



SAN FRANCISCO PUBLIC UTILITIES COMMISSION
City and County of San Francisco

London N. Breed
Mayor

REGULAR MEETING MINUTES
Tuesday, March 14, 2023
1:30 PM
(Approved March 28, 2023)

1 Dr. Carlton B. Goodlett Place
City Hall, Room 400

Commissioners

Newsha Ajami, President
Sophie Maxwell, Vice President
Tim Paulson
Tony Rivera
Kate Stacy

Dennis J. Herrera, General Manager

Donna Hood, Commission Secretary

1. Call to Order

President Ajami called the meeting to order at 1:34 pm.

2. Roll Call

Present: Ajami, Maxwell, Paulson, Rivera, and Stacy

3. Approval of the Minutes of February 28, 2023

No public comment.

On motion to approve the Minutes of February 28, 2023:

Ayes: Ajami, Maxwell, Paulson, Rivera, and Stacy

4. Report of the General Manager

a) Water Supply Conditions Update

Steve Ritchie, Assistant General Manager (AGM) Water Enterprise, reviewed (1) March 6, 2023 Reservoir Storage: Hetch Hetchy is at 360,360-acre feet of maximum storage and Water Bank is at 100% of maximum storage; (2) Other California Reservoirs: Shasta is at 83% of historical average, Oroville is at 116% of historical average, and Don Pedro is at 104% of historical average; (3) California Drought Monitor: More areas of the state are out of drought; (4) Hetch Hetchy Precipitation: Tracking to the 1983 level; (5) Upcountry 6-Station Precipitation Index (as of March 4, 2023) Year-to-date (YTD) total is at 44.16 inches; (6) Bay Area 7-Station Precipitation Index (as of March 4, 2023) YTD total is at 33.51 inches; (7) Upcountry Snowpack: 180% of normal with additional snowpack received since report published; (8) Tuolumne River Water Available to the City: 711,000 acre feet; (9) National Precipitation Forecast: Additional rain and snow is expected in the coming weeks; and (10) Total Deliveries: 149 MGD with flat demand throughout the service area.

AGM Ritchie discussed the Commission's November 2021 Declaration of a Local Water Emergency which triggered a 5% drought surcharge for retail customers. He noted the Commission's May 2022 adoption of an 11% Systemwide Water Use Reduction, consistent with the State Water Board's Emergency Regulations. He stated that at the April 11, 2023 Commission meeting staff will recommend that the Commission find that a Local Water Shortage no longer exists and that it be rescinded, and that the surcharge end. He stated the Systemwide Water Use Reduction will remain in effect consistent with the State Water Board regulations but will be removed once the State Water Board modifies its regulations.

AGM Ritchie responded to a question from Vice President (VP) Maxwell as to the condition of groundwater aquifers indicating the conditions in San Francisco are good. Brief discussion ensued.

Public Comment

- *Nicole Sandkulla, BAWSCA CEO, thanked AGM Ritchie for the report and stated she looks forward to working the SFPUC regarding the state of local water conditions.*
- *Peter Drekeimer, Policy Director, Tuolumne River Trust, stated that "problem water" should be turned into a resource. He discussed the 711,000-acre feet of Tuolumne River water available to the City, demand, and SFPUC's water rights.*

In response to a question from VP Maxwell as to the impact if one year was taken off of the Design Drought, AGM Ritchie indicated it would put the SFPUC at greater risk. He offered a reminder that the Irrigation Districts have senior water rights to the SFPUC.

b) Audited Financial Statements (Fiscal Year 2021-22)

Nancy Hom, Chief Financial Officer (CFO) and AGM Business Services, stated that on January 27, 2023 KPMG issued the Audited Financial Statement for Water, Wastewater, Hetch Hetchy Water and Power, and CleanPowerSF with (1) unmodified opinion, (2) no material misstatements in the financial statements, and (3) no internal control deficiencies observed.

CFO Hom introduced Lisa Avis, Managing Director, KPMG, LLP. Director Avis thanked the SFPUC for their cooperation during the audit, which occurred in person and virtually and included daily communication with managers. She stated there were no audit misstatements, or uncorrected or corrected misstatements, and there were no fraud or illegal acts noted during the audit. She indicated that they are independent auditors and that they issued a clean and unmodified opinion. She stated that the opinion applies only to the SFPUC, although the wording “City and County of San Francisco” is used throughout the audit.

