

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY**

**BOARD POLICY COMMITTEE**

**April 12, 2023 – 1:30 p.m.**

**MINUTES**

1. **Call to Order:** Committee Chair, Karen Hardy, called the meeting to order at 1:30 pm. Acting CEO/General Manager, Tom Francis called the roll. Ten (10) members were present. A list of Committee members who were present (10) and other attendees is attached.

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

2. **Comments by Committee Chair:** Chair Hardy welcomed the Committee members and attendees. She announced that because all Committee members are physically present and no members are participating via teleconference, the meeting will be conducted in an in-person format and no roll-call vote is necessary.

3. **Consent Calendar:** There were no public comments.

**Director Pierce made a motion, seconded by Director Vella, that the Committee approve the Minutes of the February 8, 2023 Board Policy Committee meeting.**

**The motion passed unanimously by a show of hands.**

4. **Public Comments:** There were no public comments.

5. **Action Calendar:**

- A. Proposed Fiscal Year 2023-24 Work Plan, Results to be Achieved, and Operating Budget: Acting CEO/General Manager, Tom Francis and Finance Manager Christina Tang presented the item.

Mr. Francis noted that the proposed work plan, results to be achieved and operating budget is developed around BAWSCA's goal of ensuring a reliable supply of high-quality water at a fair price. The work plan and operating budget addresses the critical issues between now and 2060 as presented and discussed with the Board at its meeting in March. Those key issues include managing the Water Supply Agreement (WSA) with San Francisco to protect the member agencies' financial and water supply interests, administering the bonds, oversight of SFPUC's WSIP, 10-Year CIP and Asset Management Plan, participation in the Bay Delta Plan and FERC proceedings, scoping of BAWSCA's Strategy 2045, negotiation of an update to the Tier 2 Plan, preparing a drought summary report at the conclusion of the 2019-2023 drought, implementation of conservation programs and preparation of a staff-led plan to address BAWSCA's long-term policy and operational resiliency.

Mr. Francis noted that while the proposed operating budget is the same as what was presented to the Board in March, modifications to the funding options were made to reflect feedback received from the Board.

Ms. Tang reported that the proposed operating budget of \$4,814,667 is 2%, or \$64K above the approved FY 2022-23 Budget. 53.4% of the budget is applied to efforts on reliable water supply. 11.6% is applied to efforts on fair pricing, which includes administration of the financial aspects of the WSA as well as bond related work.

The proposed budget fully funds the annual OPEB expenses and includes a budget allowance for up to a 5% adjustment to existing salaries for both COLA and merit-based income.

The proposed budget represents an approximate \$0.03 increase in annual cost per person in the service area, or an estimated cost to the water customers of \$2.59 per person for FY 2023-24.

Ms. Tang noted that the primary source of funding for BAWSCA's budget are the assessments on member agencies. When considering how to fund the operating budget, BAWSCA has historically used its four principles:

1. Budget sufficient resources to achieve the desired Work Plan results.
2. Spend only what is needed to achieve the results.
3. Apply incremental and prudent increases in assessments as necessary.
4. Maintain a prudent General Reserve balance within Board guidelines.

At this time, it is assumed that there are no surplus funds to carry over from FY 2022-23 for budgeting purposes. However, BAWSCA anticipates that the FY 2022-23 budget will be 90-95% expended. Any unspent funds to be determined by the auditor later this year will be rolled in the General Reserve which is currently at the lower end of the guideline.

As a reminder, Ms. Tang stated that the Board approved a 25% increase in assessments for FY 2022-23 to fully fund the Operating Budget and bring the General Reserve to the lower end of the budgetary guideline. BAWSCA's adopted FY 2022-23 Operating Budget is \$4,720,885 and the FY 2022-23 Assessments was \$4,838,897.

Ms. Tang presented a table analysis of three funding options based on feedback received from the Board in March. In addition to Option 1, which is a 0% increase to assessments and which some members of the Board expressed preference to, a 1% and 2% increase were added as Options #2 and #3. All options provide a General Reserve balance that is within the budgetary guidelines of between 20% - 35%.

Ms. Tang stated that staff recommends Option 1 because it meets BAWSCA's four funding principles. Option 1 funds the proposed operating budget through assessments while maintaining a prudent General Reserve balance that meets BAWSCA's budgetary guidelines.

In response to Director Scheider's question, Mr. Francis stated that the budget includes sufficient funding for both core and subscription conservation programs to cover significant number of outreach efforts including instructional workshops.

Director Doerr expressed her support for efforts to address BAWSCA's long-term policy and operational resilience under work plan item #11D, but was curious about why a \$20K budget for external support is needed since 1) the effort seems to be a normal evaluation process for any organization, and 2) CEO Sandkulla's direct experience with the agency should enable her to do that evaluation with the team.

