

**APPROVED**

**MINUTES OF THE REGULAR MEETING OF THE  
ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY (WMA) BOARD  
AND  
THE ENERGY COUNCIL (EC)**

**Wednesday, April 23, 2014**

**Closed Session**

**2:30 p.m.**

**Regular Meeting**

**3:00 p.m.**

**StopWaste Offices  
1537 Webster Street0+  
Oakland, CA 94612  
510-891-6500**

**CLOSED SESSION (WMA only)**

**CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to Government Code Sections

54956.9(d) (2): (1potential case)

(confidential materials mailed separately)

There was nothing to report from Closed Session.

**I. CALL TO ORDER**

President Biddle, WMA, called to meeting to order at 3:08 p.m.

**II. ROLL CALL**

**WMA & EC**

City of Alameda	Lena Tam (left 4:30 p.m.)
City of Albany	Peter Maass
City of Berkeley	Gordon Wozniak
Castro Valley Sanitary District	Dave Sadoff
City of Dublin	Don Biddle
City of Emeryville	Jennifer West
City of Fremont	Anu Natarajan
City of Hayward	Barbara Halliday
City of Livermore	Laureen Turner
City of Newark	Luis Freitas (left 4:20 p.m.)
City of Oakland	Dan Kalb
Oro Loma Sanitary District	Laython Landis (left 4:10 p.m.)
City of Piedmont	Tim Rood
City of Pleasanton	Jerry Pentin
City of San Leandro	Pauline Cutter
City of Union City	Lorin Ellis
City of Newark	Luis Freitas

**Absent:**

County of Alameda	Keith Carson
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**RB**

Daniel O'Donnell  
Chris Kirschenheuter  
Michael Peltz  
Steve Sherman

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### **Absent:**

Minna Tao

### **Staff Participating:**

Gary Wolff, Executive Director

Jeff Becerra, Communications Manager

Richard Taylor, Counsel, Authority Board

Arliss Dunn, Clerk of the Board

### **Others Participating:**

Bill Pollack, HHW Program Manager

### **III. ANNOUNCEMENTS BY THE PRESIDENTS**

There were none.

### **IV. CONSENT CALENDAR (WMA & EC)**

- |   |                    |
|---|--------------------|
| <b>1. Approval of the Draft Minutes of March 26, 2014 (WMA &amp; EC-Separate Votes)<br/>(Gary Wolff)</b>                                      | <b>Action</b>      |
| <b>2. Approval of the Draft Minutes of February 13, 2014 (RB only) (Gary Wolff)</b>   | <b>Action</b>      |
| <b>3. Minutes of the March 28, 2014 Technical Advisory Group (TAG) (EC only)<br/>(Gary Wolff)</b>   | <b>Information</b> |
| <b>4. Annual Audit for Fiscal year 2012/13 (WMA, RB &amp; EC)<br/>(Gary Wolff &amp; Pat Cabrera)</b>  | <b>Action</b>      |
| Staff recommends that the WMA Board, the Recycling Board and the Energy Council review, accept and file the fiscal year 2012/13 audit report. |                    |
| <b>5. Recycling Board Attendance Record (Gary Wolff) (RB only)</b>  | <b>Information</b> |
| <b>6. Written Report of Ex Parte Communications (Gary Wolff) (RB only)</b>  | <b>Information</b> |
| <b>7. Grants Under \$50,000 (WMA only) (Gary Wolff)</b>   | <b>Information</b> |

Ms. Turner made the motion to approve the Consent Calendar for the WMA Board with the correction noted below. Mr. Wozniak seconded and the motion carried 17-0-1 (Carson absent) (Sadoff abstained).

Ms. Cutter made the motion to approve the Consent Calendar for the Energy Council. Ms. West seconded and the motion carried 16-0 (Carson absent).

Ms. Turner made the motion to approve the Consent Calendar for the Recycling Board. Mr. Wozniak seconded and the motion carried 9-0 (Tao absent).

Correction: Page 5, paragraph 3 of the minutes should state "the second mailing cost was approximately \$80,000 for postage only."

