



**SAN FRANCISCO PUBLIC UTILITIES
COMMISSION**

City and County of San Francisco

London N. Breed
Mayor

REGULAR MEETING MINUTES

Tuesday, July 27, 2021

1:30 P.M.

(Approved August 10, 2021)

This meeting was held by Teleconference Pursuant to the Governor's Executive Order N- 29-20 and the Twelfth Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency Dated February 25, 2020

During the Coronavirus Disease (COVID-19) emergency, the San Francisco Public Utilities Commission's (SFPUC) regular meeting room, City Hall, Room 400, is closed. Commissioners and SFPUC staff will convene Commission meetings remotely by teleconference.

Commissioners

Sophie Maxwell, President
Anson Moran, Vice President
Tim Paulson
Ed Harrington
Newsha Ajami

Michael Carlin
Acting General Manager

Donna Hood
Secretary



1. Call to Order

President Maxwell called the meeting to order at 1:30 PM.

2. Roll Call

Present: Maxwell, Moran, Harrington and Ajami

Excused: Paulson

President Maxwell read the Muwekma Ohlone Tribe Land Acknowledgement.

3. Approval of the Minutes

a) July 13, 2021 Regular Meeting

b) July 16, 2021 Special Meeting

Public Comment

- *David Pilpel recommended non-substantive edits to the Minutes of the July 13, 2021 Regular Meeting. He thanked the Commission Secretary for her work. He requested that presentations be posted.*

On Motion to approve the Minutes of the July 13, 2021 Regular Meeting:

Ayes: Maxwell, Moran, Harrington and Ajami

On Motion to approve the Minutes of the July 16, 2021 Special Meeting:

Ayes: Maxwell, Moran, Harrington and Ajami

4. General Public Comment

- *Francisco DaCosta discussed the digesters and the biosolids project and stated the public was to be kept informed as to timelines and goals, but that has not happened.*
- *David Pilpel discussed the General Manager (GM) contract negotiations and noted that the employment agreement approval should be discussed and voted on in open session.*

5. Communications

a) Advance Calendar

b) Correspondence Log

c) Corrosion Control in the San Francisco Water System

d) Contract Advertisement Report

e) Quarterly Report on Contracts Awarded by the General Manager Pursuant to Delegated Authority

f) Extending Grant Term for Two Onsite Water Reuse Grant Projects

g) SFPUC Audit Lease Information

h) Low-Income Solar Inverter Replacement Program

i) Water Supply Conditions Update

Public Comment

- *Ali Altaha questioned why allegations regarding Mr. Herrera's history, background, and experience haven't been addressed. He asked why Mr. Herrera*

went to a job site prior to being confirmed as GM. He asked that the Commission read newspapers.

- Francisco DaCosta stated that people want something progressive to happen and that laws need to be followed. He discussed the GM search process and questioned the selection, transparency, and accountability.
- David Pilpel noted items 5b and 5e were signed by “acting” individuals and stated that he looks forward to permanent appointments to those positions.

6. Bay Area Water Supply Agency (BAWSCA) Update

Nicole Sandkulla, BAWSCA CEO, read from a memo provided to the Commission, titled “BAWSCA continues to support evaluation of a Voluntary Agreement to ensure a reliable water supply for residents, businesses, and communities in Alameda, San Mateo, and Santa Clara Counties that BAWSCA represents under State law and urges the San Francisco Public Utilities Commission to move forward now to protect fish and water users.”

Public Comment

- Francisco DaCosta discussed customers prior to 1914 and those gained after 1914. He discussed the history of the damming of the Tuolumne and asked who the true owners are. He questioned who speak for the Salmon. He asked how much money the SFPUC gets from companies.

7. Report of the General Manager (GM)

a) Update on December 2018 Bay Delta Plan Amendment and Voluntary Agreement Negotiations with the State

Michael Carlin, Acting GM, stated that at the request of the State team a meeting was held to discuss a counter proposal. He stated there were four invitees from outside of the State team (1) State water contractor representative, (2) Federal water contractor representative, (3) Sacramento Valley water user, and (4) San Joaquin Valley water user. He stated he was the representative of the San Joaquin Valley water user. At that meeting, Secretaries Blumenfeld and Crowfoot unveiled a counter proposal to the State’s February 4, 2020 proposal. He stated no copy of the proposal was made available. He indicated the counter proposal is different than the 2020 proposal and has implications for the SFPUC and that it is being evaluated.

