



B A S M A A

Board of Directors Regular Meeting

June 25, 2015
Meeting Minutes

A regular meeting of the Board of Directors of the Bay Area Stormwater Management Agencies Association was held Thursday, June 25, 2015 at the offices of EOA, Inc., Oakland, California. This regular meeting was called by Matt Fabry, 2015 Chair of the Board, with notice of said meeting given to all Directors by electronic mail. The following Officers of the Corporation, Directors, and others were present:

Officers of the Corporation Present	
Matt Fabry	Chair of the Board and Director
Jim Scanlin	Vice-Chair and Director
Jamison Crosby	Treasurer and Director
Directors Present	
Kevin Cullen	Director
Tom Dalziel	Director
Pat Gothard - phone	Director
Adam Olivieri	Director
Officers and Directors Absent	
Lance Barnett	Director
Terri Fashing	Secretary and Director
Staff Present	
Geoff Brosseau	Executive Director
Others Present	
Dan Cloak	Dan Cloak Consulting / CCCWP
Arleen Feng - phone	ACCWP / Monitoring/POCs Comm. Chair
Jon Konnan	EOA, Inc. / SMCWPPP
Keith Lichten	Regional Water Board
Lucile Paquette	CCCWP
Peter Schultze-Allen	EOA, Inc.
Chris Sommers	Trash Committee Chair / EOA, Inc.

Quorum and Call to Order

Call to Order

With 6 of the 9 Directors present at the time, a quorum was established and Chair Matt Fabry called the meeting to order at 10:21 a.m.

Introductions and Announcements (Agenda Item 1). (Matt Fabry) None.

Changes to Agenda (Agenda Item 2). (Matt Fabry) None.

**Approval of Consent Calendar: Board of Directors meeting minutes – May 28, 2015
(Agenda Item 3).** (Terri Fashing)

- ☒ Vote: Director Adam Olivieri made a motion that the Board approves the Consent Calendar. Director Kevin Cullen seconded the motion and the Board approved it, with Director Jim Scanlin abstaining.

Executive Session (Agenda Item 4).

The BASMAA Board of Directors and staff discussed the following regarding the MRP 2.0 Tentative Order (TO):

- June 10 Regional Water Board Meeting – Debrief
- July 2 Steering Committee
 - Convene or cancel
 - Agenda items
- July 8 Regional Water Board Meeting – Testimony planning
- July 10 Comments due – Review and feedback on draft BASMAA comment letter
- Discussion topics for Item 11 – Collaboration with Regional Water Board

Actions

Conceptual Approval – Comment letter regarding Draft MRP Tentative Order (Agenda Item 5). (Geoff Brosseau) The purpose of this item was for the Board of Directors to conceptually approve a comment letter on the Draft MRP Tentative Order, released May 11, 2015. The draft BASMAA comment letter was based on high priority issues in the Draft MRP Tentative Order identified by Phase I stormwater programs and recommended revisions to address the issues as well as discussion in the June 4 Steering Committee meeting. The issues were conveyed to Regional Water Board Members in BASMAA's testimony at the June 10, 2015 Regional Water Board Meeting. It is expected the draft comments will be further updated and refined based on Board of Directors review and discussion in Executive Session today and the information and testimony provided on, and discussion and results of, the Draft MRP agenda item in the July 8 Regional Water Board Meeting – hence the request and recommendation for a conceptual approval.

- Action: Based on the discussion in Executive Session, Executive Director Geoff Brosseau will provide a revised draft comment letter to the Board of Directors by June 30.
- ❖ Thursday, July 9 – Special Board of Directors conference call after the July 8 Regional Water Board Meeting and before the July 10 comment deadline to address any significant changes to the draft comments and to approve the final letter.

Approval – Proposed New or Revised Policies and Procedures (Agenda Item 6). (Jamison Crosby) The Board of Directors was asked to approve new or revised versions of the following policies and procedures:

- *Budgeting and Work Planning*
- *Committee Leadership*
- *Conflict of Interest*

Prompted by the FY 2012-13 and FY 2013-14 Audit Findings and Management Responses to those findings, the Finance Committee initiated a review and revision process of select BASMAA policies and procedures related to accounting, funding, contracting, and management that resulted in new or proposed revisions to the following BASMAA policies and procedures:

- *Budgeting and Work Planning*
- *Committee Leadership*
- *Conflict of Interest*
- *Consultant Selection and Contracting*
- *Federal Grant Administration*
- *Funding and Accounting for BASMAA Efforts*
- *Project Management and Project Deliverable Approval*

In the May meeting, Directors discussed the timing and schedule for review of the policies and procedures – noting it overlapped with a busy period of MRP 2.0 negotiations, and asked that only the most critical policies and procedures be put into review for consideration of approval at the June Board of Directors meeting, leaving the others to be taken up after June. Subsequent to the meeting, the three subject policies and procedures were identified as time-critical, and were sent to the Board of Directors on May 29 for review by June 17 – in time for the Finance Committee to review and address any comments before the June 25 Board of Directors meeting. The Finance Committee met to review the comments / clarifying questions received, which resulted in no changes to the proposed / revised policies and procedures.

