



CITY COUNCIL AGENDA REPORT

Meeting Date: September 7, 2023

From: City Manager

Subject: Bay Area Water Supply & Conservation Agency (BAWSCA) and Bay Area Regional Water System Financing Authority (RFA) Appointments

Community Goal/Result Safe Community

Purpose To appoint a representative for the City's water system to BAWSCA and RFA.

Recommendation

1. Appoint Director of Public Works Randy Breault to represent the City of Brisbane as a member of the BAWSCA and RFA Board of Directors for a four-year term (July 1, 2023 – June 30, 2027).
2. Direct the City Clerk to provide the BAWSCA office with a record of the Council's action making the appointments.

Background

The attached letter addressed to Mayor Davis identifies the issues associated with the recommended actions.

Former Councilmember Richardson (now, Ms. Wood) was appointed to represent the City of Brisbane in 2012 when Councilmember Bologoff's term on the Council ended. As Ms. Wood has sold her home in Brisbane, she no longer meets the BAWSCA requirement of being a resident of the service area. Accordingly, she has submitted her resignation from representing the City with an effective date of May 19, 2023.

Discussion

As the Council's Thursday night meeting schedule conflicts with the six annual BAWSCA meetings, appointing a Councilmember to this board is not a viable option. Public Works Director Breault has represented the Guadalupe Valley Municipal Improvement District (GVMID) on the BAWSCA board since its inception in 2003.

BAWSCA's legal counsel was asked to offer an opinion as to whether the same person can serve as BAWSCA board member for two agencies (i.e., the City of Brisbane and GVMID). In short, the response was, "We have found no legal authority prohibiting the same person from simultaneously representing both jurisdictions."

Fiscal Impact

None as a direct result of the actions recommended herein.

Measure of Success

Continued representation on the BAWSCA and RFA Boards, which strive to ensure the following three goals are met with regards to their member agencies' drinking water; a reliable supply, high quality water, and a fair price for the water.

Attachments

BAWSCA 1/26/23 letter addressed to Mayor Davis



Clayton L. Holstine
City Manager



January 26, 2023

The Hon. Madison Davis, Mayor
City of Brisbane
50 Park Place
Brisbane, CA 94005

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 Davis,

The four-year term of Sepi Wood on the board of directors of the Bay Area Water Supply & Conservation Agency (BAWSCA) will end on June 30, 2023, as will her term on the Bay Area Regional Water System Financing Authority (RFA). Action by your Council must be taken promptly.

The enabling acts for both special districts 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. While BAWSCA and RFA are special districts, they are not a Joint Powers Authority (JPA); therefore, the term and duty is independent of the appointee's home agency. Hence, whoever is appointed will have a term that ends on June 30, 2027.

The enabling acts for both special districts require that a vacancy on their boards be filled no later than 90 days from the date the vacancy occurs. However, we encourage your city to make the appointments before June 30, effective July 1, 2023, so that a quorum of both boards can be ensured.

Statutory qualifications:

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

Mechanics of the appointment process:

- 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. The oaths of office must be administered prior to the appointee's first meeting as a director on 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.

- The great majority of cities and districts which are participants in BAWSCA and the RFA do select a member of their governing body 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 the appointee 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 no exceptions, cities and districts have appointed the same individual to both the BAWSCA and RFA boards.

Appointing one person on both boards offers an advantage because, although the two special districts 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 assure greater continuity.

Please see that your council places this matter on an agenda for action by the end of June 30, 2023. I may be reached at (650) 349-3000 or nsandkulla@bawasca.org if you have any questions.

Sincerely,



Nicole Sandkulla
Chief Executive Officer/General Manager

cc via email:

Sepi Wood, BAWSCA Board Member
Randy Breault, BAWSCA Water Management Representative
Jerry Flanagan, BAWSCA Water Management Representative