In response to a request from Commissioner Ajami, Acting GM Carlin outlined the differences between the February 4, 2020 proposal and the counter proposal. Brief discussion ensued.

Public Comment

- Francisco DaCosta stated he sent articles from the Pacific Sun and Los Angeles Times to Mr. Carlin and request that he share them with the Commission. He stated education and empirical data is needed.
- Barry Nelson, Golden State Salmon Association, expressed concerns with the Voluntary Agreement process. He indicated they have not seen any information regarding the substance of the new package. He stated SFPUC staff have not responded to the National Marine Fisheries Service Model review.

- b) Report on Recent San Francisco Public Utilities Commission Activities, Events and Announcements
Acting GM Carlin thanked President Maxwell for her participation in the Mayor's press conference on the submittal of the Valuation Study to the California Public Utilities Commission.

No public comment.

8. New Commission Business

None.

9. Consent Calendar

- a) Approve Modification No. 1 to Job Order Contract, JOC-71R, Electrical (C-10 License), Governor & Exciter Systems for Hydroelectric Powerhouses, San Joaquin, Stanislaus and Tuolumne Counties, Hetch Hetchy, with Big Valley Electric, to complete ongoing facility and asset improvements, increasing the contract amount by \$2,500,000, for a total contract amount not-to-exceed \$7,500,000, in accordance with San Francisco Administrative Code 6.62, with no change to the contract duration. ([Resolution 21-0114](#))
- b) Approve the plans and specifications, and award Contract No. WW-714, Ocean Beach Climate Change Adaptation, Short-term Erosion Mitigation, in the amount of \$3,134,000, and with a duration of 1,095 consecutive calendar days to the responsible bidder submitting the lowest responsive bid, Minerva Construction, Inc. to provide coastal erosion mitigation and protect critical wastewater treatment infrastructure, facilities, at the beach south of Sloat Boulevard to Skyline Boulevard within the City and County of San Francisco. ([Resolution 21-0115](#))
- c) Approve the selection of McMillen Jacobs Associates and award Agreement No. PRO.0164, Engineering Services to support SFPUC engineering services in the design of the proposed Lower Alemany Area Stormwater Improvement Project; and authorize the General Manager to negotiate and execute a professional services agreement for a total amount not-to-exceed \$7,500,000, and with a duration of six years. ([Resolution 21-0116](#))

The Commission Secretary stated that a request was submitted to remove item 9c from the Consent Calendar.

Public Comment

- *David Pilpel requested that item 9b be removed from the Consent Calendar.*

On Motion to approve the Consent Calendar Item 9a:

Ayes: Maxwell, Moran, Harrington and Ajami

The Commission Secretary read Consent Calendar Item 9b.

Anna Roche, Project Manager, stated the item is for the continuation of work to protect the area in front of the Oceanside Treatment Plant and that it is part of a

larger Citywide Climate Change Adaption Project.

Public Comment Item 9b

- *David Pilpel stated that references on the Resolution noting the Planning Department Case Number should read “2015-” and not “2015.”; and to strike the extra language on the first Whereas Clause on the second page, first sentence. He expressed support for the project.*
- *Ali Altaha discussed the bid results. He stated the numbers are a result of gaming by the Contract Monitoring Division (CMD). He indicated some members of the Board of Supervisors don’t know what CMD is. He said there is no disparity study.*

On Motion to approve the Consent Calendar Item 9b, as amended with recommendations made by Mr. Pilpel:

Ayes: Maxwell, Moran, Harrington and Ajami

The Commission Secretary read Consent Calendar Item 9c.

Stephen Robinson, Director, Wastewater Capital Programs, stated this item was first brought before the Commission in January at which time the Commission asked that staff rethink the project around the integration of green and gray solutions. He noted the April workshop and the staff work toward integrated and sustainable solutions.