Additionally, Director Doerr asked how the professional services on water resources analysis and planning services is adding to BAWSCA's in-house water resources team.

Mr. Francis explained that the \$20K for work plan item #11d is for the legal support needed in reviewing and developing the processes and policies for BAWSCA's long-term operational resilience. Hanson Bridget, LLP is a legal consultant in which BAWSCA relies on for all of the agency's legal matters.

As for the professional services on water resources analysis and planning services, Mr. Francis explained that consultants are hired to provide specialized services to augment BAWSCA's internal staff. An example is Hazen & Sawyer, which is a consulting firm that has personnel with specific and expanded knowledge in specialized software that helped build BAWSCA's hydrologic modeling system. BAWSCA uses consultant services for their expertise and they serve as an extension to BAWSCA's staff in order to get the work done.

Director Doerr asked if there are plans to build capacity in-house by adding more personnel.

Mr. Francis stated that additional staffing can be considered if there is an appropriate need and benefit that BAWSCA and the member agencies can gain from and if the additional staff is deemed appropriate based on long-term budgetary considerations that would need to be factored in.

In response to Director Cormack, Ms. Tang stated that staff's preliminary funding options presented to the Board in March included Option 2 as 3% and Option 3 as 5% in addition to Option 1 as 0%. Options 2 and 3 were modified to reflect 2% and 3% based on feedback received from the Board in March.

Director Cormack noted that she would be inclined to recommend a 1% or 2% increase if there was any anticipation that the budget in the coming fiscal years will increase significantly, and if so an increase over time would follow a more gradual curve. She would also recommend an increase if staff foresee activities in the near or mid-term horizon that could potentially need additional funding, for example the efforts on Tier 2. Otherwise, a 0% increase is adequate.

Ms. Tang stated the staff is not aware of any need for a budget increase in the near or mid-term horizon. Staff anticipates the current budget to be 90-95% expended at year end and any surplus funds will be rolled over to the General Reserve, which can provide the funding for unexpected expenses if needed.

Director Smegal asked how the agency came to need a 25% increase in assessments last fiscal year.

Mr. Francis explained that the agency used available alternative funding sources, including the General Reserve and Balancing Account, to fund the budget in prior years. The 25% increase in FY 2022-23 brought the General Reserve within the budgetary guidelines. Overall, the operating budget year to year did not change.

Director Cormack added that it is worth noting that during COVID, the Board voted to intentionally freeze assessments given that the situation presented a lot of unknowns for the agencies. There was a slight increase in the budget for hiring one water resources staff, but in addition to COVID, there was also the drought. The Board authorized the use of the variety of alternative funding sources available, and understood that those sources will need to be replenished to where they should be when the time came.

Director Smegal noted the inflation and with respect to staff compensation and consultant fees, one can anticipate budget pressure in future years if inflation continues. He asked if the General Reserve is in an interest-bearing account.

Ms. Tang stated that the general reserve funds are deposited in LAIF and are providing interest earnings from the funds.

Director Pierce commented that while it is not BAWSCA's obligation, she is pleased to see an annual review of SFPUC's unfunded pension and OPEB liabilities included in the work plan as it can significantly impact BAWSCA's finances. It is important to provide context on how big a risk it is and how big a dollar amount it is to BAWSCA, considering all the risks that; while BAWSCA is not in control of, BAWSCA is juggling to protect the interests of the member agencies.

Director Chambers supported a 0% increase in assessments given that San Francisco's rates are going up this year. Those rates have not increased in the past several years. Additionally, San Francisco's wholesale water rate projections anticipate no rate increases in FY2024-25, which presents the opportunity for BAWSCA to consider assessment increases to replenish the general reserve if needed and if appropriate. He asked when the Water Management Charge to fund the Strategy 2045 efforts is expected to be implemented.

Mr. Francis estimates the Water Management Charge implementation in mid to late FY 2023-24. He hopes for the scoping of the work needed to develop Strategy 2045 to be completed by the end of FY 2023-24 so that a cost for Strategy 2045 can be determined to inform the implementation of the Water Management Charge.

In response to Director Zigterman, Mr. Francis stated that the bills currently going through the legislative process regarding water right curtailments are being reviewed by Legal Counsel as part of the work they are doing for BAWSCA. He also noted that 2/3rds of the cost that member agencies pay San Francisco includes legislative efforts on the wholesale customers' behalf. BAWSCA will work with Legal and Strategic counsel in monitoring the bills, and keep the Board apprised of critical developments.

