

Public Utilities Revenue Bond Oversight Committee

Minutes Regular Meeting

Monday, March 21, 2011

9:30 a.m.

**1155 Market Street (between 7th & 8th Streets)
4th Floor Conference Room**

Committee Members

Aimee Brown, Chair
Brian Browne
Kevin Cheng
Ian Hart
Ben Kutnick
David Sutter
John Ummel

1. Call to Order and Roll Call

Chair Brown called the meeting to order at 9:30 a.m. and roll call was taken:

Present: Aimee Brown, Brian Browne, Ian Hart, Ben Kutnick, David Sutter,
and John Ummel.

Absent: None.

There was a quorum.

2. Public Comment: Members of the public may address the Revenue Bond Oversight Committee (RBOC) on matters that are within the RBOC's Jurisdiction that are not on today's agenda.

Ben Kutnick, Member, RBOC, provided an overview of his background.

Public Comment: None.

3. Chair's Report

a. Annual Meeting with General Manager Ed Harrington, SFPUC.

Ed Harrington, General Manager, SFPUC, provided an overview and update of the San Francisco Public Utilities Commission and their work of the Water System Improvement Program (WSIP).

Todd Rystrom (SFPUC), Julie Labonte (SFPUC); presented information concerning the matter and/or answered questions raised during the hearing.

Public Comment: Nancy Wuerfel asked if there is enough water in system to comply with new water agreements.

b. **San Francisco Public Utilities Commission (SFPUC) Staff Report: Water System Improvement Program (WSIP) FY 2010/11 Quarterly Report.**

Julie Labonte (SFPUC); Todd Rystrom (SFPUC); presented information concerning the matter and/or answered questions raised during the hearing.

Public Comment: None.

c. **The Funding of the RBOC Account with the City Controller's Office.**

Chair Brown provided an overview concerning the funding of the RBOC account with the City Controller's Office.

Public Comment: None.

d. **Status of Reminder: Annual Statement of Economic Interests and Sunshine Declaration (due 4/1/11).**

Chair Brown provided a reminder to the members of the RBOC concerning the upcoming April 1, 2011, deadline to file the Annual Statement of Economic Interests and Sunshine Declaration.

Public Comment: None.

4. Discussion and Possible Action: Election of Officers for the RBOC 2011.

Member Sutter moved, seconded by Member Kutnick, to nominate Aimee Brown as Chairperson of the Revenue Bond Oversight Committee.

The motion passed by the following vote:

Ayes: Brown, Cheng, Hart, Kutnick, Sutter, and Ummel

Noes: Browne

Member Sutter moved, seconded by Member Hart, to nominate Kevin Cheng as Vice-Chairperson of the Revenue Bond Oversight Committee.

The motion passed by the following vote:

Ayes: Brown, Cheng, Hart, Kutnick, Sutter, and Ummel

Noes: Browne

5. Discussion and Possible Action: Independent Oversight Assignments

- a. **Discussion and Possible Action regarding the Scope of Services for Independent Consultants (see attachments).**
- b. **Discussion and Possible Action regarding Contracting Options.**

Chair Brown provided a summary of past RBOC activities in regards to contracting options and possible scope of services.

Tonia Lediju (City Services Auditors); Mark Blake (City Attorney); Charles Perl (SFPUC); Mike Brown (SFPUC); Nancy Hom (SFPUC); presented information concerning the matter and/or answered questions raised during the hearing.

Member Cheng, seconded by Member Sutter, moved to request that the City Services Auditors (CSA) prepare a proposal for services for the Public Utilities Revenue Bond Oversight Committee (RBOC) to review and vote on. Further Moved, That the Chair of the RBOC is authorized to provide information to the CSA to assist with the development of the proposal. The Chair may delegate the authorization to work with the CSA to a Working Group.

The motion passed by the following vote:

Ayes: Brown, Cheng, Hart, Kutnick, Sutter, and Ummel

Noes: Browne

Public Comment: Nancy Wuerfel questioned if standard audit standards will meet the RBOC's needs. Please be sure that the RBOC does not use the same auditors as the SFPUC. Ms. Wuerfel requested the CSA provide cost information for their services along with an estimate of initial expense.

6. Discussion and Possible Action: Approval of the Minutes from the Revenue Bond Oversight Committee (RBOC) Meetings of December 13, 2010; January 10, 2011; January 24, 2011; and February 14, 2011.

Member Hart moved, seconded by Member Cheng, to approve the minutes of the Revenue Bond Oversight Committee meetings for December 13, 2010; January 10, 2011; January 24, 2011; and February 14, 2011.

The motion passed by the following vote:

Ayes: Brown, Cheng, Hart, Kutnick, and Ummel

Noes: Browne

Absent: Sutter

Public Comment: None.

