

REPORT

8.B-1

To the Honorable City Council
From Mayor Ira

January 24, 2005

Subject

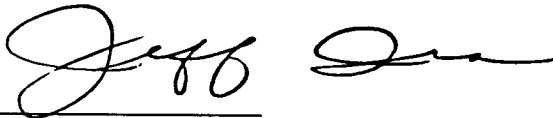
Appointment of a Director to the Board of Bay Area Water Supply & Conservation Agency (BAWSCA) and the San Francisco Bay Area Regional System Financing Authority (RFA) to fill the Board Vacancies created by Ira Ruskin's Election to the State Assembly.

Recommendation

By motion, appoint a Director to the Board of the Bay Area Water Regional Supply & Conservation Agency (BAWSCA) and the San Francisco Bay Area Regional Water Financing Authority (RFA) to fulfill the remaining unexpired terms through June 30, 2005.

Background

On January 27, 2003 City Council took actions to set a public hearing on whether to form and become a member of BAWSCA and appointed Council Member Ira Ruskin to the office of Director of the RFA pursuant to SB 1870. On March 10, 2003 the public hearing was held; Council adopted Resolution 14515 declaring findings regarding formation of and membership in the BAWSCA and appointed Council Member Ruskin to Director of the Board of BAWSCA. Terms of office for both vacant Director positions run through June 30, 2005. Thereafter, the City Council will make appointments to both boards for four year terms, commencing July 1, 2005.



Jeff Ira
Mayor

Attachments

December 9, 2004 Letter from BAWSCA General Manager
March 10, 2003 Staff Report, Minute Order and Resolution 14515
The BAWSCA 10 Strategic Challenges

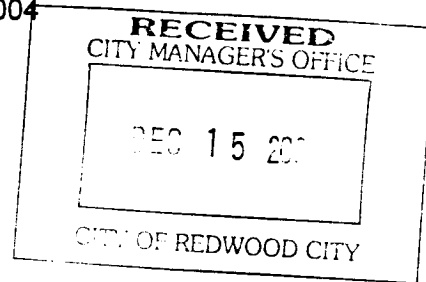
8.B-2

BAWSCA

Bay Area Water Supply & Conservation Agency

December 9, 2004

The Hon. Jeff Ira, Mayor
City of Redwood City
1017 Middlefield Road
Redwood City, CA 94063



Subject: Re-appointment of a Director to the Board of Bay Area Water Supply & Conservation Agency (BAWSCA) and the San Francisco Bay Area Regional System Financing Authority

Dear Mayor Ira,

We received a copy of Ira Ruskin's letter of resignation from the Bay Area Water Supply and Conservation Agency (BAWSCA) and the San Francisco Bay Area Regional Water System Financing Authority (RFA), effective December 3, 2004. This resignation creates a vacancy on both the BAWSCA and the RFA boards of directors.

The enabling acts for both agencies provide that a vacancy on the board shall be filled by the respective appointing authority no later than 90 days from the date of the occurrence of the vacancy, which in this case is March 3, 2005. (Water Code Section 81338; Section 81631.) Because Mr. Ruskin's terms run through June 30, 2005, the appointments you will make will be only for the balance of his initial term. Thereafter, you will make appointments to both boards for four years, commencing July 1, 2005.

The mechanics of the appointment process are listed below:

- ◆ The appointments need to be made at a public meeting of your city council and properly agendized.
- ◆ The appointments must be made by action of the city council, rather than by unilateral action of the Mayor.
- ◆ The action need not be memorialized in a resolution; a motion duly passed and recorded in the minutes of the meeting is sufficient. However, it is preferable for the appointment to be made and evidenced by a resolution, a sample of which is enclosed for your convenience.

The qualifications for appointment to either board are as follows:

- ◆ The appointee must merely be a resident of, and registered voter in, your city.
- ◆ He or she may, but need not, be a member of your city council.

