

**COUNCIL DATE: May 24, 2011****SUBJECT: Appointments of a Director to the Bay Area Water Supply and Conservation Agency and the San Francisco Regional Water System Financing Authority to Serve Four Year Terms: July 2011 – June 2015****REPORT IN BRIEF**

The City of Sunnyvale appoints a director to the Bay Area Water Supply and Conservation Agency (BAWSCA), and to the San Francisco Regional Water System Financing Authority (the Authority), each for four year terms. The term of the current appointee expires June 30, 2011, and City Council is being asked to appoint the next director(s) to represent the City (Attachment A). In the past, Council has appointed a council member to be the director to represent the Sunnyvale service area with the expectation that the appointee would step down if his/her term should end prior to July 2015. This is not a requirement, and anyone appointed cannot be required to step down. Councilmember Ron Swegles, current appointee to both director seats, has expressed a willingness to continue in those positions.

BACKGROUND

The Bay Area Water Supply and Conservation Agency (BAWSCA) is an independent agency that was created in 2003 pursuant to AB 2058. Sunnyvale was one of the agencies that took part in creating BAWSCA, and appoints one director to the BAWSCA Board of Directors. The San Francisco Regional Water System Financing Authority (the Authority) was created in 2002 by the State legislature to assist in funding the San Francisco regional water improvements. The Council last made these appointments in February 2007 that will now expire June 30, 2011. Generally these two positions are held by the same person.

The appointee to BAWSCA and the Authority need not be a council member, and is not recallable by the City once appointed. When previous appointments were made, there was discussion that the only requirements to be appointed to the board are that the appointee be a registered voter residing within the boundaries of the member public entity whose governing board appoints him or her. There are good reasons to suggest that the appointee be a City councilmember. Most, but not all, of the other directors are elected officials (Attachment B – List of current BOD for both agencies). The issues before BAWSCA and the Authority are often of a policy nature. Other agencies have appointed council members, mayors, former council members, former mayors,

agency directors or CEOs, and one public works director. The Director from the California Water Service Company service area is an officer of the company, appointed by the San Mateo County Board of Supervisors. The representative of the Stanford University service area is a Stanford employee appointed by the Santa Clara County Board of Supervisors. Some directors have removed themselves when they left their respective governing boards, but that has been a voluntary action. Some have stayed on and were reappointed even after leaving office.

Though there are two boards requiring appointment, in fact the work of the two is closely related, and the service areas overlap. The BAWSCA Board of Directors currently meets bimonthly, on Thursday evenings (the third Thursday of January, March, May, July, September, and November).

The Authority meets only once or twice per year. When held, Authority meetings occur on the same nights as BAWSCA meetings. All cities and water districts have appointed the same individual to serve on both boards of directors.

Some of the important issues that have been addressed by BAWSCA over the past four years include:

1. Completion in 2009, of a new wholesale water purchase agreement with the City and County of San Francisco;
2. Ongoing monitoring of the progress of projects for the San Francisco regional water system;
3. Ongoing sponsorship of water conservation programs, and coordination of water conservation efforts to meet state requirements;
4. Ongoing seismic safety concerns, regional and local;
5. Water quality questions from constituents, including a joint staff level committee on water quality issues;
6. Analysis of annual water rates.
7. Development of long-term water reliability, including development of sources outside San Francisco.

EXISTING POLICY

In general, intergovernmental appointments are expected to adhere to adopted policy 7.3C.1 “Represent adopted City policy in intergovernmental activities,” from the Legislative Management Sub-element of the Sunnyvale General Plan.

The State Water Code Division 31 describes the Bay Area Water Supply and Conservation Agency (BAWSCA), and Division 31.7 describes the San Francisco Bay Area Regional Water System Financing Authority (the Authority). The Water Code provides for appointment of directors, states that the appointees

may (emphasis added) be a member of the local governing body, and that being on both bodies (BAWSCA/Authority, and the local governing body) shall not be considered incompatible. Directors “may vote on contracts or other matters involving the member public entity he or she represents.” Appointments are for four (4) years, and are to be filled by the appointing agency within 90 days of becoming vacant.

FISCAL IMPACT

This action does not have any fiscal impact. The City pays assessments to BAWSCA as a member, and wholesale water charges to San Francisco. These functions are unaffected by this action.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center, and Department of Public Safety; posting the agenda and report on the City’s Web site; and making the report available at the Library and the Office of the City Clerk.

ALTERNATIVES

1. Appoint a member of the City Council to serve as a director of both the Bay Area Water Supply and Conservation Agency (BAWSCA), and the San Francisco Regional Water System Financing Authority (Authority).
2. Appoint a non-Council member resident of the community to serve as a director of both the Bay Area Water Supply and Conservation Agency (BAWSCA), and the San Francisco Regional Water System Financing Authority (Authority), and establish a schedule of semi-annual briefing memoranda on BAWSCA and Authority issues, to be provided by the appointee or staff.
3. Make separate appointments of different qualifying individuals to serve, one as a director for the Bay Area Water Supply and Conservation Agency (BAWSCA), and one as a director for the San Francisco Regional Water System Financing Authority (Authority), and establish a schedule of semi-annual briefing memoranda on BAWSCA and Authority issues, to be provided by the appointees or staff.

RECOMMENDATION

Staff has no recommendation other than the same person be appointed to the two boards, and that a schedule of briefing, or update, meetings or memoranda be established to allow Council to be kept informed of important regional water issues.