Director Avis reviewed significant accounting policies and practices (1) Cash investments held by the City are reported as part of the City and County of San Francisco’s internal pool of investments; (2) Each department’s proportionate share of the Pension and Postemployment Benefits other than Pensions elements are based on employer contributions; (3) Water, sewage, and power service revenue charges are based on consumption and usage by customers; (4) Capital Assets with initial individual costs greater than \$5,000 and estimate useful life in excess of one year are capitalized; and (5) Lease receivables, assets and payables are reported on the Statement of Net Position (new this year).

Director Avis stated that there was no bias with Estimates and that they were fair and reasonable. The balances in financial statement were fair and accurate. She discussed Disclosures in the financial statements and stated that the Disclosures are consistent with industry practices and conform with requirements under the U.S. General Acceptable Accounting Principles. She discussed the Management’s Discussion and Analysis noting auditors performed the procedures with no exceptions noted. No material inconsistencies were identified that required revision of the other information. She reviewed standard inquiries made.

President Ajami questioned if there are any “red flags” which Director Avis responded that debt ratio and covenant requirements should be monitored but KPMG has no concerns.

No public comment.

c) Water Enterprise Capital Improvement Program (WECIP) Quarterly Report

Katie Miller, Director Water Capital Programs, stated that as of December 31, 2022 the WECIP is 32% complete with \$1,005 million expended during the quarter. She noted the WECIP cost summary by category for active projects. She reviewed new variances for the

quarter, offering reasons for the variances and indicating they are monitored for trends and patterns. She stated the variances align with the revised project budget and schedules which were approved by the Commission in February. Director Miller noted there are 25 approved Regional projects in various stages, and those with cost and schedule variances are in the planning stage. Director Miller provided updates on Regional WECIP projects including the Sunol Valley Water Treatment Plant Ozone, Sunol Long Term Improvements Watershed Center (Contract B), Harry Tracy Water Treatment Plant Filter Underdrain Replacement, and Corrosion Control.

Director Miller provided detail on the 11 Local Projects and reviewed project budget and schedule variances, again stating the variances align with the revised project budget and schedules which were approved by the Commission in February. Director Miller provided updates on Local WECIP projects including San Francisco Westside Recycled Water, College Hill Reservoir, and Emergency Firefighting Water System Pipelines.

Director Miller responded to a question from Commissioner Paulson regarding the reasons for the variances, noting trends, budget increases, and continued issues with SFPUC, consultant, and contractor staffing constraints due to COVID which negatively impact the ability to meet schedule deadlines. She discussed efforts to expend existing appropriations which may require pushing deadlines. She noted efforts being taken to ensure accountability and to meet deadlines.

President Ajami thanked Director Miller for the report. She noted the need for additional stopgap measures to help mitigate delays. She questioned the bidding process, operation and maintenance expenses, and risk. Brief discussion ensued.

Public Comment

- *Nicole Sandkulla, BAWSCA CEO, noted the significance of project scopes, schedules and cost changes. She asked that the Commission continue to pay attention to obligations to Wholesale and Retail customers.*

d) Water System Improvement Program (WSIP) Quarterly Report

Director Miller reviewed the Regional WSIP program expenditure status (as of December 31, 2022), stating \$3,717 million has been expended during the quarter. The program is 99% complete with two projects remaining. She reviewed the WSIP cost summary, noting a \$9.5 million Regional WSIP cost variance.

Director Miller provided updates for the Regional Groundwater Storage and Recovery Project and the Alameda Creek Recapture Project.

Public Comment

- *Nicole Sandkulla, BAWSCA CEO, discussed the two remaining projects and stated they need to be completed to meet water supply reliability supply level-of-service goals.*

e) Report on Recent San Francisco Public Utilities Commission Activities, Events and Announcements

GM Herrera stated the Mayor held her monthly department head meeting at the Southeast

Commission Center and that the building was met with rave reviews.

No public comment.