As a follow up to Director Smegal's question about the 25% increase in assessments in FY 2022-23, Director Larsson noted that there was a 24% assessment increase seven years ago following a range of 0% to 5% increases in the previous fiscal

years. While there were good reasons not to increase assessments in the intervening time, and with what seems to be a historical desire by the Board to minimize assessment increases as much as possible year to year, its effects can accumulate overtime and can result in a significant increase in some instances, as experienced twice in FY 2015-16 and FY 2022-23. For these reasons, he is cautious about a 0% increase for the coming year, but given San Francisco's projected wholesale water rate increase in FY 2023-24, he can understand the recommendation and support for Option 1. However, he would prefer to get away from the habit of having minimal increases because it can lead to a sharp increase as a result.

In response to Director Smegal's question on what percentage is the budget compared to the overall bill the SFPUC charges the wholesale customers, Ms. Tang stated that the annual wholesale revenue requirement, which is the amount the SFPUC collects from the member agencies annually is over \$300M.

With San Francisco's Alternative Water Supply (AWS) Plan which includes direct and indirect potable water reuse projects in the Peninsula, San Jose/Santa Clara service area, and ACWD service area, Director Cormack asked where in the work plan and budget does BAWSCA consider efforts to push and encourage, from a policy level with the State, such projects as an alternative source of supplies. She encouraged staff to reflect on whether there is something more that BAWSCA can do at a policy level.

Director Schneider reported that the City of Millbrae met with WIFIA regarding its local recycled water project and pointed out that 1) the project, when implemented, will not reduce water purchases from San Francisco, but instead cover the population growth that RHNA is requiring cities to do, 2) Millbrae is receiving support from local legislators, 3) it will have a budget impact of \$31-32 M, and 4) it will not go online in less than 8 years. Millbrae, however, is moving forward.

In response to Director Doerr's inquiry about the last merit increase for the CEO/General Manager and the allocation included in the budget, Mr. Francis stated that the Board considers this under the CEO Performance Evaluation that happens annually under closed session.

Director Pierce added that the line item for staff and CEO/General Manager compensation adjustments is not an expenditure, but an allocation that is rolled back in the General Reserve if and when it is not used.

**Director Schneider made a motion, seconded by Director Smegal, that the Board Policy Committee recommend approval of the:**

- 1. Proposed Fiscal Year 2023-24 Work Plan and Results to be Achieved;**
- 2. Proposed Operating Budget of \$4,814,667; and**
- 3. Proposed funding plan of 0% assessment increase (\$4,838,897) to fund the Operating Budget.**

**The motion passed unanimously by a show of hands.**

- B. Authorization of Professional Services Contract to Support the Scoping of BAWSCA's Long-Term Reliable Water Supply Strategy 2045: Acting CEO/General Manager, Tom Francis, reported that Strategy 2045 is the effort to update BAWSCA's Long-Term Reliable Water Supply Strategy (Strategy) that was initiated in 2009 and completed in 2015. It has been eight (8) years since, and BAWSCA is seeking professional services to support BAWSCA's effort in scoping the work needed to develop Strategy 2045.

The approach is to have a 2-Phase process. Phase 1 will identify the scope of work for developing Strategy 2045. Phase 1 includes four specific tasks; Document Review, Stakeholder Engagement, Meetings and Technical support, and preparation of the Scope for Strategy 2045.

Document review will entail an analysis of existing relevant studies and projects that have been done by agencies in the BAWSCA region, as well as in the State and possibly nationwide. The consultant will conduct internal stakeholder engagement with member agencies by soliciting feedback through meetings and regular communications, as well as providing technical knowledge and expertise through analytical presentations and reports. Ultimately, the consultant's work product will be a written report of the scope of work for Phase 2, which is developing Strategy 2045. The written report will be a part of the RFP for Professional Services BAWSCA will seek to support the efforts for Phase 2.

The existing Strategy has served as a roadmap for BAWSCA's annual water supply efforts since 2015, including consideration of the Los Vaqueros Expansion Project, regional desal projects, and engaging in regional planning. Developing Strategy 2045 will include consideration of other factors, such as new regulatory requirements that have an impact on water supply reliability.

BAWSCA issued an RFP on February 21, 2023 for submittals on March 24<sup>th</sup>. The RFPs were sent directly to eleven Bay Area consultants accustomed to this level of effort and posted on the BAWSCA website. With Legal Counsel's assistance, the RFP was developed to provide BAWSCA the flexibility to allow the Consultant selected for Phase 1 to be able to be considered for Phase 2.

One proposal was received, which was submitted by a team of two firms that chose to work together. The firms that did not submit proposals indicated that their existing work with the SFPUC presented a conflict of interest. Others stated that their qualified staff are currently committed to other projects.

A total of \$65K was allocated for the scoping work that would span across FY 2022-23 and FY 2023-24. The current FY 2022-23 operating budget includes an allocation of \$30K, and the proposed FY 2023-24 budget includes \$35K, providing the funding anticipated for the professional services support needed.