Reviewed by:

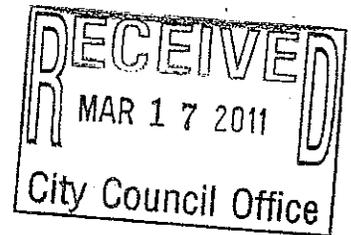
Marvin A. Rose, Director, Department of Public Works
Prepared by: James G. Craig, Field Services Superintendent

Approved by:

Gary L. Luebbers
City Manager

Attachments

- A. Letter dated March 16, 2011 from BAWSCA Requesting Director Appointment to the Board of Directors
- B. Roster of Current BAWSCA Board of Directors



March 16, 2011

The Hon. Melinda Hamilton, Mayor
 City of Sunnyvale
 456 West Olive Avenue
 Sunnyvale, CA 94089

Subject: Appointment of a Director to the Boards of the Bay Area Water Supply & Conservation Agency and the Bay Area Regional Water System Financing Authority

Dear Mayor Hamilton,

The four-year term of council member Ron Swegles on the board of directors of the Bay Area Water Supply & Conservation Agency (BAWSCA) will end on June 30, 2011, as will his term on the Bay Area Regional Water System Financing Authority (RFA).

The enabling acts for both agencies allow the City to reappoint its director for an unlimited number of terms or to appoint a new director at the end of each term. The appointment will be for a four-year term. Hence, whoever is appointed will serve through June 2015.

The enabling acts for both agencies require that a vacancy on their boards be filled no later than 90 days from the date the vacancy occurs. As applied, the statutes require action by your Council no later than September 30, 2011. However, we encourage your agency to make the appointments before June 30, effective July 1, so that a quorum of both boards can be ensured and so that your agency is continuously represented.

The statutory qualifications for appointment to either board are modest:

- The appointee must be a resident of, and a registered voter in, the City.
- He or she may, but need not, be a member of your City Council.

The mechanics of the appointment process are also simple:

- The appointments must be made at a public meeting of the City Council and be properly agendaized.
- The appointments must be made by action of the full City Council, rather than by unilateral action of the Mayor.
- The appointments do not need to be memorialized in a resolution; a motion duly passed and recorded in the minutes of the meeting is sufficient.
- A copy of the record of the council actions making the appointment should be sent to BAWSCA. BAWSCA will administer the Oath of Office prior to the appointee's first meeting as a member of the BAWSCA and RFA Boards.

The two questions most frequently asked about an appointment are:

- Should the appointee be an elected member of the appointing agency's governing board?
- Should the same person be appointed to the boards of both agencies?

Both of these are matters of policy left entirely to the discretion of your council. I offer the following observations, based on BAWSCA's experience over the past seven years, for whatever use they may be.

- The great majority of cities and districts which are participants in BAWSCA and the RFA did select a member of their city council or governing board to serve on the BAWSCA and RFA boards.

One advantage of appointing a currently serving or former elected member of your council to the board is the stature that his or her presence gives BAWSCA in its dealings with San Francisco, regulatory agencies and legislators. Another is the familiarity and experience he or she already has in addressing policy matters for the City. The governing body of each individual agency is, of course, in the best position to evaluate these, and other relevant considerations.

- With very few exceptions, cities and districts have appointed the same individual to both the BAWSCA and RFA boards.

Appointing one person to represent the City on both boards offers an advantage because, although the two agencies have distinct roles, they are closely related. The familiarity with the issues gained through service on one board will be useful in participating on the other. Additionally, having the same person appointed to both boards assures greater continuity in presenting your agency's perspective.

I hope you find this information helpful. I may be reached at (650) 349-3000 if you have any questions.

Sincerely,



Arthur R. Jensen
Chief Executive Officer

cc: Mr. Ron Swegles, BAWSCA Director
Mr. Gary Luebbbers, City Manager

ATTACHMENT B

The Bay Area Water Supply and Conservation Agency is governed by a 26-member Board of Directors comprised of respected community leaders representing the 24 cities and water districts that are member agencies of BAWSCA, and two private utilities that also have appointees to the board, Stanford University and California Water Service Company.

In June 2004, The Board Policy Committee (BPC) was formed to carry the functions of advising the General Manager and Board on matters of policy. Its composition fully reflects that of the board.

The Board of Directors includes the following members (* current BPC member):

Robert Anderson*	Purissima Hills Water District
Ruben Abrica*	East Palo Alto
Randy Breault*	Guadalupe Valley Municipal Improvement District
Cyril Bologoff	City of Brisbane
Thomas Chambers	Westborough Water District
Ken Coverdell	Coastside County Water District
Kelly Fergusson	City of Menlo Park
Michael Guingona	City of Daly City
Rob Guzzetta*	California Water Service Company
Armando Gomez	City of Milpitas
Tom Kasten	Town of Hillsborough
Larry Klein*	City of Palo Alto
Marty Laporte	Stanford University
Patricia Mahan	City of Santa Clara
Irene O'Connell (Vice-Chair)	City of San Bruno
Rosalie O'Mahony	City of Burlingame
Matt Pear	City of Mountain View
Barbara Pierce (Chair)	City of Redwood City
Tom Piccolotti*	North Coast County Water District
Dan Quigg	City of Millbrae
Bill Quirk*	City of Hayward
Chuck Reed	City of San Jose
Chris Reynolds	Skyline County Water District
Ron Swegles	City of Sunnyvale
Louis Vella	Mid-Peninsula Water District
John H. Weed	Alameda County Water District
Rick Wykoff	Estero Municipal Improvement District