Commissioner Harrington stated that his hope is for a different and better solution that replaces the current one and that Commission approval will not preclude advancing the work and keeping options open.

Public Comment Item 9c

- *David Pilpel questioned why outside engineering services are hired rather than the work being done by SFPUC staff. He questioned the relationship between this item and Closed Session item #20. He requested the settlement agreement. He asked that the Commission not approve the item.*
- *Ali Altaha stated there is a fake protest letter from a prime contractor and he discussed CMD.*
- *Peter Drekmeier, Tuolumne River Trust, thanked the Commission for removing the item for discussion and noted the letter he sent to the Commission. He stated he was impressed by comments made by Commissioner Harrington in January that resulted in the workshop. He expressed concern with the investment for environmental services that could lead to an advancement of a project that may not be the right one. He stated other green projects make more sense and fit better into San Francisco’s environmental values. He asked to see the settlement agreement.*

On Motion to approve the Consent Calendar Item 9c:

Ayes: Maxwell, Moran, Harrington and Ajami

10. Approve the selection of AECOM Technical Services, Inc. (AECOM), and

Kennedy/Jenks Consultants, Inc. and AGS, Inc. Joint Venture (KJ-AGS, JV); award Agreements No. PRO.0168.A and B, Engineering Services for Transmission Pipelines, to AECOM (PRO.0168.A) and KJ-AGS, JV (PRO.0168.B) to provide engineering design and support services for transmission pipelines for the Water Enterprise Capital Improvement Program and the Hetch Hetchy Capital Improvement Program; and authorize the General Manager to negotiate and execute two professional services agreements, one with AECOM (PRO.0168.A), and one with KJ-AGS, JV (PRO.0168.B), each for an amount not-to-exceed \$7,000,000 and each with a duration of eight years. ([Resolution 21-0117](#))

Greg Lyman, Project Administration Bureau, introduced the item and requested approval.

Commissioner Harrington thanked Mr. Lyman for noting that outside engineering staff will be working cooperatively with SFPUC staff and not instead of SFPUC staff.

Mr. Lyman responded to a question from Commissioner Harrington regarding the CMD bonus and how such a bonus is awarded to Joint Ventures (JV); and to a follow-up question from Vice President (VP) Moran as to whether the criteria and amount of the bonus is a function of ordinance. Mr. Lyman noted it is by Ordinance (Chapter 14) and stated that all proposers know in advance what bonuses are available.

Mr. Tedman Lee responded to a question from Commissioner Ajami as to why an external firm for modeling is needed, indicating they are needed for the San Joaquin project and the Tesla UV project and transient analysis. Brief discussion ensued on whether there is need for in-house staff for modeling and for the SFPUC to own, operate, and have access to modeling software.

Public Comment

- *David Pilpel questioned why outside engineering services are needed and thanked Commissioner Ajami for her questions. He stated hydrolic engineering and modeling is a core function of a utility and that there should be capability within the City to conduct modeling. He expressed opposition to contracting out the work.*
- *Francisco DaCosta expressed suspicion when he sees AECOM. He asked that the Commission monitor pipe leakage, questioned the age of pipes, and asked for information on their age.*
- *Ali Altaha expressed opposition to the item stating the LBE preference points are a false claim and that the company doesn't qualify as an LBE. He said the company was disqualified as a JV. He discussed modeling.*

On Motion to approve Item 10:

Ayes: Maxwell, Moran, Harrington and Ajami

11. Authorize the General Manager to execute on behalf of the City and County of San Francisco, a Memorandum of Agreement (MOA) with the City of Daly City to provide funding for the construction of modifications to Daly City's Westlake Pump Station required for the treatment and distribution of groundwater by Daly City as part of the operation of the Regional Groundwater Storage and Recovery Project, for an amount

not-to-exceed \$4,328,000 and with a duration of four years. ([Resolution 21-0118](#))

Steve Ritchie, AGM Water, stated this is third in a series of MOA's with Daly City for the Westside Pump Station and that it provides for the construction of treatment facilities for two wells and contributes to the Regional Groundwater Storage and Recovery Project.

AGM Ritchie responded to a question from Commissioner Harrington as to the reason for the funding being provided over time with multiple MOA's, stating there were a series of steps and that the multiple MOAs allowed for more accurate estimate of cost.