REPORT

To the Honorable Mayor and City Council
From the City Manager

March 10, 2003

Subject

Public Hearing: Formation and membership in the Bay Area Water Supply and Conservation Agency

Recommendation

By Resolution, declare findings regarding formation and membership in the Bay Area Water Supply and Conservation Agency pursuant to the requirements of AB 2058

Background

Pursuant to AB 2058, on January 27, 2003 the City Council passed Resolution No. 14495 setting the public hearing time (March 10, 2003) and place (City Hall – Council Chamber) on whether to form, and become a member of, the Bay Area Water Supply & Conservation Agency (BAWSCA) and directed the City Clerk to arrange for publication of the resolution on or before 2/22/2003. AB 2058 went into effect January 1, 2003, and authorizes the formation of BAWSCA. The new law requires that all public agency members of the Bay Area Water Users Association (BAWUA) conduct a public hearing on the question of whether to form and become a member of the Bay Area Water Supply and Conservation Agency (BAWSCA).

Also on January 27, 2003, the Council, pursuant to SB 1870, appointed Council member Ira Ruskin to the office of Director of the San Francisco Bay Area Regional Water System Financing Authority, established pursuant to California Water Code Section 81600 et seq. for the term determined as provided in Water Code Section 81631(b). SB 1870 went into effect January 1, 2003, and creates the San Francisco Bay Area Regional Water System Financing Authority. The new law requires that all affected public agencies' city councils or boards of directors appoint a duly elected member to the office of Director of the Financing Authority by March 1, 2003. The appointment of Council member Ruskin by the City Council fulfills that requirement for Redwood City.

These two new entities empower the 29 wholesale customers of the San Francisco Hetch Hetchy regional water system to coordinate local water responsibilities and to provide an equitable share of the funding to help San Francisco fix the regional water system. They also provide powerful vehicles to strengthen our bargaining position with the city of San Francisco to protect the health, safety and economic interests of our residents and businesses. It is expected that BAWUA will morph into BAWSCA and that its members will continue to work together to advance their mutual interests in the regional water system operated by San Francisco.

8.B-4

The Collective Benefits from Establishing BAWSCA

AB 2058 empowers the public agencies that now depend on the San Francisco regional system to create their own water agency. The fundamental purpose of the new agency is to help ensure the health, safety, and well-being of residents and businesses through delivery of safe and reliable water to its members' communities.

During the legislative process, the members of BAWUA demonstrated strong support for AB 2058, the bill that enabled the formation of this new agency. This strong regional consensus was critical to the success of the legislation, and many local elected officials have expressed enthusiasm for BAWSCA being formed and getting to work.

The Historical Concerns and Current Problems

Redwood City has historically had no formal voice in forming the policies or deciding if, when or how to invest ratepayer's money – public funds – to ensure the best regional solutions to their water supply and reliability issues. The San Francisco Public Utilities Commission (SFPUC) is not directly accountable to Redwood City in the same manner as are locally or regionally elected leaders, public officials and the officers of regulated utilities. Some of the consequences of this institutional arrangement are:

- The Hetch Hetchy regional water system has deteriorated to the point that it is no longer reliable. Facilities broken during a major earthquake, such as the recent ones in Alaska and Mexico, could leave homes and places of employment without water for weeks to months.
- The State shares these concerns. The State Division of Safety of Dams has ordered the SFPUC to drain two-thirds of the water from behind Calaveras Dam, east of Milpitas, because of concerns that it could fail in an earthquake. And the legislature overwhelmingly supported AB 1823, to ensure the system is rebuilt.
- The system has not kept pace with demand. There has been no increase in water supply capability for nearly 40 years. The consequences of this inaction include exposure of the Bay Area to extreme water rationing in predictable dry year cycles, and inability to meet increases in normal years' water demand associated with the modest, but continuous, growth in population and jobs contemplated by the general plans of cities in the service area.

While the new agency will not provide any BAWUA agency a direct voice in the SFPUC's decisions, it would enable the Redwood City Council, with BAWSCA colleagues, to address community and regional needs. As a governmental entity, most likely led by elected officials, BAWSCA can be expected to exert far more influence than BAWUA.