In today's meeting, the Board of Directors discussed additional comments and clarifying questions from SCVURPPP staff and Directors. In general, the Board recognized the budget and work plan development schedule in the Policy and Procedure *Budgeting and Work Planning* was an ambitious one that BASMAA has had difficulty meeting to-date, that it would be particularly challenging in those years when the permit provisions that will be in place in the coming fiscal year are not yet adopted, but that BASMAA needs to make every effort to meet the schedule. Additionally, the Board of Directors recognized encouraging public agency employees to take leadership positions in the Policy and Procedure *Committee Leadership* would be a challenge for some because of lack of time / resources to do so.

☒ **Vote:** Director Jamison Crosby made a motion that the Board approves the new or revised policies and procedures with the following additional revisions:

- *Budgeting and Work Planning* – initiate the annual process earlier and revise schedule of steps as necessary so step 5. Proposed Annual Budget is available in September.
- *Committee Leadership* – revise requirement to an encouragement that at least one of the Chair or Vice-Chair of each Committee be a public agency employee; make start of two year terms effective January rather than July (coincides with Director terms)

- *Conflict of Interest* – as revised.

Director Pat Gothard seconded the motion and the Board approved it unanimously.

- Action: Executive Director Brosseau will re-send the other four revised policies and procedures to the Board of Directors for review by date-certain so the Finance Committee can review and address the comments in time for the Board of Directors to consider the policies and procedures adoption in the July Board of Directors meeting.
- Action: A discussion of priorities will be agendaized for the July Board meeting.

Reports

Update – FY 15-16 BASMAA Budgets (Agenda Item 7). (Geoff Brosseau) The Board of Directors was asked to receive, discuss, and provide any feedback or direction on draft FY 15-16 BASMAA Budgets.

- Dues allocation – The table provides the member agencies dues allocations for FY 15-16. The total dues budget is proposed to be the same as the last five years – essentially no increase since FY 10-11. The \$289,936 figure is proposed to be rounded up to the nearest thousands = \$290,000 (an increase of \$64 or 0.02%) to simplify the budget numbers. To-date, the dues contributions have funded management and administrative tasks as well as several long-term projects (e.g., Regional Media Relations, IPM Partnership), and these two types of expenditures have been shown together in the same budget. For the first time, the dues contributions are proposed to be split between a management and administrative expenditures budget and a projects budget so that these two types of expenditures can be shown in separate budgets – each representing just one type of expenditure. The member agencies' and total dues contributions stay the same (i.e., effectively no increase).
- Management-Administration Budget – This budget shows only management and administrative expenditures and revenues. The sources of the expenditures and revenues fall into two groupings – BASMAA/organizational-related and grant-related. BASMAA/organizational expenditures are based on previous years' actual costs. BASMAA/organizational revenues equal that portion of the dues from the allocation table earmarked for management and administrative tasks. Grant expenditures are generally incorporated into the Executive Director / Association Management like item / contract, except for one grant (IPM Focus on Multi-Unit Housing) for which the funder – DPR requires a separate contract. Grant revenues are that portion of grants to BASMAA earmarked for management and administrative tasks in FY 15-16.

Directors asked clarifying questions including whether the dues continued to provide a sufficient level of funding for general management and administration of BASMAA. Executive Director Brosseau noted the effective budget for such general work has decreased because of increased grant administration work so a dues increase may be in order but he would like to identify and implement some efficiencies in the coming fiscal year and assess the results before proposing an increase.

- Projects Budget – This budget shows only projects expenditures and revenues. Two long-term projects formerly included in the single BASMAA Budget (Regional Media Relations, IPM Partnership) are now shown in here with other projects. The other projects shown are those proposed to-date by Committees. The scopes of work for these proposed projects are relatively fleshed out but the budgets and funding details are still to be determined for all. The funding amounts are based on the default allocation (all nine member agencies providing funding equal to their population relative to the total population). If a different allocation was agreed-to for a specific project, the amounts would be calculated based on that agreed-to allocation. Other organizations funding is also shown when applicable.