Public Comment

- *David Pilpel expressed support for the project.*
- *Francisco DaCosta asked how many wells are in San Francisco. He asked if a needs assessment has been done in the event there is a major fire. He asked if there is a person who will serve as commander in an emergency.*

In response to a question from President Maxwell as to how many groundwater wells are in San Francisco, AGM Ritchie responded there are six in San Francisco as part of the Groundwater Project. He indicated two are currently being used for irrigation in Golden Gate Park and are scheduled to be replaced with recycled water mid-2022, at which time all groundwater wells in San Francisco will be available.

On Motion to approve Item 11:

Ayes: Maxwell, Moran, Harrington and Ajami

12. Authorize the General Manager to execute a Memorandum of Agreement with the Turlock Irrigation District and the Modesto Irrigation District on the management and allocation of costs for Tuolumne River fish matters below the Don Pedro Project until the Federal Energy Regulatory Commission (FERC) issues a new license for an amount not-to-exceed \$9,000,000 and with a duration of up to nine years. ([Resolution 21-0119](#))

AGM Ritchie introduced the item indicating it is a replacement for the 2011 MOA the Commission terminated on June 8, 2021. He noted the terms are essentially the same as in the original MOA with cost-sharing being one-third from San Francisco and two-thirds between the Irrigation Districts. AGM Ritchie responded to a question from Commissioner Harrington as to what happens once FERC issues the license.

Public Comment

- *Francisco DaCosta asked what FERC means and who is responsible for making decisions. He stated he doesn't see SFPUC standards when it comes to agreements. He stated that since 1996 there has been no SFPUC leadership for the holistic control of water and that Salmon are dying.*

President Maxwell provided the meaning of FERC as the Federal Energy Regulatory Commission.

On Motion to approve Item 12:

Ayes: Maxwell, Moran, Harrington and Ajami

13. Authorize the General Manager to apply to the California Public Utilities Commission (CPUC) for certification to administer the CleanPowerSF (CPSF) Community Food Service Energy Efficiency Program. Should the application be accepted, the proposed program will be funded by ratepayer funds administered by the CPUC. The total proposed program budget is \$4,579,056 over three years. ([Resolution 21-0120](#)) *Julia Allman, Manager, Customer Solutions CPSF, provided a background of the project and stated that State and City goals and the CleanPowerSF (CPSF) Business Plan identify energy efficiency as a preferred resource; that the program landscape is changing with an opportunity to fill gaps; and that the Community Choice Option is to “elect to administer” ratepayer funds.*

She indicated the Program is (1) serving food service businesses and community food service organizations, (2) developed in partnership with the Department of the Environment, and (3) a pay-for-performance model (site assessment, installation and monitoring and payment).

Ms. Allman stated the proposed three-year program budget is \$4,579,056 with 5,351,692 of kWh savings. She reviewed the proposed schedule with the submission of Advice Letter to the CPUC in August 2021, with an expected CPUC decision by February 2022; RFP issued and contract with ESCO and M&V; and expected customer service start date in February 2023.

Ms. Allman responded to a comment from Commissioner Harrington regarding the need to develop community involvement that ensures the target organizations are aware of the program, and indicated that community outreach and marketing plans are being developed and that the SFPUC is working with other City departments, including the Department of the Environment to assist with making connections with customers that may be hard to reach. Brief discussion ensued.

At the request of President Maxwell for an example, Ms. Allman noted that smaller markets and corner stores are examples of customers that may be targeted for extra outreach. She noted the importance of balancing the program to include small, medium, and large business. She stated that details are being worked on for assistance with the application process, language needs, etc.

In response to a question from Commissioner Ajami as to what services the Department of the Environment provides that the SFPUC can't, Ms. Allman noted they have experience with similar programs and have experience working with the CPUC on these types of programs. Commissioner Ajami suggested that staff, when working with the businesses on this program, have conversations with them to determine if the businesses have efficient fixtures and if not, inform them of available conservation programs.

