



San Francisco
Water Power Sewer

Services of the San Francisco Public Utilities Commission

SAN FRANCISCO PUBLIC UTILITIES COMMISSION
City and County of San Francisco

London N. Breed

Mayor

MINUTES

Tuesday, February 12, 2019

1:30 P.M.

(Approved March 12, 2019)

1 Dr. Carlton B. Goodlett Place
City Hall, Room 400
San Francisco, CA 94102

Commissioners

Vince Courtney, President
Ann Moller Caen, Vice President
Francesca Vietor
Anson Moran
Ike Kwon

Harlan L. Kelly, Jr.

General Manager

Donna Hood

Secretary



For information, contact the Commission Secretary at 415-554-3165
Minutes and other information are available on the SFPUC web site:

www.sfwater.org

Gavel-to-Gavel coverage available at:

http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=22

1. Call to Order

Vice President (VP) Caen called the meeting to order at 1:34 PM.

2. Roll Call

Present: Caen, Vietor, Moran and Kwon

Excused: Courtney

3. Approval of the Minutes of January 22, 2019

On Motion to approve the Minutes of January 22, 2019:

Aye: Caen, Vietor, Moran and Kwon

No public comment.

4. General Public Comment

- *Francisco DaCosta asked that the Commission investigate the Sewer System Improvement Program and stated a representative from District 10 should be involved in the project. He asked how much of the \$10B has been set aside for community benefits.*
- *Derek L. Toliver, San Francisco, stated he applied for the position of Executive Director of the Southeast Facility Commission and did not get an interview. He discussed his educational background and work experience and questioned the application and selection process.*

General Manager (GM) Kelly, Jr., stated the Southeast Facility Commission has the authority to direct appoint their Executive Director and determine their selection process. He will inform the Commission of Mr. Toliver's concerns.

5. Communications

a) Advance Calendar

b) Correspondence Log

c) Contract Advertisement Report

d) Annual Report on Dry Year Supply Progress Pursuant to AB1823

e) Lake Merced Update

Steve Ritchie, Assistant General Manager (AGM) Water, responded to a question from VP Caen regarding the clean-up of the Lake and surrounding property. In response to a follow-up question he discussed the expenses insurance covered and those the SFPUC was required to pay.

AGM Ritchie responded to a question from Commissioner Kwon regarding the MOU with the Recreation and Park Department.

f) Water Supply Conditions Update

g) Water System Improvement Program Status of Construction Change Orders

Public Comment

- *Francisco DaCosta discussed the Lake Merced hearing and community concerns expressed at that time. He noted the impact of contamination on the watershed from the Presidio to Lake Merced.*

6. Other Commission Business

None.

7. 2017-2018 Annual Financial Statements

i. Hetch Hetchy Water & Power and CleanPowerSF

ii. Water Enterprise

iii. Wastewater Enterprise

Nancy Hom, Deputy Chief Financial Officer, presented the 2017-2018 Audited Financial Statements. She stated it is the second year of including CleanPowerSF as separate financials within Hetch Hetchy Water and Power. She indicated that for the 10th consecutive year there was a clean audit with no material misstatements or internal control deficiencies.

Ms. Hom introduced Ms. Nancy Rose, Partner, KPMG, who presented audit results for the year ending June 30, 2018.

Ms. Rose stated the independent auditor's report of the financial statements resulted in unqualified (clean) opinions for Water, Wastewater, and Hetch Hetchy Water and Power and CleanPowerSF. She indicated there were no reported deficiencies or instances of non-compliance in the "Report on Internal Control over Financial Reporting and Compliance and other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards."

Ms. Rose continued with the audit results: (1) An Emphasis of Matter paragraph was applied to Water, Wastewater and Hetch Hetchy; (2) Audit misstatements: no corrected or uncorrected audit misstatements identified; (3) Review of significant accounting policies; (4) Review of significant judgments and accounting estimates; (5) Management of override controls; (6) Subsequent events summary: Hetch Hetchy: (PG&E bankruptcy); (7) Internal control related matters: KPMG responsibilities; (8) No material weaknesses or significant deficiencies identified; (9) Required communications and other matters; and (10) Responsibilities.

Commissioner Moran thanked Ms. Rose for her presentation and for explaining GASB 75 (other post-employment benefits). VP Caen requested Ms. Rose provide additional information on GASB 75.

Commissioner Vietor asked Ms. Rose if GASB is considering to add the value of water as an asset. Eric Sandler, AGM Business Services and CFO, provided additional response.

No public comment.