Directors asked clarifying questions regarding the listed projects and recognized that some of the requested information will be provided in the scopes of work to come.

- Action: Executive Director Brosseau will work with the Committees to add any more projects to the FY 15-16 Projects Budget, and to develop scopes of work and list of funders for each.

Update – FY 09-10 through FY 14-15 Regional Accounting (Agenda Item 8). (Geoff Brosseau) The Board of Directors was asked to receive, discuss, and provide any feedback or direction on updates to the regional accounting spreadsheet of MRP projects. Changes to the sheet since the last version include addition of a CW4CB project for the first time, updating the shares percentages for FY 14-15 using the appropriate year's relative populations, and adding a cash analysis tab to track each program's cash position relative to being 'even-steven'.

- Action: Executive Director Brosseau will work with the Committees Chairs and consultants to update the FY 14-15 planned values with actual values, re-balance the allocations of the FY 14-15 costs toward an even-steven' state, and add a FY 15-16 column to record any project expenditures and contributions for the coming fiscal year.

Update – Master Request for Qualifications (Agenda Item 9). (Geoff Brosseau) The Board of Directors received a partial draft of the Master Request for Qualifications (RFQ) and was asked to decide how to handle review of the RFQ without conflicting any consultants. The Policy and Procedure: *Consultant Selection and Contracting* states that consultants interested in bidding on work must recuse themselves from participating on BASMAA's behalf in the selection process. The partial draft provided for today was purposely lacking details so as not to conflict any consultants but the next, complete draft will be the point at which interested consultants should recuse themselves. Executive Director Brosseau recommended the Board of Directors conduct the review in an Executive Session either in the next Board of Directors meeting or in a special conference call in July.

- Action: Executive Director Brosseau will transmit the complete draft RFQ to the non-conflicted Directors by July 7.
- ❖ Monday, July 13 – Board of Directors special conference call to review and consider approval of Master RFQ.

Update – Statewide and National Items (Agenda Item 10). (Geoff Brosseau) The Board of Directors received and discussed updates on the following statewide and national items:

- Statewide
 - Receiving water limitations (State Water Board) – The State Water Board used the petition process on the Los Angeles MS4 permit to consider some broader issues raised in the petitions, including the receiving water limitations language that appears in MS4 permits. On June 16, the State Water Board adopted a revised draft order as modified by a change sheet circulated June 12 and minor edits from Water Board staff. CASQA has been following the issue closely for years and testified in general support of the revised draft order.
 - Proposition 218 constitutional amendment legislation – An informal coalition of environmental groups, government and business associations, and agencies is sponsoring legislation to clarify Proposition 218 regarding stormwater and flood control. Executive Director Brosseau has been participating in the coalition on behalf of CASQA. The coalition’s legislative efforts have slowed with changing circumstances. A recent court case challenging the ability to use pricing tiers to promote water conservation has become a major new focus for ‘modernizing’ Proposition 218. Meanwhile, how best to ensure stormwater is part of the exceptions to Proposition 218 has become less clear. A poll is being conducted to address the latter. AB-1362, which would define stormwater for the purposes of Proposition 218 has been made a two-year bill in response to the slow down. And its planned bill – the constitutional amendment bill is being rethought to potentially focus on conservation pricing while also addressing stormwater and baseline rates. Results of the poll are due next week.
 - Stormwater Strategic Initiative (State Water Board) – State Water Board staff is preparing to release the next, more detailed version of this work planning document. A draft was shared with CASQA in May and CASQA is planning development of its comments. A public release is planned for mid-June with a comment period and a State Water Board workshop in August. [Ed. The State Water Board released the SSI on June 26 with a July 7 WebEx meeting and comments due July 24]
 - SB 985 Guidelines (State Water Board) – The Governor has recently challenged the State Water Board to move more quickly in dispersing bond funds, especially to help address the drought. As a result, the State Water Board must develop guidelines for implementation of SB 985, which requires development of a “Stormwater Resource Plan” to receive grants for “stormwater and dry weather runoff capture projects” from a bond act approved after January 1, 2014. In his “May revise” the Governor moved \$100 million of the \$200 million in Proposition 1 for multi-benefit stormwater projects that benefit water supply into the FY 15-16 budget. The State Water Board must also develop Proposition 1 grant guidelines.