Public Comment

- *David Pilpel stated the budget summary has broad categories and he asked for budget detail.*

*On Motion to approve Item 13:
Ayes: Maxwell, Moran, Harrington and Ajami*

14. Adopt a Resolution acknowledging the advanced notification of the potential need for approval of certain power supply contracts that may require General Manager execution prior to approval by the Commission and Board or Supervisors when required; and direct the General Manager to provide advance notification and an opportunity for consultation to the Board of Supervisors through a Resolution. (Resolution 21-0121)

Mike Hyams, Deputy AGM Power, stated the advance Power Supply contracts would only be executed prior to Commission and Board approval if they are required to meet regulatory compliance deadlines under State law that could not be met under the standard contract approval timeline. He noted advance notice under these circumstances would be provided to the Commission and Board. He discussed factors that create uncertainty regarding compliance obligations and reviewed advance notice requirements and other drivers regarding the request.

Public Comment

- *David Pilpel stated there should be a Charter Amendment to address the issue in Article 8B or in Section 9.118.*

*On Motion to approve Item 14:
Ayes: Maxwell, Moran, Harrington and Ajami*

15. Approve modification of the San Francisco Public Utilities Commission's Green Infrastructure Grant (GI) Program Guidelines to raise the maximum cost per acre of impervious surface area managed by grant-funded projects from \$765,000 to \$930,000 to account for inflation since the program's inception in 2018 and reflect current actual costs of constructing green infrastructure projects; and authorize the General Manager to execute amendments to existing grant agreements to increase grant amounts in accordance with the new maximum cost per acre limit based on construction bid overages and/or change orders, subject to specified criteria. (Resolution 21-0122)

Sarah Bloom, Wastewater Enterprise, stated the GI Grant Program was launched in February 2019 and encouraged San Francisco property owners to design, build, and maintain performance-based green infrastructure projects with property owners. She reviewed Program statistics through June 2021 and the awarded projects.

She reviewed the proposed changes to the cost per acre impervious surface area managed. She indicated the current threshold is \$765,000 per impervious acre managed (based on cost data collected in 2017 from public and private projects) and that the proposed threshold is \$930,000 per impervious acre managed. She noted the 2017 cost is adjusted out to 2022 to account for inflation; it supports program intent to cover 100% of the green infrastructure related costs, and it will apply retroactively to current grantees for bid overages and construction contingency. She stated this is a comprehensive program update to incorporate lessons learned from the first three years of the program.

In response to a question from President Maxwell as to lessons learned, Ms. Bloom indicated staff is looking at both design review and application requirements for possible streamlining.

Ms. Bloom responded to a question from Commissioner Ajami as to whether staff is working to implement a different kind of monitoring program or install sensors for better data, stating that a sitewide monitoring program is under consideration; and to a question as to whether there is a dedicated budget for maintenance, indicating the program has a 20 year deed restriction against the property. AGM Norby provided additional response.

Public Comment

- *Ali Altaha stated the program is restricted to institutions that the SFPUC works with. He discussed portions of the staff report regarding site inspections for projects under the program.*
- *Francisco DaCosta discussed Contract Monitoring Center at 150 Executive Park and asked if any of the Commissioners have visited the Center. He stated people of color need to be present at the Center.*
- *David Pilpel stated that advance notice of rule or regulation was posted on the SFPUC website, but indication of that posting was not included in the staff report. He said there should be a way to apply for the program outside of email as not everyone has email. He stated that staff contact name and email should be included when the information is published. He offered well-wishes to Wastewater employees.*

On Motion to approve Item 15:

Ayes: Maxwell, Moran, Harrington and Ajami

16. Authorize the General Manager to negotiate a contract scope of work and price reduction exceeding 10% of the contract amount for Contract No. WW-647R, Southeast Water Pollution Control Plant Biosolids Digester Facilities Project with Construction Manager/General Contractor, MWH Constructors/Webcor Builders Joint Venture. Following negotiations, the General Manager will return to the Commission with a recommendation to modify or to terminate Contract No. WW-647R. ([Resolution 21-0123](#))

Acting GM Carlin stated a presentation was provided at the July 13th meeting and that additional information was included on the staff report. He stated the request is to authorize the GM to negotiate and bring back a recommendation to the Commission as to possible modification or termination of the contract.

