TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER

DEPARTMENT: UTILITIES

DATE: MAY 14, 2007

SUBJECT: APPROVAL OF RESOLUTION APPOINTING A COUNCIL MEMBER TO THE BOARDS OF THE BAY AREA WATER SUPPLY AND CONSERVATION AGENCY AND THE SAN FRANCISCO BAY AREA REGIONAL WATER SYSTEM FINANCING AUTHORITY

RECOMMENDATION
Staff recommends that Council approve a resolution appointing a member of the City Council as a director of the Bay Area Water Supply and Conservation Agency and as a director of the San Francisco Bay Area Regional Water System Financing Authority.

BACKGROUND
In January 2000, the City’s primary water supplier, the San Francisco Public Utilities Commission (SFPUC), released a report indicating that its regional water system is vulnerable to damage from a large earthquake and that water supplies could be cut off to the users, including Palo Alto, for up to 60 days. On July 10, 2000, the City Council adopted a resolution recommending that the SFPUC take prompt action to improve regional water supply reliability and quality [CMR:311:00].

The 28 agencies that purchase water from the regional system are members of the Bay Area Water Users Association (BAWUA), which was organized to represent the agencies’ collective interests in their interactions with the SFPUC. As an additional response to the risk of failure of the regional water system and the lack of action by the SFPUC, BAWUA sponsored three bills, all of which were signed into law in September 2002.

Senate Bill 1870 (Speier) created a financing agency, the San Francisco Bay Area Water System Financing Authority, to allow the suburban retail water agencies to finance their share of the SFPUC’s capital program to repair and improve the reliability of the regional water system. Assembly Bill 1823 (Papan) requires SFPUC to complete certain key projects in its capital program. Assembly Bill 2058 (Papan) allowed the creation of the Bay Area Water Supply and Conservation Agency (BAWSCA), an agency with broad water planning and financial authorities.
DISCUSSION

Regional Financing Authority
The San Francisco Bay Area Regional Water System Financing Authority (RFA), has the authority to issue revenue bonds to improve the reliability of the regional water system. There is no limit to the amount of bonds the authority could issue, but if the RFA is used to finance the wholesalers’ “share” of the costs of SFPUC’s Water System Improvement Program (WSIP), it could be as high as $2 billion. December 31, 2020 is the last day that the Authority can issue revenue bonds.

The RFA’s Board of Directors consists of appointees from the 25 public entities which purchase water from San Francisco, plus a resident of the Stanford University service area and a resident of the California Water Service Company service area, each appointed by the appropriate county board of supervisors. San Francisco is also a member of the RFA.

Each director is granted one vote on any ordinance, resolution, or motion. An affirmative vote of a majority of directors is sufficient to carry any motion, resolution, or ordinance, except for issuance of debt. The RFA may borrow money and issue notes and bonds, including revenue bonds, without the approval of voters. It may issue revenue bonds upon the adoption of an ordinance by a two-thirds vote of the directors.

Palo Alto’s City Council made its initial appointment of Council Member Bern Beecham to the RFA Board of Directors in February 2003 [CMR:121:03]. Terms on the board are four years, except for half of the initial appointees, who had two-year terms initially. Council Member Beecham’s initial term expires in June 2007 and the City Council must appoint a representative to the RFA’s board of directors prior to July 1, 2007.

Bay Area Water Supply and Conservation Agency
Assembly Bill Number 2058 allowed the formation of BAWSCA, the Bay Area Water Supply and Conservation Agency. The eligible agencies successfully completed the process in May 2003 to form BAWSCA. BAWSCA can: acquire water and water rights; develop, store and transport water; provide, deliver, and sell water at wholesale to certain entities; and acquire, construct, operate and maintain facilities to carry out the agency’s purposes. It is also able to exercise the right of eminent domain and issue revenue bonds to finance the construction, reconstruction, or improvement of any required facilities.

BAWSCA may borrow money and issue notes and bonds, including revenue bonds, without the approval of voters, upon the adoption of an ordinance by a two-thirds vote of the directors present and voting which also represents at least 51% under the weighted voting method. The proceeds of the revenue bonds can be used for the construction, reconstruction, or improvement of facilities or public works, including facilities of the San Francisco regional system, subject to mutually satisfactory agreement.

The BAWSCA’s Board of Directors consists of appointees from the 25 public entities which purchase water from San Francisco, plus appointees of the Boards of Supervisors of San Mateo
and Santa Clara Counties (for CalWater and Stanford University, respectively). San Francisco may apply to become a member of BAWSCA, subject to approval by BAWSCA’s board.

Each director is granted one vote on any ordinance, resolution, or motion. An affirmative vote of a majority of directors is sufficient to carry any motion, resolution, or ordinance, except when weighted voting is called for. Any director may call for weighted voting on any item, which is based on the average deliveries of water during the 2000-01 fiscal year. When weighted voting is in effect, the affirmative vote of directors representing both the majority of the members of the board present and voting, and a majority of the weighted vote is necessary to carry any motion, resolution, or ordinance. This is different from the voting protocols for the RFA where each director is granted one vote and a majority vote is required to pass any ordinance, resolution, or motion.

Palo Alto’s City Council made its initial appointment of Council Member Bern Beecham to the BAWSCA Board of Directors in May 2003 [CMR:204:03]. As with the RFA, terms on the BAWSCA Board are four years, except for half of the initial appointees, who had two-year terms initially. Council Member Beecham’s initial term expires in June 2007 and the City Council must appoint a representative to the BAWSCA’s Board of Directors prior to July 1, 2007.

New Appointment for BAWSCA and RFA
For the boards of both BAWSCA and the RFA, the only requirement is that appointees from public entities must be registered voters residing within the boundaries of the member public entity whose governing board appoints him or her. Once appointed, directors serve for the entire four-year term. Changes in directors can occur if the appointee is no longer a resident registered voter or if he or she voluntarily resigns.

Staff recommends that Palo Alto’s City Council appointee be a City Council Member since elected officials will give the agencies greater stature in their dealings with San Francisco, regulatory agencies, and legislators. In addition, the agencies consider policy matters with which elected officials are experienced. Some of the issues that may come before the boards include: 1) how best to finance a large stream of capital projects over an extended period of time; 2) whether to accept a particular agreement between the authority and San Francisco for the use and management of the funds; 3) how the costs of projects should be split with San Francisco; and 4) whether to enter into binding fiscal obligations with bond buyers. Staff further recommends that the appointee to the boards be the same person since the agencies will be addressing the same or similar policy issues. Almost all of the BAWSCA agencies have chosen to appoint a Council Member to the Boards of Directors of BAWSCA and the RFA.

RESOURCE IMPACT
Appointing directors for BAWSCA and the RFA does not have staff resource impacts as existing staff that monitor SFPUC and BAWSCA activities will continue to perform the same functions. Additional support for a new appointee may be required in the short-term while that director is educated in the issues facing BAWSCA and the SFPUC, but this is anticipated in staff resource assignments.
POLICY IMPLICATIONS
The recommended action does not create any new policy. Appointing representatives to BAWSCA and the RFA is consistent with City policies and directives.

ENVIRONMENTAL REVIEW
This action is exempt from the California Environmental Quality Act.

ATTACHMENTS
A. Resolution

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