



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### REPORT TO COUNCIL

#### **SUBJECT**

Appoint Councilmembers to Intergovernmental Assignments; Ratify Appointments of Councilmembers made by Outside Agencies; Take Action to Modify, Create, or Terminate Council Subcommittees

#### **BACKGROUND**

On December 6, 2022, the City Council held a Study Session to review their intergovernmental (IGR) assignments and stated their interest to continue, withdraw, or make available to other councilmembers for 2023. Councilmembers also expressed interest in serving on other assignments.

The purpose of this report is for Council to review and possibly ratify Councilmember appointments as presented. Appointees represent the City's interests and influence policies and regulations of other agencies. With a few minor exceptions, all Council appointments are made annually in January; at this time, Council also considers ratifying appointments made by outside agencies.

#### **EXISTING POLICY**

**Council Policy 7.4.12**, *Council Appointments to Intergovernmental Agencies*

**Council Policy 7.4.13**, *Council Subcommittees and Council- or Mayor-Created Advisory Task Forces*

#### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378 (b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

#### **DISCUSSION**

When making IGR appointments, Council considers the City's overall intergovernmental priorities as well as the particular interests and backgrounds of individual Councilmembers. The 2023 IGR Appointments for Consideration (Attachment 1) lists for reference the names of all interested parties and number of appointments available. The 2023 Council IGR Review Forms (Attachment 2) expresses the interest of Councilmembers to continue in their existing assignments (retain), withdraw (release) or make available (offer) assignments for other interested councilmembers.

Appointments made by the Mayor are provided for information only; the Mayor will make his appointments after the January 3 meeting.

### Bay Area Water Supply and Conservation Agency (BAWSCA) Appointment

During the December 6, 2022 Council Study Session, Former Councilmember Gustav Larsson requested that the current City Council reappointment him to the Bay Area Water Supply and Conservation Agency (BAWSCA) and to the San Francisco Bay Area Regional Water System Financing Authority (RFA) for a four-year term commencing July 2023 to June 2027 but has committed to resign in January 2024.

Former Councilmember Gustav Larsson also serves as Board Chair for BAWSCA and RFA until January 19, 2023. Former Councilmember Gustav Larsson has requested to continue as Chair for one more year, January 19, 2023 to January 18, 2024.

The Bay Area Water Supply and Conservation Agency (BAWSCA) is an independent agency that was created in 2003 pursuant to Assembly Bill 2058. Sunnyvale was one of the agencies that took part in creating BAWSCA and appoints one director to the BAWSCA Board of Directors. The San Francisco Regional Water System Financing Authority (RFA) was created in 2002 by the State legislature to assist in funding the San Francisco regional water improvements. Water Code Section 81338 sets forth the term of each BAWSCA director and states that “[e]ach director shall serve a term of four years” and provides that “a vacancy on the board shall be filled by the respective appointing authority...” There is no provision for the “respective appointing authority” to rescind its appointment. The only requirement to be appointed is that the appointee be a registered voter residing within the boundaries of the member public entity whose governing board appoints him or her. The term of office and lack of authority to rescind its appointment for the RFA mirrors the BAWSCA statutory language and is found in Water Code Section 81631. The four-year term of former Councilmember Gustav Larsson on the Board of Directors on BAWSCA and the RFA will end on June 30, 2023. State legislation authorizes each member agency’s governing board to appoint a board member, however they do not have the authority to remove them from the board.

It should be noted that the staff report for making an appointment to BAWSCA and RFA in 2011 stated that “[t]he appointee to BAWSCA and the Authority need not be a council member, and is **not recallable** by the City once appointed.” (emphasis added) (RTC No. 11-088 - see Attachment 4)

Furthermore, in 2014 former Councilmember Larsson was appointed to BAWSCA after former Councilmember Griffith resigned from the BAWSCA board and created a vacancy, which then allowed the City Council to appoint former Councilmember Larsson. The following text was included in Attachment 1, entitled “Proposed the 2014 IGR assignments” (RTC No. 14-0007):

**Note: This assignment has a set term; any vacancy will be appointed by Council for the remainder of the original term.)**

Council Policy 7.4.3, Section I.C. states:

“The term of office for the Sunnyvale representative shall be in accordance with the by-laws of the intergovernmental agency to which they were appointed. For agencies with no defined terms, the appointments shall be made annually in January. Notwithstanding, in all cases, Councilmember assignments and appointments shall terminate automatically when a Councilmember leaves office, effective upon the Councilmember’s last day of service.”

It is not clear why the Council Policy was amended or originally drafted to read as it currently does, but past actions of the City Council recognized the statutory limits on its appointment authority. Since local agency policies cannot override State law, former Councilmember Larson's appointment to BAWSCA will continue until June 30, 2023.

Regarding Council's consideration for the reappointment of former Councilmember Larsson to the BAWSCA Board of Directors to another four-year term, there is no obstacle under state law to make the reappointment. Section I.I of the Council Policy provides for the appointment of non-Councilmembers to IGR assignments and Section I.I.2 requires a summary written report to be submitted to City Council for each meeting of the intergovernmental agency attended.

### **FISCAL IMPACT**

There is no fiscal impact associated with this report.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Public Library, Senior Center, Community Center and in the Department of Public Safety Lobby. In addition, the agenda and report are available at the Sunnyvale Public Library, Office of the City Clerk, and on the City's website.

### **ALTERNATIVES**

1. Ratify Community Member Appointments
2. Reaffirm Board and Commission Liaison Assignments
3. Take Action to Modify, Create, or Terminate Council Subcommittees
4. Appoint Councilmembers to Remaining Council Subcommittees and Standing Committees
5. Appoint members to serve on External IGR Agencies
6. Ratify Appointments made by Outside Agencies including Pre-ratification of appointments that are still pending
7. Other action as directed by Council

### **STAFF RECOMMENDATION**

Alternatives 1 through 6: 1) Ratify Community Member Appointments; 2) Reaffirm Board and Commission Liaison Assignments; 3) Take Action to Modify, Create, or Terminate Council Subcommittees; 4) Appoint Councilmembers to Remaining Council Subcommittees and Standing Committees; 5) Appoint Councilmembers to serve on External IGR Agencies; 6) Ratify Appointments made by Outside Agencies including Pre-ratification of appointments that are still pending.

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Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

### **ATTACHMENTS**

1. 2023 IGR Appointments for Consideration
2. 2023 Council IGR Review Forms
3. Council Policy 7.4.12 (Council Appointments to Intergovernmental Agencies)
4. Hyperlink to: RTC No. 11-088 Appointments of a Director to the Bay Area Water Supply...