### **V. OPEN PUBLIC DISCUSSION (WMA & EC)**

Ken Bukowski, former Emeryville Councilmember and WMA Board member stated that he was recording the Board meeting and he also records meetings of several regional Boards including ABAG and the MTC among others. The recordings are available on YouTube on 1bayarea.us.

David Tam, Former Recycling Board Member and former member of the committee that established Measure D. Mr. Tam commended staff and the Boards for their commitment towards the goal of zero waste. Mr. Tam referenced an article that he distributed regarding Michigan's 97% compliance rate on their bottle bill which is a \$0.10 redemption rather than California's \$0.05 redemption rate. The article includes prescriptions that could assist in improving other State's compliance rates.

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David Mix, Oakland resident, encouraged StopWaste to improve the communications process with respect to the ability to contact Board members by providing a central email link for all Board members on the StopWaste website. Mr. Mix claimed that his most recent email was not transmitted to the Board.

### VI. REGULAR CALENDAR (WMA only)

#### 1. Household Hazardous Waste (HHW) Services and Fee Ordinance (WMA only) Action (Gary Wolff)

Waive reading of the full draft fee ordinance (attachment C), read it by title only, and adopt it.

Mr. Wolff provided an overview of the staff report and presented a powerpoint presentation. The staff report is available here: <http://www.stopwaste.org/docs/04-23-14-hhw.pdf> The presentation is available here: [www.stopwaste.org/docs/april-23-HHW-ppt.pdf](http://www.stopwaste.org/docs/april-23-HHW-ppt.pdf)

Mr. Wolff indicated that Mr. Mix' most recent email arrived after the package was distributed but has been provided as a handout to the Board and the public along with a legal memo addressing his concerns. Additional correspondence was provided as handouts as well. They are available here: [www.stopwaste.org/docs/4-23-14-hhw-handouts.pdf](http://www.stopwaste.org/docs/4-23-14-hhw-handouts.pdf)

Mr. Wolff stated that the number of valid protests (51,203) were not all unique names. Mr. Pentin asked if the 45,000 facility users were all unique. Mr. Wolff stated no, they likely aren't either. Ms. Turner stated that she was unaware that the austerity measure would reduce the number of households served but rather reduce the hours of operation and inquired if the facility has ever turned away customers. Mr. Pollack stated no, not in the past. Ms. Turner stated that she was offended by the slide showing the injury to the recycling worker and considered it a scare tactic to the Board and does not prove that adopting the fee would prevent future injuries to recycling workers.

Mr. Biddle asked with respect to multi-family units is waste generated by contractors as opposed to residents accepted at the HHW facility. Mr. Wolff stated there is presently a program that permits generators to bring small quantities of HHW materials subject to a separate fee. The proposed program will allow owners of the residences to register as a small quantity generator and not pay an additional fee. Ms. West stated as a multi-family resident she appreciates the new provision to the program. Mr. Biddle asked for clarification on the current number of households served and the proposed numbers. Mr. Wolff stated the program currently serves approximately 45,000 households per year and we are proposing to increase use to 12-14% of all households in the County.

Ms. Halliday inquired about new measures in the proposal to increase participation for multi-family households. Mr. Wolff stated the proposal includes measures to adjust outreach to multi-family periodically in those geographic areas or other areas that are identified as low participating areas. The HHW facility is beginning to survey customers to ascertain the type of building that they live in. This information will be used to shape the outreach effort.

Ms. Natarajan inquired about patterns of use such as seasonal, etc. Mr. Pollack stated that there are seasonal variations with April - September being the busiest. Outreach is increased during the winter months to equal out participation. Mr. Sadoff asked for clarification with regard to Sunday hours of operation. Mr. Wolff stated that Los Angeles data indicated that proportionally, their Sunday participation was the equal to our weekday participation, so adding Sunday and eliminating a weekday was not a net gain. The proposal will have both Hayward and Livermore open on Friday and Saturday each week and the twelve 1 day events will occur typically on Sunday. Mr. Sadoff stated that the mobile events would not be scheduled consistently if they are some Sundays but not others. Mr. Wolff said that since the mobile events will be reservation only, residents will know when the events are occurring.