Mr. Francis reported that the proposal received had a cost estimate of \$211,200 and includes optional tasks which BAWSCA may or may not view as valuable to the member agencies.

A review panel, consisting of BAWSCA staff, two member agency staff, and an external agency representative, is currently scoring the proposal based on qualifications and experience of key personnel, understanding of the project and approach, ability to meet the timeline, and the overall value provided to the member agencies. The review will be completed in mid-April and followed by a consultant interview. Based on the panel review, BAWSCA will negotiate with the consultant to address scope and cost concerns. Agreement execution is contingent upon approval by the Board.

BAWSCA's negotiations with the consultant will include a review of areas where cost reduction is possible and a thorough evaluation of whether the optional tasks and additional costs are warranted.

No changes to the proposed FY 2023-24 budget are recommended at this time. A funding proposal would be provided to the Board for its consideration once negotiations have been completed with the consultant.

The recommendation is for the Board Policy Committee recommend the Board authorize the CEO/General Manager to negotiate and execute a contract with the selected consultant, subject to legal counsel's final review, to support the scoping for BAWSCA's Long-Term Reliable Water Supply Strategy 2045.

Discussions ensued on the clarity of the work effort and the recommended action for the Board.

In response to Director Zigterman, Mr. Francis stated that the intent of developing Strategy 2045 is to determine what BAWSCA and its member agencies need to do moving forward to meet its goal of ensuring that the region continues to have reliable supply of high-quality water at a fair price by evaluating potential options; whether that may be developing supplies to augment San Francisco's supplies, or perhaps supporting the planning of projects member agencies proposes independently to develop their own local regional supplies.

Director Zigterman suspected that the gap between the budgeted amount and the cost estimated in the proposal may be due to the vague expectations from the consultant. He questioned whether the consultants are supposed to do engineering analyses or political analyses, and thought that perhaps the Committee should evaluate the water supply options through a work session. Mr. Zigterman felt that the work was more of a "role" question than a "technical" question that needed to be identified through discussions between staff, board and legal, instead of a consultant's analyses.

Mr. Francis agreed with Director Zigterman's comments that what is going to be part of Strategy 2045 is not defined, yet. He explained that this contract, within which a consultant will assist BAWSCA in developing the scope of work to develop Strategy 2045, will include engagement with the Board and member agency representatives as Director Zigterman suggested was needed.

Director Pierce referenced the 2009 Strategy which created a bucket of options for both the staff and the Board to consider as part of its annual results to achieve. Because of various factors in the water resources industry, some of those options

proved to be necessary for the region and were executed, and some were not. But out of that list came all of the efforts the agency has undertaken, and lessons learned. Much of the scoping work for the 2009 Strategy were done with the technical staff of the member agencies instead of with the Board at the policy level.

Additionally, she noted that while receiving one proposal may be concerning, she is encouraged knowing that two firms banded together instead of competed, and by the fact that firms would have submitted if they didn't have conflicting commitments with the SFPUC. Assuming that the review panel's evaluation of the consultants and their proposal is solid, she felt that the recommendation can be amended to ensure the consultant selected is suitable for the task and budget.

Director Doerr stated that approval of the recommendation without seeing the proposal is difficult to do. She agreed with Director Zigterman's comments about the "role" question and expressed interest in a study session where the Board can have conversation about the hopes for what the agency's role can be in the future.

Mr. Francis supported the amendment of the recommendation with the assistance of legal counsel and to the BPC's agreement. Mr. Francis re-iterated that study sessions or discussions, incorporated as agenda items in future BPC meetings, are an element of what the agreement with the consultant includes. Those discussions would be used to help prepare the scope of work for the development of Strategy 2045.

In response to Director Cormack, Mr. Francis stated that the proposal came from EKI and Hazen & Sawyer. Both are existing consultants of BAWSCA for its roundtable efforts and development of the reliability hydrologic model. They are consultants that BAWSCA is familiar with and who are well-acquainted with the member agencies.

Mr. Francis explained that under the state of California regulations, a firm hired to prepare a scope of work is not allowed to do the follow up work activity. The RFP was written to provide BAWSCA the flexibility to consider the Consultant selected for Phase 1 to be considered for Phase 2 because BAWSCA wanted a highly qualified consulting firm to help develop the scope of work for Strategy 2045. This contracting approach allows BAWSCA the option to continue with the firm that helped prepare the scope of work, or to issue an RFP, for the development of Strategy 2045.

Director Cormack concurred with the idea of a study session. She felt uncomfortable about the level of specificity in the recommendation. She would not vote for something without sufficient and identified budget sources, and she would be unwilling to authorize execution of a contract without seeing the source of funding.