8. Report of the General Manager

a) CleanPowerSF (CPSF) Update

Barbara Hale, AGM Power, provided the update: (1) Enrollment: 111,000 customer accounts being served, with 4,200 SuperGreen upgrades and a steady opt-out rate of 3.2%. The next auto enrollment will take place in April; (2) PG&E rates: California PUC (CPUC) issued alternate rate proposal and how exit fee (PCIA) is calculated. CPUC action on the alternate proposal

anticipated February 21st, with generation rates and PCIA changes in effect April or May. Until that time, CPSF rates will not change; (3) PG&E bankruptcy filing: Update on the impact to CPSF and CCA's from PG&E's stopping or delaying payment remittance to due to bankruptcy. PG&E made a request to the court that CCA remittance continue. The court issued orders for PG&E to continue payments.

AGM Hale responded to a question from VP Caen as to whether all CCA programs are dependent on PG&E.

AGM Hale responded to a question from Commissioner Vietor regarding the bankruptcy filing and payment remittance under any PG&E organizational restructure.

No public comment.

- b) Water Enterprise Capital Improvement Program Quarterly Report
Dan Wade, Director, Water Capital Projects and Programs, reviewed highlights of the reporting period: Sunol Yard Long Term Improvements, Powdered Activated Carbon, San Andreas Pipeline No. 2 Replacement bid update; San Francisco Recycled Water Treatment Plant, and local water pipeline replacement status. He touched on the Jobs Training and Opportunities Program.

AGM Ritchie responded to a question from Commissioner Vietor regarding the Watershed Center. Brief discussion ensued.

No public comment.

- c) Water System Improvement Program (WSIP) Local and Regional Quarterly Reports
Mr. Wade noted the WSIP project is 97% complete with \$4,422M expended and \$365M remaining. He provided updates regarding the Calaveras Dam Replacement Project, Bio-Regional Habitat Restoration – Monitoring, and Lower Crystal Springs Dam Bridge.

Mr. Wade responded to a question from Commissioner Moran regarding the graph located in Appendix C.

No public comment.

- d) Report on Recent San Francisco Public Utilities Commission Activities, Events and Announcements
None.

9. Update on State Water Board's Bay-Delta Plan Amendment and Voluntary Agreement Negotiations

AGM Ritchie provided the update: (1) Review of State Water Board actions; (2) State Water Board's direction to staff; (3) Basic elements of Tuolumne River proposed 15-year Voluntary Agreement; (4) Recent activities; and (5)

Preparation of a resolution for Commission consideration on February 26, 2019 and suggested resolution elements.

AGM Ritchie responded to a question from Commissioner Vietor regarding the need for specific outcomes and ultimate goals for a healthy ecosystem and biological objectives within the proposed resolution.

AGM Ritchie responded to a question from Commissioner Vietor regarding the peer review process and how tools for input will be handled. Discussion ensued on modeling, science, and peer review.

Commissioner Moran discussed the importance of modeling and peer review transparency as well as the need for field testing. He expressed support for Commissioner Vietor's emphasis on setting realistic objectives and the need for on-going processes to assess progress and take corrective action, if needed.

AGM Ritchie responded to a question from Commissioner Moran as to how far along the process will be by March 1st.

Public Comment

- *Barry Nelson, Golden Gate Salmon Association, stated science gets resolved via the peer review process, and noted a request was made for peer review. He discussed the Voluntary Settlement Agreement.*
- *Spreck Rosekrans, Restore Hetch Hetchy, stated Restore Hetch Hetchy has no position on the Bay Delta Plan. He indicated the Commission isn't taking the State Board plan seriously and asked what will happen if the SFPUC has to give up additional water.*

10. Consent Calendar:

- a) Approve an increase of 136 calendar days to the existing 26-day construction contract duration contingency for Contract No. WD-2742, 16-Inch Ductile Iron Water Main Replacement on 7th Street from Townsend to 16th Street; and authorize the General Manager to approve future modifications to the contract duration for a total revised contract duration of up to 422 consecutive calendar days, with no change in contract cost contingency. ([Resolution 19-0026](#))
- b) Approve an increase of 340 consecutive calendar days to the existing 60-day construction contract duration contingency for Contract No. WW-606R2, Oceanside Water Pollution Control Plant Door and Building 930 Exterior and Awning Improvements; and authorize the General Manager to approve future modifications to the contract duration for a total duration of up to 1,000 consecutive calendar days, with no change to the contract amount. ([Resolution 19-0027](#))
- c) Approve an increase of 69 consecutive calendar days to the existing 54-day construction duration contingency for Contract No. WW-629, Various Locations Sewer Replacement and Pavement Renovation No. 1; and authorize the General Manager to approve future modifications to the contract duration, for a total revised contract duration of up to 663

consecutive calendar days, with no change to the contract amount.
([Resolution 19-0028](#))