Mr. O'Donnell inquired if the austerity measure is selected is there an estimate of potential costs for cleaning up contamination that will occur at the landfills, in the ground water or illegal dumping. Mr. Wolff stated no, we have no quantitative estimates. However, as an example of possible impacts, staff just last week received a request from the Oakland Fire Department for help creating a public video informing the public about the

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HHW facility on 7th street in order to reduce illegal dumping of hazardous waste intermingled with municipal waste on the streets.

Ms. Turner inquired about the measures required if selecting the austerity option and subsequently turning people away. Mr. Pollack stated he can't definitively answer the question as it would depend on the scenario. The austerity measure will definitely require a reduction in staffing as well as a reduction in revenues for disposal. Mr. Pentin inquired if the austerity option was selected how soon it would go into effect. Mr. Pollack stated July 1st. Ms. Tam stated that Urban Ore raised the issue of accountability and responsibility for HHW, and if there is no county facility responsible for the waste, property owners would then be held accountable for illegal dumping on or near their property. Mr. Taylor stated apartment building owners are subject to the State regulatory requirements regarding hazardous waste and may currently register as small quantity generators and pay a fee. If the facility is not available due to a reduction in hours it may be harder to access the facility. Ms. West stated that the Board considered the austerity option early in the process and although not unanimous clearly rejected the option and considered it a step backwards in dealing with hazardous waste.

President Biddle opened the floor for public comments. Mr. Biddle clarified that the cards submitted during the process are not votes but protests. Mr. Taylor clarified that the structure of Prop 218 requires when doing a property related fee there must first be a protest process which we have already done. For refuse collection fees such as this, that's the end of the process as required. Fees that are not water, sewer or refuse collection then go to a ballot.

There were 10 speakers. An Audio of the public discussion is available here: [www.stopwaste.org/docs/hhw-4-23-14-public.mp3](http://www.stopwaste.org/docs/hhw-4-23-14-public.mp3)

Ruth Abbe	Jeff Renholts
Ken Bukowski	Tom Silva
Carroll Deaton	Neil Strauss
Timothy May	David Tam
David Mix	Amy Willis

After hearing from all the public speakers the Board resumed discussion of the HHW Fee Ordinance.

Mr. Wozniak made the motion to approve the staff recommendation. Mr. Kalb seconded.

Mr. Wozniak stated that the Board in the fall had extensive discussions about how to deal with household hazardous waste and decided to move forward with the expansion option. Mr. Wozniak cautioned that if the Board proceeds with the austerity option 1.5 million pounds of hazardous waste will be improperly disposed and significant clean-up costs will result. Mr. Wozniak added it's a minimal cost per month and will about double the efforts for properly handling the disposal of HHW which is the ultimate goal.

Ms. Turner stated that although she agrees with the proposed expansion option she continues to have concerns with the protest process and the significant 18% participation rate from the public and can therefore not support the recommendation. Mr. Sadoff stated that he also agrees with the expansion option with the exception of not providing services on Sundays and can therefore not support the recommendation.

Ms. Natarajan stated support for the expansion option and stated that the Board has had extensive discussion with regard to remaining prudent with respect to what works most effectively. Ms. Natarajan added the city of Fremont has used city funding to keep the Fremont facility operating and is seeing increased usage of the facility with 30% participation from households outside of Fremont. Ms. Natarajan stated that the data does not persuade her to propose a lesser fee to multi-family households. Ms. Natarajan encouraged the Board to adopt the staff recommendation.

Mr. Kalb stated that he agrees with Mr. Wozniak and the Board has an obligation to improve efforts regarding the diversion of HHW and encouraged the Board to adopt the staff recommendation. Ms. West stated that the increase in hours and services is important and can hopefully address the issue of Sunday services in the future.