She would approve a recommendation that omits "execution", and includes the negotiation of a contract, identifies a source of funds, and a study session.

In response to Director Larsson's question about information that would be available by the May Board meeting, Mr. Francis stated that the Board will be presented with the details of the consultant's proposal including their cost of services.

Director Larsson commented that the Strategy was developed over a period of 6 years. While staff refers to the Strategy regularly, Board members do not go through



it at the same level that staff does, and may not even realize what elements of BAWSCA's annual work plan come out of the Strategy. The Board composition has changed over the past 7-8 years, and a refresher on what has come out of the strategy in terms of BAWSCA's and the member agencies' growth and development would be helpful in understanding what the Board can expect for Strategy 2045. Additionally, he noted that the 2009 Strategy was "long-in-the-tooth" already, and It is important to update the Strategy because a lot has changed in the intervening years. He emphasized that it would be beneficial for the board to be reminded of what is in the Strategy and how it has informed a lot of BAWSCA's efforts.

Since the existing Strategy can be used as a framework for scoping the work to develop Strategy 2045, Director Larsson asked if there are critical changes to that framework anticipated.

Mr. Francis stated that having the support of the consultant for scoping the work to develop Strategy 2045 will allow BAWSCA to answer that question. The scoping work will look at the 2009 Strategy to determine what efforts remain valid and which are no longer relevant. That process, which can be in the form of a member agency workshop, will entail the engagement of the member agencies' staff for the technical perspective. Presentations to the Board for their input will add to that perspective.

Director Larsson noted that SFPUC's Alternative Water Supply Plan, the State's "Making Conservation a California Way of Life" legislation, and other developing elements are critical work that should be included in the new strategy. The scoping work in which the consultant is being sought will conduct the analyses to clarify the elements for Strategy 2045.

Director Zigterman suggested a workshop or for staff to meet directly with committee members to have further discussion. Then come back to the BPC in June with further information and consensus about what this effort is and an identified mission and directive to the consultant. He felt the recommendation is premature.

Director Smegal commented that the responding consultants seems technical and asked if they are the right consultants to address the political and organization questions about BAWSCA's future role.

Mr. Francis noted that the consultants have the necessary experience in working with similar projects and are qualified to do the work in water resource planning.

In response to Director Cormack's question, Legal Counsel, Nicole Witt, explained that the CEO does not need board authorization to negotiate a contract. The RFP generally includes the authority to negotiate, and that is part of the process in which the CEO/GM can negotiate the best value to BAWSCA and work on the key terms of the agreement during the solicitation process.

Director Cormack proposed to conduct further review, as Director Zigterman suggested, and come back to the committee in June to have a recommendation to the Board, or, amend the recommendation, which she would make a motion, for the Committee to recommend that the Board authorize the CEO/GM to:

1. Negotiate a contract with the selected consultant, subject to legal counsel's final review,
2. Identify a source of funds,
3. Consider scheduling a Board workshop to understand the components of current Strategy and gather input on the components of the future Strategy

to support the scoping for BAWSCA's Long-Term Reliable Water Supply Strategy 2045.

Director Cormack noted that while the CEO/GM already has the authority to negotiate without Board authorization, inclusion of that in the amendment is cleaner and alerts the Board that the process has occurred. If there is additional information that is brought to the Board in May, the Board action can include "and execute" should there be sufficient information provided to the board.

Director Zigterman seconded the motion.

Public Comments were provided by Steve Jordan from Purissima Hills Water District.

Legal Counsel noted that the study session would follow the traditional Brown Act requirements that applies to regular meetings, and could be a part of regular meeting.

Director Larsson shared an observation that the update to the 2009 Strategy is an effort that has been a part of BAWSCA's work plan. It is not a new item, but it seems that the solicitation for professional services brings it closer to reality. There has been other situations where contract negotiations have not been fully complete and where the BPC has had to make a recommendation to the Board without having all the details of the agreement. He supports the direction of the motion as it provides the Board with enough detail to make an informed decision. He suggested changing the word workshop as it may present some challenges with Board member schedules and securing available space. It may be more realistic to have an extended report and discussion at regularly scheduled meetings.

Director Cormack made a friendly amendment to the motion, with the seconder's concurrence to add "or study session" so that the motion is:

**That the Board Policy Committee recommend the Board to authorize the CEO/General Manager to:**

- 1. Negotiate a contract with the selected consultant, subject to legal counsel's final review,**
- 2. Identify a source of funds,**
- 3. Consider scheduling a Board workshop or study session to understand the components of the current Strategy and gather input on the components of the future Strategy to support the scoping for BAWSCA's Long-Term Reliable Water Supply Strategy 2045.**

Legal counsel confirmed that the motion provides additional context for staff to bring the budgetary information and additional details at the May Board meeting for the

Board's consideration, to authorize, if determined appropriate, the execution of a contract with a selected consultant to support the scoping for BAWSCA's Long-Term Reliable Water Supply Strategy 2045.