How BAWSCA Can Help

Section 81301(d) explains the Legislature's purpose in enabling the formation of BAWSCA:

It is the intent of the Legislature to enable local governments responsible for water distribution in the three counties to establish a multi-county agency authorized to plan for and acquire supplemental water supplies, to encourage water conservation and use of recycled water on a regional basis, and to assist in the financing of essential repairs and improvements to the San Francisco regional water system, including seismic strengthening.

BAWSCA is intended to be an effective way for San Francisco's wholesale customers to act, independently if necessary, to meet their common interests. Of course, the directors of BAWSCA will determine what the new agency will actually do once it is formed.

Its statutory authority will allow them to undertake activities such as the following:

- Seek out and secure new water supplies, including dry year water transfers.
- Coordinate and implement strategies for water conservation and the use of recycled water among member agencies, to avoid long-term water shortages.
- Prepare financing plans, and associated financing agreements with San Francisco, to build the projects needed to ensure reliable water supply and delivery.
- Monitor progress on the SFPUC's multi-billion dollar capital improvement program, adherence to agreements, and compliance with the various duties and deadlines established by AB 1823.
- Provide a strong organization for water agencies in Alameda, San Mateo and Santa Clara Counties to negotiate effectively with San Francisco on a new supply contract and other water issues important to their customers, such as rationing during droughts.
- Assist general purpose agencies, such as cities and counties, in planning to cope with the community impact of an extended water outage following an earthquake.
- Represent its members' interests in the Legislature and before regulatory agencies, such as the California Department of Health Services, on regional issues not otherwise handled by the League of Cities or the Association of California Water Agencies.

The Benefits to Individual Agencies from Becoming Members of BAWSCA

The principal advantage of joining BAWSCA is that Redwood City will have a voice in the actions that BAWSCA does or does not take. As described above, these actions are potentially important both regionally and for individual agencies.

Other benefits that have been identified include:

- If all eligible agencies participate, BAWSCA will be the largest public water agency in northern California. Membership in it will enhance each agency's influence beyond what it could accomplish acting on its own.
- The board of BAWSCA will have the authority to provide priority service to its members, and to consider differential pricing of services to members and non-members.
- If an agency does not join in the first round as a charter member, there is no guarantee that it will be admitted later.

With regard to the appointment of a director to the board of BAWSCA, AB 1058 requires that appointments be made not later than 60 days after the Secretary of State has certified that BAWSCA has been formally established. Assuming current progress by BAWUA agencies, certification may occur as early as April 2003, such that appointments to the BAWSCA board could be made in May/June of 2003.

8. B-6

- The appointment is to be made at a regular public meeting of the City Council, which has been properly agendized
- The appointment must be made by action of the entire City Council
- The appointment is for a 2 or 4 year term, to be determined by lot at a later date
- The action need not be memorialized in a resolution; a motion duly passed and recorded in the meeting minutes is sufficient

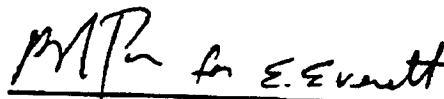
Alternative

The City Council of Redwood City could decline to declare affirmative findings regarding formation of and membership in BAWSCA. This is not recommended.

Fiscal Impact

No direct fiscal impact to Redwood City will occur immediately. The *Settlement Agreement and Master Water Sales Contract between the City and County of San Francisco and certain Suburban Purchasers* effective May 25, 1984 delineates the financial terms and conditions in which the SFPUC recovers approximately 2/3 of all capitalized system improvements costs via the wholesale water rates paid by BAWUA agencies. As a result of this existing instrument and/or use of the two new entities, future water rates for all water users will increase. Staff estimates that the cost of wholesale water for Redwood City will increase an estimated 250% in the next 10-15 years, as deferred repairs are made to the Hetch Hetchy regional water system.


Peter Ingram
Director, Public Works Services


Ed Everett
City Manager

Attachments

1. Resolution
2. January 27, 2003 Minute Order 03-23
3. Fact Sheet for Assembly Bill 2058 as passed by Legislature on Aug. 30, 2002
4. Fact Sheet for Senate Bill 1870 as passed by Legislature on Aug. 30, 2002

8.B-7

MINUTE ORDER
CITY COUNCIL MEETING

March 10, 2003
MO. 03-63

CITY CLERK DEPARTMENT
Redwood City

DATE: March 11, 2003

Attention: City Attorney
Public Works Dept.

