying off BAWSCA's UAL under alternative approaches and the potential funding source of additional contributions.

7. Reports:

- A. Water Supply and Demand Update: Ms. Sandkulla noted that the State board has modified their reporting timelines and with that, BAWSCA's analysis of the monthly data has been delayed. She presented the total water use for the month of September which shows that water demand is rebounding slightly from the recent drought. Water use in September 2020 is 9% less than the high before the drought (2013), and higher than the low drought period (2015). Even with the pandemic, the majority of the member agencies are experiencing increasing use in the residential customer base. Commercial and Industrial use remain low.

BAWSCA is closely monitoring the current water use trend as the Winter season progresses under continuing dry conditions. She has asked SFPUC Assistant General Manager, Steve Ritchie, to present a broader water supply status report to the Board at its January meeting.

- B. Bay-Delta Plan/FERC Update: Ms. Sandkulla reported that the SFPUC Bay-Delta Plan Workshop held on November 30th did not have the expected panel presentation by the SFPUC on the science behind the Tuolumne River Voluntary Agreement (TRVA) in response to the comments and information presented by the environmental advocacy groups that support of the Bay-Delta Plan. Ms. Sandkulla stated that she understands that the SFPUC's presentation on the TRVA has been postponed to another workshop in early 2021. The date has not been announced yet, but will be provided to the Board as soon as it is released.

Because the workshop did not provide a balanced presentation between the environmental advocates on the Bay-Delta Plan and SFPUC's TRVA, it has created some questions about the science behind the TRVA, and the facts associated with the TRVA.

To provide the Committee with some facts, Ms. Sandkulla presented responses to six concerns raised and eight recent comments on the TRVA that have been expressed in general, during public comments, as well as in conversations she has had.

The first concern is that **the TRVA does not include enhanced stream flow**. Ms. Sandkulla stated that the TRVA provides increased flows on the Tuolumne River in all water year types over current average requirements. It will provide enhanced Tuolumne River flows resulting in 24,000-110,000 acre-feet of greater flows above current average requirements.

Habitat enhancement is being advanced instead of flows in the TRVA. The TRVA habitat enhancements are designed to work in concert with additional flows. It is based on and framed around adaptive management that includes the ongoing implementation and evaluation of flow and non-flow measures to achieve the objective and targets.

The TRVA is based on inadequate science and flawed governance. The TRVA is built on best available science and decades of monitoring, data collection and multiple Tuolumne River-specific scientific studies. These studies were primarily done in coordination with the Federal Energy Regulatory Commission (FERC) in advance of the FERC studies required as part of FERC's Environmental Impact Study (EIS). Additionally, a new Tuolumne River Partnership Advisory Committee has been proposed and will be formed to guide the implementation of the Lower Tuolumne River Habitat Improvements described in the TRVA.

A review performed by a National Marine Fisheries Services (NMFS) consultant of the fishery models that support the TRVA proves that the scientific basis of the TRVA is inadequate to evaluate long-term fish management on the river. Ms. Sandkulla stated that the models reviewed by the NMFS consultant were not designed to be a tool for long-term fishery management for conservation purposes, but were developed and approved by FERC as part of the FERC re-licensing study plan for the purpose of evaluating the relative changes to in-river fish populations resulting from possible license conditions. It is meant to be a tool for FERC to use in evaluating different options on the river, built at the direction and design of FERC through a public process.

State and federal funding will be required to implement the TRVA. The TRVA proposes \$83M in capital funding and \$44.5M in annual Operation and Maintenance (O&M) funding that will be paid for by the irrigation districts, SFPUC, and BAWSCA member agencies who depend on that water supply. It does not depend on state or federal grants, loans, taxes or fees.

The TRVA development process lacked sufficient public input. The TRVA is the result of close collaboration and good faith discussions among the three public agency partners (TID, MID, SFPUC) and numerous stakeholders through the FERC integrated licensing process. The Stakeholders include federal, state and local agencies; scientists; and environmental stewards, including stakeholders engaged in pre-scoping, scoping, development of technical tools, and the completion and publication of a final EIS by FERC. BAWSCA, specifically Ms. Sandkulla, was fully engaged in those efforts since 2000 under BAWSCA's predecessor agency,

BAWUA. BAWSCA continues to be engaged through Ms. Sandkulla's and BAWSCA's staff and technical consultants.

In addition to concerns raised on the TRVA, Ms. Sandkulla noted eight comments on the TRVA that are worth going over with the Committee.

The first comment is that **BAWSCA and SFPUC's demand estimates are flawed and too high.** BAWSCA's demand studies are highly detailed, follow best practices, and result in future water demand projections suitable for water supply planning purposes. While no projections are exactly right, BAWSCA's demand studies are as detailed as it can possibly be, and go beyond the best practices.