**The motion passed unanimously by a show of hands.**

- C. Proposed Modifications to BAWSCA's Investment Policy to Ensure Safety of Bank Deposits Over \$250,000: BAWSCA Finance Manager, Christina Tang reported that the proposed modifications to BAWSCA's investment policy is being brought to the BPC as result of staff review of the policy following the recent banking crisis. The last review occurred in November 2022 and no changes were recommended.

The current policy applies to all BAWSCA funds and investment activities and requires that:

- Funds not invested in the Local Agency Investment Fund (LAIF) to be deposited only in State or Federal savings associations with offices in California that meet the requirements and conditions of the California Government Code,
- The maximum amount of funds deposited with any bank or savings association shall be \$250,000
- It specifies permitted investments for bond funds held at the Trustee.

BAWSCA reviewed the agency's circumstances, California Government Code and Government Finance Officers Association (GFOA) best management practices, consulted with its investment advisor, and queried member agencies about their banking practices. Based on the evaluation and the feedback received, BAWSCA recommends that the Investment Policy be modified:

- To require all bank deposits over the FDIC limit be collateralized in accordance with the Government Code, and
- To eliminate the bank deposits limit of \$250,000

The modification is to safeguard bank deposits over \$250,000 and to manage fluctuating account balance more effectively. Legal counsel has confirmed that the proposed modified investment policy reflects language consistent with the State law.

Ms. Tang stated that collateralization safeguards public fund deposits, and further explained that collateralization is a process of securing a loan or bank deposit with an eligible asset, for example the securities, which is referred to as collateral. If the bank defaults on the deposits, the account owner may seize and sell the securities to offset its loss. There are no out-of-pocket costs to the agency. The bank will pay for all the costs associated with the collateralization, which may result in a reduced interest rate for the account. Given the current interest rates for the checking accounts, the cost to the agency is minimal to none.

The California Government Code Sections 53630-53687 govern the reporting and collateralization of local agency deposits. It specifies the types of securities that may be used as collateral, and requires a minimum collateral amount as a % of total deposits. For example, if the bank uses US Treasury Securities, the market value of the collateral has to be at least 110% of total deposits. If they use first mortgages,

the market value has to be at least 150% of the total deposits. The California Government Code also mandates weekly and quarterly reporting by the depository institutions.

Based on the GFOA recommendations, BAWSCA will secure a collateralization agreement as an extra layer of security to the agency's deposits. In the event of a bank failure, FDIC will honor the collateralization agreement. In addition, every year, BAWSCA will verify that deposits are properly collateralized and provide a report to the Board.

The packet includes a redlined version of the investment policy showing the proposed modifications to the policy. Specifically, Ms. Tang referred to Section 6A, Permitted Investments and Depositories, the added term is to require collateralization on all deposits over the FDIC limit. It is not referring to the current limit of \$250,000 in case that amount changes in the future.

Under Section 6B, Other Limitations, the proposed removal of the sentences is to eliminate the bank deposit limit of \$250,000 due to the mentioned reasons.

Lastly, the addition of Section 9, Annual Review of Investment Policy codifies the CEO/General Manager to annually submit a Statement of Investment Policy to the Board, and that the agency will annually verify that deposits are properly collateralized.

Director Hardy was pleased that Christina's research informed the agency of its option, as a public agency, for collateralization.

In response to Director Cormack, Ms. Tang reported that BAWSCA's current bank does not offer collateralization, but BAWSCA is in the process of setting up a new account with a different bank that offers this option to public fund accounts.

**Director Smegal made a motion, seconded by Director Cormack, that the Board Policy Committee recommend Board approval of the proposed modifications to the current Statement of Investment Policy by requiring the bank deposits in excess of the FDIC limit to be collateralized with securities in accordance with State law and to eliminate the maximum deposit of \$250,000.**

Public comments were provided by Steve Jordan, Purissima Hills Water District and BAWSCA Board Member, speaking as a member of the public.

**The motion passed unanimously by a show of hands.**

**6. Reports and Discussion Item:**

- A. Discussion of Board Member Compensation:** Legal Counsel, Nicole Witt reminded the Committee the legal framework of BAWSCA's Board compensation. Under its enabling legislation, BAWSCA is authorized to compensate Board members up to \$100 per day for each day's attendance at meetings of the Board, not to exceed four meetings in any calendar month.

Under the same statute, BAWSCA is authorized to avail itself to another statutory scheme under the Water Code to increase that amount above \$100 and to increase the compensable days of service;

- by no more than 5% for each year following the date of the last adjustment, and
- to no more than 10 days in a calendar month.