**SUBJECT: Formation and Membership in the Bay Area Water Supply
and Conservation Agency, pursuant to the requirements
of AB 2058**

AGENDA ITEM: 8. A

Meeting of the Council of the City of Redwood City on March 10, 2003.

Present: Council Member Hartnett, Howard, Jordan, Pierce, Ruskin, Vice Mayor Ira
and Mayor Claire

Absent: None

The following motion was made, carried and entered on the Minutes:

M/S Hartnett/Pierce ADOPT RESOLUTION 14515, DECLARATION OF
FINDINGS REGARDING FORMATION OF AND MEMBERSHIP IN THE BAY
AREA WATER SUPPLY AND CONSERVATION AGENCY

M/S Jordan/Hartnett Appoint Council Member Ira Ruskin to Director of the Board
of BAWSCA.

The motion passed by a unanimous roll call vote by all those present.

Patricia S. Howe (Dale)

Patricia S. Howe
City Clerk

8.B.8

03/10/03

O R I G I N A L
RESOLUTION NO. 14515

CITY OF REDWOOD CITY

**DECLARATION OF FINDINGS REGARDING FORMATION OF AND
MEMBERSHIP IN THE BAY AREA WATER SUPPLY AND
CONSERVATION AGENCY**

WHEREAS, the California Legislature in enacting AB 2058 (Statutes 2002, Chapter 844), declared its intent to enable local governments responsible for water distribution in Alameda, San Mateo and Santa Clara Counties that rely on the regional water system operated by the City and County of San Francisco to establish a multi-county agency authorized to plan for and acquire supplemental water supplies, to encourage water conservation and use of recycled water on a regional basis, and to assist in the financing of essential repairs and improvements to the San Francisco regional water system, including seismic strengthening; and

WHEREAS, the City Council of Redwood City has held a noticed public hearing on the question of whether to form, and become a member of, the Bay Area Water Supply and Conservation Agency, authorized by AB 2058; and

WHEREAS, the City Council finds that the need for coordinated planning and implementation of strategies for water supply, water conservation, water recycling, and repair and improvement of the San Francisco regional water system warrants the formation of such an agency.

8.B.9

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
REDWOOD CITY AS FOLLOWS:**

1. It is the intention of Redwood City to participate in the formation of the Bay Area Water Supply and Conservation Agency ("Agency") and to be a member of such Agency once it has been formed.

2. The City Clerk is directed to forward a certificate copy of this resolution to the Board of Supervisors of San Mateo County no later than 10 days after the date of this resolution.

* * *

8-B-10

Passed and adopted by the Council of the City of Redwood City at a Regular Meeting thereof held on the 10th day of March, 2003 by the following votes:

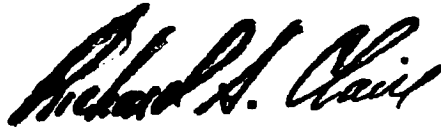
AYES, and in favor of the passage and adoption of the foregoing resolution,

Council members: Hartnett, Howard, Ira, Jordan, Pierce,
Ruskin and Claire

NOES: None

ABSTAIN: None

ABSENT: None



RICHARD S. CLAIRE
Mayor of the City of Redwood City

Attest:



Patricia Howe
City Clerk of Redwood City

I hereby approve the foregoing
resolution this 11th day of March, 2003.



RICHARD S. CLAIRE
Mayor of the City of Redwood City

The Bay Area Water Supply and Conservation Agency

10 Strategic Challenges

At its meeting on June 19, 2003, the BAWSCA board of directors directed its staff to pursue 10 strategic challenges facing the organization.

1. The regional water system must be rebuilt adequately, cost effectively and promptly. BAWSCA can help by closely monitoring full implementation of AB 1823 and completion of San Francisco's capital improvement program.