State Water Board staff hosted a meeting on June 17 with stormwater program representatives that Chair Matt Fabry, Director Terri Fashing, and Executive Director Brosseau attended along with representatives from Sacramento, SCVURPPP, Sonoma County Water Agency, and Ventura Watershed Protection District. The bulk of the

comments were focused on ensuring the SB 985 guidelines do not limit eligibility for funding any more than prescribed by SB 985, that a “Stormwater Resource Plan” is not required for any more types of projects than prescribed by SB 985, that as many types of plans as possible that are similar to a Stormwater Resource Plan qualify as such either – completely or partially, and that SB 985’s requirement for Integrated Regional Water Management (IRWM) groups to “incorporate the stormwater resource plan into its integrated regional water management plan”¹ does not translate to stormwater and dry weather runoff capture projects having to compete with IRWM projects for funding.

➤ Action: Executive Director Brosseau will draft a letter conveying the same messages and other information to State Water Board staff.

- Permit fees (State Water Board) – Based on the Governor’s May revise budget, State Water Board staff circulated the latest projections for FY 15-16 permit fees. The projections still show the state’s stormwater program receiving more revenue than it plans to spend by about 3%. Last year when that was the case, the State Water Board balanced revenues and expenses by giving stormwater permittees a discount on their permit fees equal to the imbalance percentage, which could happen again this coming fiscal year.

- National

- Phase II rulemaking – EPA is initiating a rulemaking to modify the Phase II MS4 regulations in response to the Environmental Defense Center vs. EPA court ruling from the Ninth Circuit from 2003 and the more recent petition to the Ninth Circuit by EDC in December 2014. The Ninth Circuit ruled that EPA failed to require review of Notices of Intent (NOIs), which are the functional equivalents of permits under the Phase II General Permit option, and EPA failed to make NOIs available to the public or subject to public hearings. EPA has approached WEF about working with them and a few Phase II managers, including a couple from California to help EPA develop a response.

Discussion – Collaboration with Regional Water Board (Agenda Item 11). (Board / Keith Lichten) The Board of Directors and Regional Water Board staff Keith Lichten discussed the following items regarding MRP 2.0 Tentative Order (released May 11):

- July 2 Steering Committee meeting – Agreed to cancel meeting because of conflicts with vacation schedules.
- July 8 Hearing – Item schedule and organization, presentations, etc. A request will be made to give BASMAA a slot of time after staff presentations to provide an overview of the most significant issues and some context for permittee comments to follow.
- Provisions – Directors and Regional Water Board staff discussed the status of several provisions, including how best to provide comments regarding C.7 – Public Information

¹ *Water Code §10563.(c)(1) The development of a stormwater resource plan and compliance with this part in accordance with Section 10565 shall be required to receive grants for stormwater and dry weather runoff capture projects from a bond act approved by the voters after January 1, 2014.*

and Outreach, the need for another POCs work group meeting, and how best to address proposed changes in reporting.

Update / Direction – Committee Reports / BASMAA representatives (Agenda Item 12).

(Committee Chairs) The Board of Directors received committee reports and discussed next steps.

- **Development Committee** (Geoff Brosseau for Jill Bicknell) – The Committee did not meet this month. The Soil Specification Work Group of the Committee met June 23 to continue to scope out a soil media specifications review roundtable/update project for FY15-16. The Green Infrastructure Work Group is meeting July 17 to continue discussions with Regional Water Board staff of the GI provisions in the Draft MRP.
- **Monitoring / POCs Committee (MPC)** (Arleen Feng) – The Committee met June 3 – see Committee meeting summary for details on items not covered elsewhere in this Board of Directors meeting minutes. Committee Chair Arleen Feng noted the Committee’s focus on providing and reviewing information for the Draft MRP, including for the June 10 Regional Water Board Meeting. The Committee has also scoped out projects for FY15-16 (see Item 7), including a placeholder for a project to address proposed provisions C.11/C.12 deliverables requiring BASMAA coordination but not covered by other regional or CW4CB reporting (e.g., refinement of load reductions accounting method)
- **Municipal Operations Committee** (Geoff Brosseau) – Did not meet this month.
- **Phase II Committee** (Geoff Brosseau for Terri Fashing) – The Committee did not meet this month. Committee Chair Fashing highlighted the Committee’s focus on developing a scope of work and request for proposals for a project to address the Trash Amendments when those are incorporated into the Small MS4 General Permit.
- **Public Information / Participation Committee** (Geoff Brosseau for Tim Swillinger) – The Committee did not meet this month.
- **Trash Committee** (Geoff Brosseau for Chris Sommers) – Did not meet this month.

Information Items. None.

Next Meeting of the Board of Directors. The next meeting of the Board of Directors is scheduled to be held on July 23, 2015, at the offices of EOA, Inc., Oakland, California. Directors will be notified of this meeting via e-mail.

Adjournment. The meeting was adjourned at 3:41 p.m.

Terri Fashing



Secretary, BASMAA

Approved: July 23, 2015 ###