5. CONSENT CALENDAR

- a) Award Job Order Contract No. JOC-92, General Engineering (A License) Construction, San Joaquin, Stanislaus, and Tuolumne Counties, Hetch Hetchy, for a total contract amount not-to-exceed \$5,000,000 with a minimum guaranteed opportunity amount of \$50,000 and a duration of two years, to the responsible bidder that submitted the lowest responsive bid, Sierra Mountain Construction, Inc., to perform general engineering work in San Francisco Public Utilities Commission systems and operations around Hetch Hetchy. ([Resolution 23-0053](#))
- b) Approve a \$250,000 increase to the contract cost contingency and a 120 calendar day increase to the contract duration contingency for Contract No. WD-2871, Sunol Valley Water Treatment Plant and Chloramination Facility Aqua Ammonia Structural Repairs and Tank Replacement, with Cal State Constructors, for safe and proper cleaning and disposal of existing aqua ammonia tanks and for delays associated with the fabrication of new stainless steel tanks; and authorize the General Manager to approve future modifications to the contract for a total contract amount of up to \$2,279,883 and a total contract duration of up to 721 consecutive calendar days. ([Resolution 23-0054](#))
- c) Approve an increase of \$2,000,000 to the contract cost contingency, and an increase of 368 calendar days to the contract duration contingency for Contract No. WW-662R, Southeast Water Pollution Control Plant (SEP) Power Feed and Primary Switchgear Upgrades, with Blocka Construction, Inc., to address additional differing site conditions, design clarifications, and potential additional extended Contractor's overhead related to the continued delay in delivery of SFPUC power to SEP and the extra time anticipated for installation of the substations; and authorize the General Manager to approve future modifications to the contract for a total contract amount of up to \$35,818,620 and a total contract duration of up to 1,655 consecutive calendar days. ([Resolution 23-0055](#))
- d) Approve the terms and conditions and authorize the General Manager to execute an eight-year communications site lease to New Cingular Wireless PCS LLC, doing business as AT&T Mobility, a Delaware limited liability company, to use approximately 400 square feet of space on the third floor of Building No. 800 of the Southeast Treatment Plant and certain space on the rooftop of Building No. 800 for antenna equipment, all located at 1701 Jerrold Avenue, San Francisco, California, constituting a portion of Assessor's Block 5280, Lot 001, to operate, maintain, repair, and replace existing telecommunications facilities and related equipment at an annual rent of \$91,261.32 with four percent annual increases. ([Resolution 23-0056](#))
- e) Approve the terms and conditions and authorize the General Manager to execute an eight-year communications site lease with New Cingular Wireless PCS, LLC, doing business as AT&T Mobility, a Delaware limited liability company, to use approximately 360 square feet of SFPUC Parcel 65 in the unincorporated Town of Sunol, California to operate, maintain, repair, and replace an existing telecommunications facility and related equipment for an

annual rent of \$63,606.24, with four-percent annual increases. ([Resolution 23-0057](#))

No public comment.

On motion to approve Consent Calendar Items 5a through 5e:

Ayes: Maxwell, Paulson, Rivera, and Stacy

6. Approve a form Master License for Outdoor Distributed Antenna System Pole Installation (2023 Master License) for placement of pole-mounted wireless facilities on streetlight poles owned by the San Francisco Public Utilities Commission; and delegate authority to the General Manager to execute the 2023 Master License and Pole License agreements allowing wireless telecommunications providers to install facilities on SFPUC poles. ([Resolution 23-0058](#))

Barbara Hale, AGM Power Enterprise, summarized the requested approval action and provided a brief background of the Outdoor Distributed Antenna System Pole Installation Program which began in 2014. She discussed a 2018 Federal Communications Commission (FCC) decision which limited the amount of license fees that state and local governments could impose on telecommunications carriers for use of streetlight poles in the public right-of-way. She noted that appropriate City agencies worked together on the Master License Agreement (MLA), which is FCC compliant (rates and practices). She stated the five existing Master Licenses will remain in effect until expiration. She stated the proposed MLA modifies the permit and activity fees schedule to ensure cost recovery and will require the carriers to pay the new rates and fees for new installations.

AGM Hale mentioned that the agenda item contained an error indicating that Mobilitie was included. She clarified that there is no agreement with Mobilitie but indicated there is one with Crown Castle. She stated the item will need to go before the Board of Supervisor for approval given the terms of the MLA.

AGM Hale proposed the following amendments to the proposed Resolution:

- *13th Whereas Clause, first line, strike the word “Mayor” from the first sentence to read “Office of Economic and Workforce Development” and the letter “M” from (MOEWD) to read “OEWD”; and*
- *First Resolved Clause, second line, to strike the word “Revised” and add “2023” to read “...2023 Master License...”*

At the request of Commissioner Stacy, AGM Hale confirmed that there will be a transfer of the City’s processing costs (permitting and inspection) away from the license fee and into the permitting and application fee, and that the City retains the ability to disapprove new installations or require removal of existing installations if they interfere with provision of streetlight service.

Commissioner Rivera questioned the Radio Frequency (RF) being emitted from the antennas and asked if there will be a third party or independent assessment conducted to ensure public safety. AGM Hale indicated the contract requires that RF and electromagnetic noise reporting and noticing be conducted by an independent engineering consultant. AGM Hale responded to a follow-up question as to whether the MLA requires vendors to submit licenses and certifications, noting requirements per the Agreement with reference to Exhibit A-5.