The decisions made by San Francisco as it rebuilds the system can affect the time and cost required to fix the system, water supplies, drought reliability and other issues.

BAWSCA participates in project planning to ensure that projects for fixing the system address members' needs, and provide thrifty solutions to the problems.

Permitting and CEQA documents for regional projects should reflect local input and decisions on land use planning, water demand projections and water management. BAWSCA has helped define the process being used, and facilitate communication between San Francisco and BAWSCA agencies.

This work with San Francisco will necessarily continue for the 10- to 15-year duration of San Francisco's Capital Improvement Program.

2. The \$2.9+ billion cost for improvements to the regional water system should be fairly allocated between San Francisco retail and wholesale customers.

The basic cost allocation principles embedded in the 1984 Master Contract expire in 2009. The majority of the debt used to fund regional system improvements will be incurred after 2009. Repayment obligations will extend for decades.

Approximately two-thirds of the \$2.9 billion in cost is for regional projects, which will be allocated to and paid for by the wholesale customers (BAWSCA agencies).

Before planning and design go too far, written agreement(s) stating how costs will be allocated should be negotiated and executed. The new provisions can be incorporated into joint financing agreements, within a new Master Contract or into other legally binding agreements. BAWSCA can negotiate these provisions on behalf of its agencies.

3. Future water needs for Alameda, San Mateo and Santa Clara customers must be met reliably.

8. B-12

AB 1823 contains two key requirements: (1) the Hetch Hetchy system is operated to produce water as a first priority, with electric power as a byproduct, and (2) following an earthquake or other major disaster, the regional system should be operated to deliver water throughout the service area, without regard to political boundaries, to the extent feasible. These provisions are critically important for the existing 1.7 million people and businesses. A commitment to provide these operational protections to the water customers in the region should continue even after AB 1823 sunsets in 2010.

As the regional water system is rebuilt, capacity could be added to make the system more reliable and provide water for planned growth that cannot be met through conservation, recycling, desalination or other cost-effective solutions.

The capital improvement program is designed to rebuild the system, but its implementation may not address the region's future needs. A cooperative working relationship exists with San Francisco, but there is no written commitment that San Francisco will help meet future water needs. An agreement should be pursued so BAWSCA agencies know what to expect for their participation and investment.

4. Customers in the three counties must receive adequate water supplies during droughts.

Since 1988, the service area population has increased over 15 percent. Water demands have only now returned to pre-drought levels, largely due to conservation measures. Water supply curtailments due to drought would have a greater impact today than during the drought of the late 1980s and early 1990s.

Although SFPUC resolutions in 1988 and 2000 recognized the need to negotiate and execute dry-year water contracts to lessen the impacts of drought, no additional supplies have as yet been secured.

In fact, available supplies have decreased. Under an order from the State of California, San Francisco reduced the operating storage of its largest Bay Area reservoir (Calaveras) to one-third of its capacity. The state determined that the dam could collapse during an earthquake due to irregularities during construction.

AB 1823 requires San Francisco to submit an annual report on progress made in acquiring drought supplies. The initial report in February 2003 noted no new supplies had yet been secured. In the event that San Francisco makes unsatisfactory progress, BAWSCA should consider whether to acquire supplies for use during droughts and to negotiate agreements with San Francisco to wheel the water to its agencies through the Hetch Hetchy system. AB 1823 provides that existing water wheeling statutes apply to the San Francisco system.

BAWSCA administers these water shortage agreements. When water must be rationed, agreements with San Francisco and between BAWSCA agencies ensure that the agencies are not penalized for conservation, recycling and other actions.

5. Communities should be prepared to cope with long term water outages.

Until the regional water system is rebuilt, communities face the possibility of long term water outages following a major earthquake or other disaster. Plans for restoring water supplies from the regional system are being prepared in compliance with provisions of AB 1823. BAWSCA coordinated its agencies' involvement in this process.

While the water systems are being repaired following a disaster, the lack of water for as long as 60 days will seriously threaten health, safety, employment and the economy.