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Mr. Wolff conducted the roll call vote. :

City of Alameda	Yes
Alameda County	Absent
City of Berkeley	Yes
Castro Valley Sanitary District	No
City of Dublin	No
City of Emeryville	Yes
City of Fremont	Yes
City of Hayward	Yes
City of Livermore	No
City of Newark	Yes
City of Oakland	Yes
Oro Loma Sanitary District	Absent
City of Piedmont	Yes
City of Pleasanton	No
City of San Leandro	Yes
City of Union City	Yes

The vote tally was 11-4 (Carson and Landis absent). The motion failed because a 2/3 majority of the members of the Board (12) is required in this situation. Mr. Biddle motioned to reconsider the item with the absent members present at the May 28 WMA meeting. Some Board members asked staff to bring back any other options or alternatives for discussion. Mr. Wolff stated that there are no other options that he can provide, given the extensive process we've been through, but he will certainly look into any ideas that the Board members suggest. Board members asked for additional information on providing Sunday services and other revenue reallocations. Board members inquired about a full election balloting process and Mr. Wolff explained the very high costs associated with this process, reported to him by Registrar of Voters staff. He noted that a majority mail in decision process (similar to the assessment procedure in Proposition 218) would not succeed unless rental property owners were supportive, because they own 45% of residential units in the County. That is not a reason against that process, but it is a fact the Board should be aware of as they consider options.

### **2. Preliminary Legislative Positions for 2014 (WMA & RB only) Action** **(Gary Wolff & Jeff Becerra)**

Staff recommends that the Boards confirm the above preliminary legislative positions for the 2014 session of the California legislature.

Mr. Becerra provided an overview of the staff report. The report is available here:

<http://www.stopwaste.org/docs/04-23-14-legislation.pdf>

Ms. Turner inquired about AB 1893 (Stone-Eggman) Home-generated Sharps and current requirements of the law. Mr. Becerra stated the proposed legislation makes it a requirement to inform the public of take-back options and locations. Ms. Turner stated that as a health care professional this legislation is added bureaucracy as most patients that routinely utilize sharps are aware of this information. Ms. Turner inquired about SB 1014 (Jackson) – Home-generated Pharmaceutical Waste and the differences with the current requirements. Mr. Becerra stated the language in the legislation has changed significantly from what is included in the memo to a modest voluntary program.

Ms. Natarajan reiterated the Board's request to forward any legislation to Board members that may require additional influence or attention, and also inquired if there are a cluster of priority bills. Mr. Becerra stated the four priority bills are: AB 2284 (Williams) Single-use household batteries, SB 270 (Padilla) Single-use Carryout Bags, AB 1594 (Williams) Alternative Daily Cover, and AB 1826 (Chesbro) Commercial Organic Waste Recycling. Ms. Turner asked that staff report back to the Board in May on potential efforts and any ways the Board can use their influence to advocate for these bills. Ms. West inquired about AB 1970 (Gordon)

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Community Investment and Innovation program and any possible effects on Alameda County. Mr. Becerra stated that there will be funds available and we can apply for local projects.

Ms. Natarajan made the motion to approve the staff recommendation. Ms. Cutter seconded and the motion carried 15-0 (Carson, Freitas, Landis, and Tam absent).

- 2. Interim appointment(s) to the Recycling Board for WMA appointee unable to attend future Board Meeting(s)** **Action**  
(P&O and Recycling Board meeting - May 80, 2014 at 7:00 p.m. - Hayward City Hall, 777 B St, Hayward, Ca)

Mr. Pentin required an interim appointment. Mr. Biddle agreed to attend as the interim appointment. Ms. Cutter made the motion to approve the interim appointment Ms. Turner seconded and the motion carried 15-0 (Carson, Freitas, Landis, and Tam absent).

**VII. COMMUNICATIONS/MEMBER COMMENTS (WMA & EC)** **Information**

Ms. Cutter asked staff to look into a global communication mechanism for contacting Board members. Mr. Wolff said that we would set that up. Ms. Turner stated that Livermore Legal Counsel has reviewed the County Charter and does not see a requirement for the Recycling Board to meet on a monthly basis and asked that staff provide the information to her. Mr. Wolff said that he would.

Mr. Wolff stated for agenda planning, the International Longshore and Warehouse Union (ILWU) asked that we place on a future agenda the possibility of the Board adopting a resolution encouraging member agencies to follow the lead of the City of Fremont in adopting a schedule of wages and benefits for recycling workers that improves the current schedule of wages and benefits. Staff is supportive of this request and the Board agreed to agendaize the item at the May 28 meeting.

**VIII. ADJOURNMENT (WMA & EC)**

The meeting adjourned at 4:45 p.m.