7. Discussion and Possible Action: Revenue Bond Oversight Committee (RBOC) Member Information Requests Raised at Today's Meeting.

Member Browne presented a Sunshine Ordinance Request to the members of the RBOC for communication on matters pertaining to the RBOC business between February 14, 2011, and March 21, 2011.

8. Discussion and Possible Action: Future Agenda Items.

Presentation on Lessons Learned

Presentation on Wastewater Program

9. Adjournment

At the hour of 1:10 p.m. Member Kutnick moved, seconded by Member Cheng, to adjourn the meeting.

The motion passed unanimously.

***These minutes were approved by the RBOC on April 25, 2011.**

Audio recordings of the meeting of the Revenue Bond Oversight Committee are
available at:

http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=97

For information concerning agendas, minutes and meeting information
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Comments submitted by Member Brian Brown:

Preamble and Sunshine Request for entire committee

Victor here are my notes. I am also requesting, as a Sunshine Request, immediate notification of all communications made by members of the RBOC on matters pertaining to RBOC committee business BETWEEN February 14, 2011 and March 21, 2011. I will leave you to distribute this to all on the committee. Thank you. Brian Browne

Comments for the March 21, 2011 Agenda of the Revenue Bond Oversight Committee

Item 1 – Roll call

Item 2 – Public Comment

Item 3 – Chair’s Report (Aimee Brown)

a) Annual meeting with General Manager Ed Harrington, SFPUC.

i. AB1823 mandates that 50% of the CIP (now WSIP) be completed in dollars terms by 31/12/2010 and 100% by 31/12/2015. Are we on schedule? If not why

ii) Consequences under the 2009 MWSA and AB1823 of failure to complete as legally mandated?

iii) Question. I was approached in late 2010 about pre-emergency preparedness. This means an emergency (Loma Prieta/Japan/Japan) now; as well as after the CIP/WSIP is completed. I requested that the RBOC make this an agenda item. The chair said it would be one in January 2011. We are yet to schedule this item. Please comment. Hopefully the chair will schedule this concern as an agenda item NOW!!!

iiii) Recycled water and other non-traditional supplies. Using an orthodox regulatory approach it can be quantified (using SFPUC data and assumption) that recycled water will cost a factor of approximately 10 times more expensive than existing Hetch Hetchy water. Why did SF give up approximately 10% of traditional supplies (for supplies not historically taken by the peninsula) and agree to replace these supplies with such expensive sourced water? Why must SF ratepayers internalize these costs? Not share with the peninsula customers who benefit from the transfer?

b) I hope this quarterly report shows exactly what has been spent and actually built? How much is their spend rate. From January 2011 to December 2015 SFPUC must spend \$3.6B or \$60,000,000 per month. Therefore to remain on track by end of this month (March 2011) they must have spent another \$180,000,000 for the three month period through March 2011 on the WSIP. Have they?

c) The SFPUC-account attachment does not appear to address or conform with Chapter 5, San Francisco Administrative Code, Section 5A.31 (d) "... one percent of the gross proceeds from each issuance or sale of public utility revenue bonds shall be deposited in a fund established by the Controller's Office and appropriated by the Board to cover the costs of this Committee." The format of the document presented does is not correlated with what is supposed to happen under law. The RBOC is supposed to have a unique account. Like your own individual banking account. All account activity since 2003 should be clearly noted. This account must meet the legal requirements of the Code. I herein request an itemized activity sheet of this account, from the Controller's Office with Board appropriations, since 2003, when this Committee was formed. If this is not available, I request a full explanation by those responsible. (These photocopied documents are a duplication of XLS sheets already provided by the SFPUC to this Committee.)

d) I have already completed my form 700. I do this myself. I regard this as integral to the concept of independence underscoring 2002 Proposition P.

4. Election of officers. I will vote as I evaluate a candidate's track record and how a candidate really understands 2002 Proposition P as now encoded Chapter 5 of the SF Administrative Code. A nay vote will mean I do not believe an individual is qualified. A yea vote – they are qualified.

5. Firstly, has the Contracting Working Group (CWG) been abandoned? If so - when and how?

The two papers presented are eclectic and without focus. Basically a litany of uncoordinated functions. Is the RBOC getting into the contract/project management business? Proposition P directs us to look at how revenue bonds are expended. For example – why not look at the \$2BN sitting in a Treasury Account earning 1.3 percent interest while we are paying approximately 4.5 percent for these funds. That works out to approximately \$5MM each month. Is this cost effective? We already have a scope of work from UCB. It was based on intense negotiations and designed to answer the all important question: Can the SFPUC complete the WSIP on time (2015) and on budget (\$4,6BN)? These efforts to bypass the

established protocol by this committee require additional analysis. Why did this happen now?