Public Comment

- *Ali Altaha discussed the 21% LBE goal as noted in the staff report and asked about the CMD list.*
- *Francisco DaCosta discussed the authorization given to the GM to negotiate and questioned if the contractor has followed the standards. He stated there is corruption and that that contract is wrong.*
- *David Pilpel stated if Ann Caen were still on Commission she would be frustrated. He indicated this is an indictment of the CM/CG delivery method and he discussed*

choices. He noted the promises that were made to the Bayview community and to San Francisco.

On Motion to approve Item 16:

Ayes: Maxwell, Moran, Harrington and Ajami

VP Moran provided comments on the CM/CG process. He stated that as part of the upcoming audit program there is intent to look at the CM/CG process to determine if there are any inefficiencies that needed to be addressed.

Commissioner Ajami requested that staff return with updated on how some other utilities have dealt with the CM/CG process for major projects.

17. Public comment on matters to be addressed during Closed Session

- *Francisco DaCosta discussed the Commission process and powers they are given. He stated the Commission is not representing the people. He stated a good General Manager is needed.*
- *Ali Altaha discussed Mr. Herrera and allegations made against him. He stated someone needs to come in and clean up the City. He asked that a neutral candidate be considered.*
- *David Pilpel stated his assumption that GM contract negotiations are continuing and that a final agreement will be brought forth in open session. Regarding item #20, he indicated the public has not seen the settlement agreement and he requested that the item be continued until the settlement agreement is made available. He referenced sections of the San Francisco Administrative Code and the City Attorney's Good Government Guide to making such documents available 10 days prior to action. He requested that the settlement be provided to him at his address of record.*

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

On Motion to assert the attorney-client privilege:

Ayes: Maxwell, Moran, Harrington and Ajami

The Commission entered Closed Session at 4:29 PM.

Present in Closed Session: All items: Commissioners Maxwell, Moran, Harrington, Donna Hood, Commission Secretary; and Lee Sayao, SFPUC IT; Item 19: Kate Howard, City and County of Human Resources, Rob Coelho, County Counsel, County of Santa Clara; Item 20: Michael Carlin, Acting GM, John Roddy, Deputy City Attorney, Estie Kus, Deputy City Attorney, Francesca Gessner, Deputy City Attorney, Greg Norby, AGM Wastewater. Commissioner Ajami was recused from item #20 and was not present for this item.

19. Pursuant to Government Code Section 54957(b) and San Francisco Administrative Code Section 67.10(b), to consider public employee appointment/hiring for the position of General Manager of the San Francisco Public Utilities Commission; and

Pursuant to Government Code Sections 54954.5(f) and 54957.6, and San Francisco Administrative Code Section 67.8(a)(5).

Conference with Labor Negotiator, Unrepresented Employee

City Negotiator

Commission President Sophie Maxwell

Unrepresented Employee

General Manager, San Francisco Public Utilities Commission

Anticipated issues under negotiation:

- Wages
- Hours
- Benefits
- Working conditions
- Other

20. CONFERENCE WITH LEGAL COUNSEL – Pursuant to California Government Code, Section 54956.9(d)(2), and San Francisco Administrative Code, Section 67.10(d)(2) (Resolution 21-0124)

Unlitigated Claim

San Francisco Bay Regional Water Quality Control Board v. City and County of San Francisco. Unlitigated File No.: 2020268. Proposed settlement of unlitigated claim with City to enter into Stipulation with San Francisco Bay Regional Water Quality Control Board regarding alleged violations of the California Water Code related to wet weather-related overflows from the City’s combined sewer system requiring the City to undertake flooding response actions and implement three flood control projects valued at approximately \$622 million in the Wawona area, Folsom area, and Lower Alemany area.

The Commission exited Closed Session at 6:23 PM.

21. Announcement following Closed Session.

President Maxwell announced that the Commission recommends the Board of Supervisors resolve and settle the unlitigated claim on Closed Session item 20.

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

On Motion to not to disclose discussions during Closed Session:

Ayes: Maxwell, Moran, Harrington and Ajami

President Maxwell adjourned the meeting at 6:24 PM.