- d) Approve an increase of 45 consecutive calendar days to the existing 120-day construction duration contingency for Contract No. WW-636, Various Locations Sewer Replacement and Pavement Renovation No. 4; and authorize the General Manager to approve future modifications to the contract duration for a total revised contract duration of up to 579 consecutive calendar days, with no change to contract amount. ([Resolution 19-0029](#))
- e) Accept work performed by Ranger Pipelines Inc., for Contract No. WW-653, Marin Street Sewer Replacement, for a total contract amount of \$4,999,681 and a total contract duration of 491 consecutive calendar days; and authorize final payment to the contractor. ([Resolution 19-0030](#))

No public comment.

*On Motion to approve Consent Calendar items 11a through 10e:
Aye: Caen, Vietor, Moran, and Kwon*

11. Discussion of proposed amendment to Rule 6 of the San Francisco Public Utilities Commission's Rules of Order, moving the date of the annual election of officers from October to February of each year.

VP Caen requested that the Commission consider a change to Rule 6 of the Rules of Order to move the date of the annual election of officers from the first meeting of October to the second meeting February of each year. She indicated that if she assumes the remainder of President Courtney's term she would serve as President for eight months. In October, during the normal election period and rotation of officers, she would serve another 12-month term for a total term of 20 months. She stated she wants to serve a full 12-month term, not an eight or 20-month term.

Commissioner Vietor discussed the reason behind the 2012 change of Rule 6 to move the election of officers to October to coincide with the August end of Commission appointment. She expressed reservations with proposed February election which would affect officer terms, depending on appointment date.

Discussion ensued on traditional rotation of officers, guidance of the established rules, and how to fill officer vacancies.

Commissioner Vietor recommended holding a special election in February to address the current vacancy, followed by the regular election of officers in October. The importance of maintaining the traditional rotation of officers was expressed by the Commission, along with additional discussion regarding options.

After further discussion, the Commission decided that an election of officers would be held at the February 26th regular meeting. Those elected would complete the remaining eight months of the current term, with the regular election taking place in October.

No public comment.

12. Approve Amendment No. 4 to Agreement No. CS-911R, Construction Management Service – Calaveras Dam Replacement Project, with Black and Veatch Corporation, to provide support during completion of construction and close-out of the project; and authorize the General Manager to negotiate and execute this amendment, increasing the agreement by \$3,800,000 for a total not-to-exceed amount of \$71,800,000, and extending the term by 10 months for a total not-to-exceed duration of nine years, eight months, subject to the Board of Supervisors approval pursuant to Charter Section 9.118. ([Resolution 19-0031](#))

No public comment.

On Motion to approve item 12:

Aye: Caen, Vietor, Moran, and Kwon

The Commission Secretary read the Closed Session items.

13. Public Comment on matters to be addressed during Closed Session
None.
14. Motion on whether to assert the attorney-client privilege regarding the matters listed below as Conference with Legal Counsel

On Motion to assert attorney-client privilege.

Aye: Caen, Vietor, Moran, and Kwon

The Commission entered Closed Session at 3:40 PM.

15. Conference with Legal Counsel - Pursuant to California Government Code Section 54956.9 (d) (2) and San Francisco Administrative Code Section 67.10 (d) (2)
Unlitigated Claim
Kim Du Truong v. City and County of San Francisco
Unlitigated File No. 19-00232
Date Filed: July 30, 2018
settlement of claim with claimant's release of all claims and the City to pay claimant \$36,090.
(Resolution 19-0032)
16. Conference with Legal Counsel - Pursuant to California Government Code Section 54956.9 (d) (1) and San Francisco Administrative Code Section 67.10 (d) (1)
Existing Litigation
Peter Dayton v. City and County of San Francisco
San Francisco Superior Court Case No. CGC-17-557549
Date Filed: March 15, 2017

Proposed settlement of lawsuit with plaintiff's release of all claims and the City to pay plaintiff \$60,000.
(Resolution 19-0033)

17. Conference with Legal Counsel - Pursuant to California Government Code Section 54956.9 (d) (1) and San Francisco Administrative Code Section 67.10 (d) (1)
Existing Litigation
Hanover Insurance Company a/s/o WYX Holdings, Inc. v. City and County of San Francisco
San Francisco Superior Court Case No. CGC-18-566142
Date Filed: April 30, 2018
Proposed settlement of lawsuit with plaintiff's release of all claims and the City to pay plaintiff \$62,500.
(Resolution 19-0034)