BAWSCA should see that communities, offices of emergency services and other relevant parties develop crisis management plans to cope with such an event. This is a responsible action to take in the face of a recognized risk with such significant impacts. Political leadership, organizational responsibility, and potential litigation strongly indicate the need for action by BAWSCA before a human disaster occurs.

6. BAWSCA should encourage implementation of cost effective water conservation and recycling programs.

Water agencies must make maximum use of available supplies. This effort will extend the short time before the regional water system reaches capacity. Demonstrating responsible and efficient use of existing supplies is also necessary to obtain approval of project permits and secure prompt implementation of critical repairs to the water system.

BAWSCA could maintain and expand assistance in cost effective water conservation programs, and pursue programs to encourage and facilitate water recycling and groundwater conjunctive use.

Beginning in 2004, BAWSCA will administer its share of a regional conservation grant awarded by the California Department of Water Resources Office of Water Use Efficiency to help expand washing machine rebate programs.

7. Drinking water quality regulations should apply to water provided by the regional water system.

Under existing law, each BAWSCA agency must comply with state and federal drinking water quality regulations. San Francisco should continue to protect the purity of Hetch Hetchy water and commit to provide its wholesale customers with water that meets Environmental Protection Agency and state drinking water standards. San Francisco should reverse its position that drinking water standards are not applicable to the water it sells to wholesale customers.

8.B.14

One provision in AB 1823 states:

"...the State Department of Health Services shall ensure that the Bay Area regional water system is operated in compliance with the California Safe Drinking Water Act and the guidelines established by the United States Environmental Protection Agency for the purposes of administering the comparable provisions of the federal Safe Drinking Water Act." (Section 73510).

This provision will sunset when AB 1823 sunsets in 2010. BAWSCA should clarify state regulations, or secure a written commitment from San Francisco to ensure BAWSCA agencies' expectations for purchased water quality are consistent with enforceable contracts or regulations.

8. The current Master Contract with San Francisco must be properly implemented.

Wholesale water rates are currently set in accordance with the 1984 Settlement Agreement and Master Sales Water Contract (Master Contract) between San Francisco and each of the wholesale customers.

BAWSCA assumes the former role of the Bay Area Water Users Association to monitor rates and charges imposed by San Francisco and to ensure San Francisco complies with all of the provisions of the Master Contract. In the last four years, over \$7.2 million in excessive charges were identified and corrected. BAWSCA will continue to review annual contract compliance audits and submit issues to the City of San Francisco for review and correction, and for the auditor's attention.

9. A new and fair Master Contract with San Francisco must be negotiated promptly to meet a 2009 deadline.

The Master Contract expires in 2009. A new contract will need to be negotiated in a manner that represents the collective interests of wholesale customers, while respecting their individual interests.

The existing Master Contract is a "water sales contract" and primarily addresses issues of fair rates (e.g., cost allocation, accounting standards, compliance audits, dispute resolution, etc.). A "water service contract" would also specify what services are to be provided in return for fair compensation (e.g., enforceable commitments to provide for future needs, deliver water that satisfies drinking water quality regulations, and other desired services).

BAWSCA is uniquely positioned to negotiate the future contract with San Francisco.

10. Continuing support of BAWSCA's allies must be maintained to protect the health, safety and economic well being of the 1.7 million people, businesses and community organizations that depend on the regional water system.

8.B-15

BAWSCA's political, community and private support comes from those who supported AB 2058, the enabling legislation that "leveled the playing field." It was supported by an overwhelming, bipartisan majority of legislators, county supervisors, city councils and the media. It also drew support from community and business organizations, such as chambers of commerce, the Silicon Valley Manufacturing Group and labor unions.

These groups expect BAWSCA to ensure that the system gets rebuilt and that the power granted to the agency by the Legislature is wisely used. BAWSCA must stay in close touch with its allies to get their advice, ideas and continuing support. If the regional system is not rebuilt promptly and if related issues are not resolved to the satisfaction of water users in the three counties, it may be necessary to return to the Legislature.

Source: Bay Area Water Supply and Conservation Agency web site - www.bawsca.org

8.B-16