Levels of service? This concept has never been explained. I will comment more on this subject.

Mark Blake sent me the following in answer to my concerns about inappropriate protocols being followed"

From Mark Blake City Attorney assigned to RBOC

"This was done Article V, Section 1."Upon approval of four members of the Committee, the Committee may form standing subcommittees at any time to give advice on its ongoing functions. The standing subcommittees shall be composed of members of the Committee. Unless otherwise specified by the Committee, the Chair shall select each subcommittee's members and officers, if any, at the time the

subcommittee is formed and again at the **first regular meeting of the Committee in each calendar year**. The Chair shall name members whose qualifications meet the needs of the subcommittee to which that member is appointed. Members and officers appointed by the Chair to serve on a standing subcommittee shall serve at the pleasure of the Chair. The Chair may remove at any time a member from a subcommittee and appoint a replacement member or officer."

Comments about attorney Blake's note:

1. No four members ever voted on this. If they did - it would have to be at an agendaized meeting with public input. Where is the public record? 2. The chair will select and appoint members at the formation of the committee (which I believe must be done in sunshine at a full meeting) and reappoint at the first meeting of the RBOC in January (not between meetings via phone calls and emails - from which I was excluded) of each year. 3. The bylaw giving the sole right to the Chair to dump subcommittee members at her/his whimsical discretion must be challenged. This is contrary to the way 2002 Proposition P was written. This committee was formed to be multidisciplinary and have equal representation by major stakeholders. There was no intent in 2002 to produce a homogenous group of "yes" people. 4. The reason this "dumping" clause is in the bylaws is because Chair Brown dumped me from the CWG in July 2007 - without an agenda item and in the full knowledge that I was taking (excused by the chair) my granddaughter to Australia to meet her family. This same "chair" "cancelled meetings when there was a conflict between her kids' vacations and the meetings. Email from Aimee Brown, Chair, RBOC, changing protocols for selecting consultants. History - Prior to the email the initial stop in the contracting process was at the Contracting Working Group. At the January 2011 meeting I moved that the RBOC move forward with a consulting with the University of California, Berkeley (UCB). It was defeated 4 to 1. At the next meeting Ms Brown, Chair, RBOC, presented a lengthy and eclectic RFP for approval. It did not pass muster. Two stumbling blocks were it had not been viewed by the CWG and the contract with UCB was ongoing and being negotiated. Then shortly after the February meeting of 14 February 2011 the following email arrived from Ms Brown. She misuses my name to the best of my knowledge when she states ***"As requested by Brian, please submit your draft scope of services to Victor by March 14 so Committee members can have one week to review prior to our next meeting on March 21."*** (See below) I had no knowledge at that time of this dramatic restructuring, which I believe is not in the public good. This statement is contrary to everything I would want to happen. I want us to finish up as planned with UCB. I do not want words, taken out of possible context, and put in my mouth.

On 2/22/2011 1:48 PM, Aimee Brown wrote: (via email)

Dear Committee Member- Last Friday, you received an e-mail from Angela Calvillo, Clerk of the Board of Supervisors, responding to the letter I sent on behalf of the Committee on 1/28/2011 requesting additional support. Some of you have responded to me by phone and others through e-mail to my request at the last meeting to let me know about your interest and willingness to assist in the drafting of scope of services for consultants. Based on your collective input, advice from Mark Blake, and a lot of thought over the past week about how to move us forward on the RFP process, I am setting up the following process. There will be 3 working groups. The first one is the Benchmark Working Group which will continue the earlier work of the contracting committee and will provide a draft scope of services for academic institutions or other resources that can qualify under the scope. David Sutter has volunteered to head up this Group which will also include Brian Browne.

The second one is the Technical Audit Services Working Group that will be responsible for developing a scope for any additional services based upon recommendations made from previous consultant reports, members of the Committee and the public. Ian Hart has volunteered to head up this Group which will also include John Ummel. The third working group will deal with the contracting process and will recommend alternatives based on the response from the Board of Supervisors and advice received from the City Attorney's Office. Kevin Cheng and I will be part of this group. Mark Blake has indicated that it is lawful to work in teams as long as there is not a quorum of the Board involved. Therefore, you can meet, have phone conversations and/or respond to e-mails. If you would like to have a public meeting, please coordinate this with Victor. ***As requested by Brian, please submit your draft scope of services to Victor by March 14 so Committee members can have one week to review prior to our next meeting on March 21.*** I hope this process will permit thoughtful recommendations without burdening any individual(s) with all the work and enable us to finally move ahead. Aimee