18. Conference with Legal Counsel - Pursuant to California Government Code Section 54956.9 (d) (1) and San Francisco Administrative Code Section 67.10 (d) (1)
Existing Litigation
David Alfaro, et al. v. City and County of San Francisco
San Francisco Superior Court No. CGC-15-547492
Date Filed: August 20, 2015
Proposed settlement of action as to property claims of two of numerous plaintiffs: (1) Chris Tilton and Blane Bachelor (\$301,000), and (2) Victoria Sanchez (\$79,500). Several co-plaintiffs remain in litigation.
(Resolution 19-0035) Tilton/Bachelor

Sanchez settlement will be rescheduled to the February 26, 2019 meeting.

19. Conference with Legal Counsel - Pursuant to California Government Code Section 54956.9 (d) (1) and San Francisco Administrative Code Section 67.10 (d) (1)
Existing Litigation
Pacific Gas & Electric Corporation
Case No. 19-30088/Date Filed: January 29, 2019
Case No. 19-30089/Date Filed: January 29, 2019
United States Bankruptcy Court, Northern District of California

20. Conference with Legal Counsel - Pursuant to California Government Code Section 54956.9 (d) (1) and San Francisco Administrative Code Section 67.10 (d) (1)
Existing Litigation:
City and County of San Francisco v. Pacific Gas & Electric Company
Docket No. EL19-38-000/Date Filed: January 28, 2019
Federal Energy Regulatory Commission

21. Conference with Legal Counsel - Pursuant to California Government Code Section 54956.9 (d) (1) and San Francisco Administrative Code Section 67.10 (d) (1)
Existing Litigation:

- Pacific Gas & Electric*
Federal Energy Regulatory Commission
Tariff Withdrawal per 35.15: Notice of Termination of the 1987 CCSF
Interconnection Agreement – PG&E Rate Schedule FERC No. 114 to be
effective 6/30/15.
Case No. ER15-702-000/Date Filed: December 23, 2014
22. Conference with Legal Counsel - Pursuant to California Government Code
Section 54956.9 (d) (1) and San Francisco Administrative Code Section 67.10
(d) (1)
Existing Litigation:
Pacific Gas & Electric
Tariff Withdrawal per 35.15: Notice of Termination of The CCSF Facilities
Charge Agreement for Moscone to be effective 6/30/15.
Case No. ER15-703-000/Date Filed December 23, 2014
23. Conference with Legal Counsel - Pursuant to California Government Code
Section 54956.9 (d) (1) and San Francisco Administrative Code Section 67.10
(d) (1)
Existing Litigation:
Pacific Gas & Electric
Federal Energy Regulatory Commission
§205(d) rate filing per 35.13 (a)(2)(iii): City and County of San Francisco
Transmission Owner Tariff Replacement Agreements to be effective 7/1/15
Case No. ER15-705-000/Date Filed: December 23, 2014
24. Conference with Legal Counsel - Pursuant to California Government Code
Section 54956.9 (d) (1) and San Francisco Administrative Code Section 67.10
(d) (1)
Existing Litigation:
Pacific Gas & Electric
Federal Energy Regulatory Commission
§205(d) rate filing per 35.13 (a)(2)(iii): City and County of San Francisco
Wholesale
Distribution Tariff Replacement Agreements to be effective 7/1/15
Case No. ER15-704-000/Date Filed: December 23, 2014
25. Conference with Legal Counsel - Pursuant to California Government Code
Section 54956.9 (d) (1) and San Francisco Administrative Code Section 67.10
(d) (1)
Existing Litigation:
Pacific Gas & Electric
Federal Energy Regulatory Commission
Notice of Termination of Facilities Charge Agreements between PG&E and the
City and County of San Francisco
Case No. ER15-735-000/Date Filed: December 23, 2014
26. Conference with Legal Counsel - Pursuant to California Government Code
Section 54956.9 (d) (1) and San Francisco Administrative Code Section 67.10
(d) (1)

Existing Litigation:

City and County of San Francisco v. Pacific Gas & Electric

Federal Energy Regulatory Commission

Complaint under Sections 206 and 306 of the Federal Power Act.

Case No. EL15-3-000/Date Filed: October 9, 2014

The Commission exited Closed Session at 3:57 PM.

27. Announcement Following Closed Session

VP Caen announced that settlements were reached on items 15 through 18.

28. 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.

Aye: Caen, Vietor, Moran, and Kwon

29. Other New Business

None.

30. Adjournment

Vice President Caen adjourned the meeting at 3:58 PM.