Public Comment

- *Tim Franklin, Communication Workers of America, Local 9410, spoke to the item and provided written public comment addressing MLA Sections 7.6.2, 7.5, and Wages and Working Conditions (Schedule 1) (written comments attached).*
- *Eileen Boken expressed opposition to the MLA due the contract duration.*

Commissioner Rivera addressed the 2019 Verizon incident referenced by Mr. Franklin, indicating at the time he was a first responder to the scene which was located at Parker and Geary. He stated the on-site crew was a subcontractor that was not qualified to perform the work. He noted the resulting damage to public property and the potential personal injury. He emphasized the need to ensure that qualified contractors and subcontractors are performing the work. Brief discussion ensued.

Commissioner Paulson noted the scope of work goes through all trades and that additional scrutiny is good.

AGM Hale emphasized that the work performed at Geary and Parker was not affiliated with the Outdoor Distributed Antenna System Pole Installation. She noted the need to build-in administrative practices for better accountability. President Ajami expressed the need for digital footprint tracking and indicated this provides the opportunity for asset management. Brief discussion ensued.

*On motion to approve Item 6 as amended:
Ayes: Maxwell, Paulson, Rivera, and Stacy*

7. Communications (information only)

- a) Advance Calendar
- b) Contract Advertisement Report
- c) Correspondence Log
- d) 2009 Water Supply Agreement Update
- e) Alternative Water Supply Program Quarterly Report
- f) Annual Comprehensive Financial Report (Fiscal Year 2021-22)
- g) Fiscal Year 2021-23 Report on CleanPowerSF Program Pursuant to Ordinance 223-15
- h) Popular Annual Financial Report (Fiscal Year 2021-22)

8. General Public Comment

- *Peter Drekmeier, Policy Director, Tuolumne River Trust, questioned why no comment was called on item 7. The Commission Secretary stated that as an “information only” item, no public comment is called. He provided comments related to items 7c, Correspondence Log, expressing support for the Citizens’ Advisory Committee’s Resolution, and to item 7d, the 2009 Water Supply Program Quarterly Report.*
- *Eileen Boken discussed the Capital Public Commission meeting, the SFPUC’s debt portfolio, and the Auxiliary Water Supply System.*
- *Francisco DaCosta stated a task force is needed to look into bond measures. He discussed the Sewer System Improvement Program and 1550 Evans construction.*

9. Items initiated by Commissioners

In response to a question from VP Maxwell as to whether the SFPUC made any repairs last year to the Trocadero Clubhouse in Stern Grove, which was damaged due to the recent storms, AGM Ritchie replied that no work was done to that building by the SFPUC.

No public comment.

10. Public comment on the matter to be addressed during Closed Session

None.

11. Motion on whether to assert the attorney-client privilege regarding the matter listed below as Conference with Legal Counsel.

On Motion to assert the attorney-client privilege:

Ayes: Ajami, Maxwell, Paulson, Rivera, and Stacy

The Commission entered Closed Session at 3:27 pm.

Present in Closed Session: Commissioners Ajam, Maxwell, Paulson, Rivera, and Stacy; Dennis Herrera, General Manager, Ron Flynn, Deputy General Manager; Deputy City Attorneys Sheryl Bregman and David Hobsetter; and Donna Hood, Commission Secretary.

12. CONFERENCE WITH LEGAL COUNSEL regarding existing litigation (Government Code §54956.9 (d)(1) and San Francisco, Administrative Code §67.10(d)(1)) (Resolution 23-0059)

M. Hernandez Construction, Inc. dba Hernandez Construction vs. City and County of San Francisco (San Francisco County Superior Court Case No. CGC-22-598639), filed March 11, 2022.

Proposed settlement of a public work contract dispute under Contract No. WW-622 / 2644J, Haight-Ashbury/Tenderloin/Diamond Heights Districts Sewer Replacement and Pavement Renovation, where the City will pay \$137,000 to M. Hernandez Construction, Inc. in exchange for a full and final release, subject to approval by the Board of Supervisors

The Commission exited Closed Session at 3:40 pm.

13. Announcement following Closed Session

President Ajami announced that the Commission recommend the Board of Supervisors approve the existing litigation under item 12.

14. Motion regarding whether to disclose the discussions during Closed Session pursuant to San Francisco Administrative Code Section 67.12(a)

On Motion not to disclose discussions during Closed Session:

Ayes: Ajami, Maxwell, Paulson, Rivera, and Stacy

15. Adjournment

President Ajami adjourned the meeting at 3:42 pm.