Currently, BAWSCA Board members are compensated at a rate of \$100 per day of service, for up to four days of service per month. That amount has not changed since 2003.

Staff is looking for the Committee's input on the approach for considering whether or not to adjust compensation for Board members. As a starting point, Ms. Witt presented data gathered from eight (8) similarly situated comparator agencies; Coastside County Water District, Mid-Peninsula Water District, North Coast County Water District, Westborough Water District, Purissima Hills Water District, Alameda County Water District, Contra Costa Water District, Santa Clara Valley Water District. The data falls in line with each other, in that BAWSCA's current Board compensation is similar to the agencies reviewed. She noted that SFPUC, which is not on the list of 8, compensates Commissioners \$100 per month, regardless of the specific number of days of service.

In the discussions by the Committee at its February meeting, what has been proposed as a way to approach the consideration of whether to adjust Board compensation is to 1) consider how compensation accommodates all of the different costs that a Board member might incur in serving, and how those impacts are felt by the board members, and 2) whether the 4 days of service really captures the number of days that the Board is working on BAWSCA's behalf in a month. The guardrails that the Committee is being mindful of is if the current level of compensation is inadequate, it may be a barrier to entry. On the other hand, if the compensation is too high, then it is arguably not fiscally prudent. Legal counsel prepared a set of survey questions designed to gather information that address those considerations.

The committee is asked to provide input on the comparator agency information and on the draft survey questions.

Key points of Committee member comments include:

- Maximum amount of increase based on the 5% per year is \$167 or \$200 if legally allowed to be compounded
- Considerations about how the composition of the BAWSCA Board can become more inclusive and ensure that the BAWSCA Board membership can be accessible is a good direction, but an increase in compensation is not where barriers to entry exist.
  - Timing of meetings in mid-day of a work week can be difficult for some;
  - Setting demographic goals and tracking diversity within the BAWSCA board are steps that help BAWSCA develop strategies for Diversity, Equity and Inclusion.

- Board members serve for the purpose of BAWSCA's goals, and not for the compensation.
- Compensation is a token of appreciation for the service provided.
- Be mindful that BAWSCA's action can set precedence.
- Gut-reaction to the comparator agency analysis provided is to remain within the same level as the other agencies.
- The 4-day per month is sufficient as BAWSCA Board only meets 6x/year. Only the BPC members meet 12/year.
- Current members of the Board are self-selected. Perhaps the survey should ask:
  - How self-selected are the member agencies that are not water districts
  - Survey questions are more fitting for members who did not chose to serve.
- Costs incurred, e.g., childcare, travel expense, lost wages:
  - Good inclusion as a survey question
  - Can be considered as reimbursable expense
  - Administrative costs for processing reimbursements can outweigh the resulting compensation.
  - Perhaps a flat-rate increase can minimize the administrative cost and cover the expenses incurred.
- Survey Questions can be helpful for:
  - Identifying the agencies that experience difficulty in finding someone to serve on BAWSCA
  - Consideration of the timing for the BPC and the Board meeting; Daytime versus Nighttime
  - Initiating a demographic tracking for efforts on DEI by incorporating a demographic question.

Public comments were provided by Steve Jordan, Purissima Hills Water District and BAWSCA Board Member, speaking as a member of the public.

Given the duration of the meeting going past 2 hours and a quarter, Committee Chair Hardy opened the floor for a motion to extend the meeting.

**Director Vella made a motion, seconded by Director Chambers, that the meeting be extended to 4:15pm.**

**The motion passed unanimously by a show of hands.**

## **7. CEO Reports:**

- A. Water Supply and Demand Update: Acting CEO/General Manager Mr. Francis reported that February's potable water use in the BAWSCA region was 26% less

than recorded for February 2022 and 24% less than in 2013 which was the year before a drought period.

On March 24<sup>th</sup>, Governor Newsom issued Executive Order N-5\_23 in light of the State's improved drought conditions, but 33 provisions under the Governor's emergency drought declaration continues, including the ban on irrigation of non-functional turf in Commercial, Industrial, Institutional (CII) properties. The Governor's Executive Order directive for Stage 2 drought contingency plans to be in place have been lifted, but the State Water Resources Control Board (State Board)'s regulations requiring implementation of Stage 2 plans are still in effect until their emergency regulations expire on June 10, 2023.

The SFPUC adopted a resolution that rescinded its drought emergency declaration on April 11<sup>th</sup>, but maintains the call for an 11% voluntary systemwide water use reduction because the State Board has not acted to lift their emergency regulations. When and if the State Board lifts its drought regulations or those regulations expire, the SFPUC's requirements under the adopted resolution will automatically be lifted. The SFPUC continues to encourage wise water use in the region.

