TO: HONORABLE CITY COUNCIL
FROM: CITY MANAGER DEPARTMENT: UTILITIES
DATE: APRIL 1, 2002 CMR:192:02
SUBJECT: RESOLUTION OF SUPPORT FOR SENATE BILL 1870, THE BAY AREA WATER RELIABILITY ACT, AND ASSEMBLY BILL 2058, THE BAY AREA REGIONAL WATER SUPPLY AND CONSERVATION AGENCY ACT

RECOMMENDATION

Staff recommends that Council adopt the attached resolutions of the Council of the City of Palo Alto recommending support for legislation allowing the formation of a regional water agency, specifically in support of SB1870, the Bay Area Water Reliability Act; and AB 2058, the Bay Area Regional Water Supply and Conservation Act.

BACKGROUND

On March 22, 2000, the City Council received an information report on water supply reliability issues (CMR:170:00). Attached was a report from the Bay Area Water Users Association (BAWUA) titled “The Future of Our Water Supplies.” The report provided elected officials with the status of BAWUA’s concerns about performance of the San Francisco Public Utilities Commission (SFPUC) in its role as the owner and operator of the regional water system that Palo Alto and the other twenty eight members of BAWUA rely on for all or a portion of their water supplies.

In February 2000, the California State Auditor issued a report finding that the regional water system was in need of significant repair and upgrades and that the SFPUC had made little progress, although its deficiencies had been known about for at least a decade. The SFPUC’s own report, released in January 2000, indicated that in the event of a major earthquake water
supplies could be cut off to its customers, including Palo Alto, for up to 60 days.

Concerns about the risks to the region’s water supplies and the lack of response from SFPUC prompted BAWUA to apply its members’ political resources to the problem. On July 10, 2000, the City Council adopted Resolution 7986 recommending that the SFPUC take prompt action to improve regional water supply reliability and quality (CMR:311:00). As of the end of March 2002, the SFPUC still has not adopted coordinated plans for a capital improvement program and financing to address the deteriorated status of the regional system. SFPUC staff has proposed a $4.6 billion bond to address the needs of the regional system and other projects in the City of San Francisco. However, the SFPUC, the San Francisco Board of Supervisors, and the San Francisco voters must approve any bond measure. Opportunities for further delay abound.

**DISCUSSION**

The members of BAWUA, SFPUC’s customers in San Mateo, Santa Clara, and Alameda counties, have never had the ability to make decisions about the SFPUC system they rely on. San Franciscans alone have a voice in the system’s management and operation even though the BAWUA agencies pay for and use two-thirds of the system’s water.

Although representatives of BAWUA and its member agencies have repeatedly urged the SFPUC to act to fix the regional system, the lack of representation in the governance of the regional system has stymied those efforts. Thus, BAWUA has turned to Sacramento for assistance in reducing the risks faced. On January 18, 2002, Assemblyman Louis Papan introduced Assembly Bill 1823 (co-authors: Simitian, Dutra, and Sher) which would mandate repairs of nine critical projects within the timelines originally established by the SFPUC. AB 1823 was referred to the Assembly Committee on Local Government, where it will be heard on April 10, 2002. Palo Alto has already sent a letter of support for AB 1823.

On February 19, 2002, Assemblyman Papan introduced Assembly Bill 2058 (co-author Dutra), which enables the formation of the “Bay Area Water Planning and Conservation Agency,” an entity that would have broad water planning and financial authorities and capabilities. Any BAWUA members who so desired could form the entity. San Francisco could also become a member subject to approval of the Agency Board. The agency’s identified powers & authorities include:

- Agency may plan, finance, acquire, contract, maintain & operate facilities for the collection, transmission, treatment, reclamation, reuse and conservation of water;
- Agency may issue revenue bonds for any project authorized by Act; and
- Agency may use proceeds of revenue bonds to finance improvements to SF regional water system under specified terms.

On February 22, 2002, Senator Jackie Speier introduced Senate Bill 1870, which enables the
formation of the “Bay Area Water Reliability Financing Authority,” an entity that focuses on financing authorities and capabilities. Any BAWUA members who so desires could form the entity. San Francisco could also become a member subject to approval of the Authority Board. The authority’s identified powers & authorities include:

- Agency can issue revenue bonds only for purpose of contributing funding to San Francisco for specified projects;
- Exercise of authority conditioned upon a finding that San Francisco has not moved forward with financing/implementing the capital program; and
- Requires contract between San Francisco and Authority for use of funds with specified provisions and conditions.

The Assembly Committee for Local Government’s first hearing for AB 2058 has been scheduled for April 10, 2002. SB 1870 has been referred to the Senate Committee on Local Government and the Senate Committee on Agriculture and Water Resources.

Both AB 2058 and SB 1870 enable the formation of a regional water entity. Such an entity would have a board of directors made up of elected officials for the BAWUA members who are public agencies (and representatives for the two nonpublic BAWUA member agencies). This representation, along with the entity’s powers, is designed to increase the decision-making authority of the BAWUA member agencies.

**RESOURCE IMPACT**

No new resource impacts would result from approving this resolution.

**POLICY IMPLICATIONS**

These resolutions are consistent with the Council approved Utilities Strategic Plan, especially supporting objective #2, invest in utility infrastructure to deliver reliable service.

Support of these bills does not commit the City to membership in a regional entity if one is formed. If one or both of these bills pass, staff will return with a recommendation on whether the City of Palo Alto should form or join the entity whose formation the legislation enables.

**ENVIRONMENTAL REVIEW**

Approving the attached resolution does not constitute a project under the California Environmental Quality Act and, therefore, is exempt from the requirement to conduct an environmental assessment.
ATTACHMENTS

A. Resolution recommending support for legislation allowing the formation of a regional water agency, specifically support for Senate Bill 1870, the Bay Area Water Reliability Act.

B. Resolution recommending support for legislation allowing the formation of a regional water agency, specifically support for Assembly Bill 2058, the Bay Area Regional Water Supply and Conservation Act.

C. Senate Bill 1870 and fact sheet

D. Assembly Bill 2058 and fact sheet

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