SFPUC's design drought is too long and overly conservative. The SFPUC's design drought is appropriately based on actual historical conditions coupled with the addition of an acceptable level of caution for what the future may hold, including climate change and potential for more severe droughts and extreme weather conditions.

The population projections estimated for the BAWSCA service area are too high, including the projected housing need. BAWSCA relies on projected population figures from the Association of Bay Area Governments (ABAG) and locally adopted land use plans, both of which are highly detailed, based on sound science, and reflect a comprehensive public engagement process.

BAWSCA member agencies and their customers can readily reduce water use during drought as required by the Bay-Delta Plan. As shown in the graph presented during the water supply and demand update, BAWSCA member agencies responded strongly during the 2015 drought, but the level of rationing required under the Bay-Delta Plan will reach 50% or greater, creating severe hardships beyond what any resident has experienced before, and which cannot be borne by the residential sector only.

BAWSCA's constituents do not support the TRVA. Business communities including key community groups such as Silicon Valley Leadership Group (SVLG) have expressed support for the TRVA.

There will be no economic impact on the Bay Area during a drought if the Bay-Delta Plan is implemented. An extensive economic analysis was prepared by the SFPUC and relied upon during a recently completed FERC Don Pedro Final EIS review, and results indicate severe economic impacts due to the high level of rationing that would be required.

BAWSCA Staff and BAWSCA Board Members have no understanding of the TRVA or its components. BAWSCA has been actively engaged in the TRVA development, its technical review, and is knowledgeable of its scientific basis, content, impacts and implementation. Additionally, the BAWSCA Board has been and continues to be well-informed on the TRVA through briefings by SFPUC and BAWSCA staff as critical information become available.

BAWSCA has not provided opportunities for the public to discuss the Bay-Delta Plan and the TRVA in an open forum/workshop. The Bay-Delta Plan has

been included as a regular item on the BAWSCA Board agenda since 2018, during which time the opportunity for public comment is provided. At the September 19, 2019 BAWSCA Board meeting, the Bay-Delta Plan was included as a special report with presentations given by the Tuolumne River Trust, SFPUC and BAWSCA.

BAWSCA and its member agencies continue to support the Bay-Delta Plan objectives, and are committed to working with other stakeholders to protect water quality in the Bay-Delta for humans, fish and other wildlife. Governor Newsom's leadership is critical to the resolution of this issue. BAWSCA believes that the voluntary agreement will enable the region to move forward, and it will continue its focus on the efforts including having the State Water Board perform an environmental evaluation of the TRVA.

- C. **FY 2021-21 Work Plan and Operating Budget Preparation:** Ms. Sandkulla reported that BAWSCA's budget process for FY 2021-22 has begun with an assessment of long-term critical issues and major challenges. This allows us to view the timeline of actions, and becomes the basis for identifying the critical results that need to be achieved in the upcoming and subsequent fiscal years. The January Board meeting will include a budget planning session in which long-term critical issues and major challenges will be presented. Input from the Board will inform the draft work plan that will be presented to the Committee in February, and to the Board in March. The Committee will then be presented with the proposed work plan and operating budget in April, for a final discussion before it is presented to the Board for adoption in May.

Director Jordan appreciated the CEO's report of the facts and responses to the concerns and comments on the TRVA. He suggested having SFPUC present the science behind the TRVA to the BAWSCA Board at a future meeting.

Ms. Sandkulla will work with the Chair in including that item on a future agenda. She noted that the SFPUC plans on having additional workshops, one of which will be in January and will include SFPUC's response to the environmental advocates' presentation.

Director Wood echoed Director Jordan's comments and values the staff efforts to keep the BAWSCA Board well-informed of the critical issues.

8. **Closed Session:** The Committee adjourned to Closed Session at 3:27pm.
9. **Reconvene to Open Session:** The Committee reconvened from Closed Session at 4:19 pm. Ms. Schutte reported that no action was taken during Closed Session.
10. **Comments by Committee Members:** There were no further comments from Committee members.
11. **Adjournment:** The meeting was adjourned at 4:20 pm. The next meeting is February 10, 2021.

Respectfully submitted,



Nicole Sandkulla, CEO/General Manager

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Attachments: 1) Attendance Roster

Bay Area Water Supply and Conservation Agency

Board Policy Committee Meeting Attendance Roster

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

✓: present

☎: Teleconference

Dec. 9, 2020 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
Negin Ashoori	Water Resources Engineer
Kyle Ramey	Water Resources Specialist
Christina Tang	Finance Manager
Lourdes Enriquez	Assistant to the CEO/General Manager
Deborah Grimes	Office 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

Public Attendees:

Leonard Ash	ACWD
Paul Sethy	ACWD
Cheryl Munoz	Hayward
Karla Daily	Palo Alto
Spreck Rosekrans	Restore Hetch Hetchy
Alison Kastama	SFPUC
Peter Drekmeier	Tuolumne River Trust
Dave Warner	Self
Carol Steinfeld	Self