- B. Bay Delta Plan/FERC Update: On April 11<sup>th</sup>, the State Board issued a Notice of Preparation (NOP) for the development of an Environmental Document related to the Tuolumne River Voluntary agreement (TRVA), which includes a possible amendment of the Bay-Delta Plan to incorporate the TRVA. A scoping meeting is scheduled for May 18<sup>th</sup> and written comments are due by May 25<sup>th</sup>.

Voluntary Agreements (VA) discussions and the State are continuing to move forward to produce deliverables expected for Fall 2023 and Winter/Spring 2024.

BAWSCA remains engaged with SFPUC and others in support of the TRVA as an alternative to the adopted Bay Delta Plan.

- C. Correspondence Packet: Mr. Francis provided key takeaways from the reports provided in the Correspondence packet:
- FY 2021-22 Annual Survey:
    - The drought had a significant impact on the member agencies' water demand.
      - 5% lower than in FY 2020-21
      - Member agencies' total water demand from all sources is 5.8% lower than in FY 2020-21
    - Residential per capita use continues to drop which can be tied strongly to drought actions. Average residential per capita consumption is 5% less than FY 2020-21 and 48% less than the estimated peak residential per capita consumption in 1975-76.
    - No significant changes were observed regarding water use distribution by source, or by customer class.
    - Population slightly increased in the BAWSCA service area from FY 2020-21.

- Water Supply Reliability Roundtable:
  - Roundtable meetings were an effective means of engaging NGO's, county agencies, and business groups to learn about the significant interests in developing local smaller projects to increase supply diversity and resiliency in the BAWSCA service area. A challenge for agencies in developing local water projects is finding and securing the funding needed. There is interest in having BAWSCA continue to facilitate the Roundtable Series.
- Bay Area Regional Reliability (BARR) Shared Water Access Program (SWAP)
  - Together, Bay Area water agencies can enhance water supply reliability and leverage existing infrastructure investments by facilitating water transfers during critical shortages.
  - BARR SWAP can bridge institutional and physical barriers, enable efficient sharing of water resources particularly in emergency conditions, and share lessons learned from past efforts and from exploring new ones.
  - BARR SWAP aligns and supports other relevant regional and local planning efforts and policies, including long-term water supply planning on a regional scale.

In response to Director Cormack, Mr. Francis stated that the SFPUC's drought campaign has been stopped, but messaging will continue to encourage the wise use of water.

In response to Director Smegal, Mr. Francis noted that the State Board is expected to let their drought regulation expire on June 10<sup>th</sup>.

Public comments were provided by Anwar Mirza of East Palo Alto.

8. **Closed Session:** The Committee adjourned to Closed Session at 4:16 pm.
9. **Report from Closed Session:** The Committee reconvened to Open Session at 4:24pm. Ms. Witt reported that no reportable action was taken during Closed Session.
10. **Comments by Committee Members:** There were no comments from members of the Committee.
11. **Adjournment:** The meeting was adjourned at 4:24 pm. The next meeting is June 14, 2023 in Sequoia Room of Burlingame Community Center.

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. 12, 2023	Feb. 8, 2023	Dec. 14, 2022	Oct. 12, 2022	Aug. 10, 2022	Jun. 8, 2022
Santa Clara	Hardy, Karen (C)	✓	✓	✓	✓		✓
MPWD	Vella, Lou (VC)	✓		n/a	n/a		n/a
Westborough	Chambers, Tom	✓	✓	✓	✓		✓
Palo Alto	Cormack, Alison	✓	✓	✓	✓		✓
Menlo Park	Doerr, Maria	✓		n/a	n/a		n/a
Sunnyvale	Larsson, Gustav	✓	✓	✓	✓		✓
Redwood City	Pierce, Barbara	✓	✓		✓		✓
Millbrae	Schneider, Ann	✓	✓	n/a	n/a		n/a
CalWater	Smegal, Tom	✓	✓	n/a	n/a		n/a
Stanford	Zigterman, Tom	✓			✓		✓

✓: present

☎ : Teleconference

### April 12, 2023 Meeting Attendance (*In-Person*)

#### BAWSCA Staff:

Tom Francis	Acting CEO/General Manager
Christina Tang	Finance Manager
Kyle Ramey	Water Resources Specialist
Danielle McPherson	Sr. Water Resources Specialist
Lourdes Enriquez	Asst. to the CEO/General Manager
Deborah Grimes	Office Manager

Nicole Witt  
Nathan Metcalf  
Mark Creger

Legal Counsel, Hanson Bridgett  
Legal Counsel, Hanson Bridgett  
Public Trust Advisors

#### Public Attendees:

Anwar Mirza	East Palo Alto
Steve Jordan	Purissima Hills Water District
Alison Kastama	SFPUC