

APPROVED
MINUTES OF THE JOINT MEETING OF THE
ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY (WMA) BOARD,
THE ENERGY COUNCIL (EC),
AND THE SOURCE REDUCTION AND RECYCLING BOARD (RB)

Wednesday, September 16, 2015

3:00 P.M.

StopWaste Offices
1537 Webster Street
Oakland, CA 94612
510-891-6500

I. CALL TO ORDER

President Jerry Pentin, WMA, called the meeting to order at 3:02 p.m.

II. ROLL CALL

WMA or EC or RB, as noted

County of Alameda	Keith Carson, WMA, EC (left 4:00 p.m.)
City of Alameda	Jim Oddie, WMA, EC
City of Albany	Peter Maass, WMA, EC
City of Berkeley	Susan Wengraf, WMA, EC
Castro Valley Sanitary District	Dave Sadoff, WMA
City of Dublin	Don Biddle, WMA, EC
City of Emeryville	Dianne Martinez, WMA, EC, RB
City of Fremont	Suzanne Lee Chan, WMA, EC
City of Hayward	Greg Jones, WMA, EC, RB
City of Newark	Mike Hannon, WMA, EC
City of Oakland	Rebecca Kaplan, WMA, EC
Oro Loma Sanitary District	Shelia Young, WMA
City of Piedmont	Tim Rood, WMA, EC, RB
City of Pleasanton	Jerry Pentin, WMA, RB
City of San Leandro	Pauline Cutter, WMA, EC

Absent:

City of Livermore	Laureen Turner, WMA
City of Union City	Lorrin Ellis, WMA, EC, RB

Recycling Board only:

Environmental Educator	Toni Stein (arrived 3:40 p.m.)
Environmental Organization	Daniel O'Donnell
Recycling Programs	Adan Alonzo
Solid Waste Industry Representative	Michael Peltz
Source Reduction Specialist	Steve Sherman
Recycling Materials Processing Industry	Vacant

Staff Participating:

Gary Wolff, Executive Director
Wendy Sommer, Deputy Executive Director
Brian Mathews, Senior Program Manager
Heather Larson, Program Manager
Richard Taylor, Counsel, Authority Board

APPROVED

Arliss Dunn, Clerk of the Board

III. ANNOUNCEMENTS BY THE PRESIDENTS

There were none.

IV. CONSENT CALENDAR (WMA, EC & RB)

- | | |
|--|--------------------|
| 1. Approval of the Draft Minutes of July 22, 2015 (WMA & EC-Separate Votes) (Gary Wolff) | Action |
| 2. Approval of the Draft Minutes of August 13, 2015 (RB only) (Wendy Sommer) | Action |
| 3. Recycling Board Attendance Record (RB only) (Wendy Sommer)
This item is for information only. | Information |
| 4. Written Report of Ex Parte Communications (RB only) (Wendy Sommer)
This item is for information only. | Information |
| 5. Minutes of the July 21, 2015 Technical Advisory Group (TAG) (EC only) (Gary Wolff, Wendy Sommer & Karen Kho)
This item is for information only. | Information |
| 6. Minutes of the August 18, 2015 Technical Advisory Group (TAG) (EC only) (Gary Wolff, Wendy Sommer & Karen Kho)
This item is for information only. | Information |
| 7. Grants Under \$50,000 (WMA only) (Gary Wolff) | Information |

Board member Biddle made the motion to approve the Consent Calendar for the WMA Board with the following correction. Board member Jones seconded and the motion carried 18-0 (Ellis and Turner absent).

(Correction: Board member Martinez indicated that on page 3, paragraph 2, the last sentence should state .1 FTE, and the sentence should conclude with a period.)

Board member Cutter made the motion to approve the Consent Calendar for the Energy Council. Board member Biddle seconded and the motion carried 17-0 (Ellis, absent).

Board member Rood made the motion to approve the Consent Calendar for the Recycling Board. Board member Maass seconded and the motion carried 9-0 (Stein absent).

V. OPEN PUBLIC DISCUSSION (WMA, EC & RB)

There was none.

VI. REGULAR CALENDAR (WMA, EC & RB)

- | | |
|---|---------------|
| 1. Sale of a Conservation Easement to Golden Hills LLC (Wind Farm Developer) (WMA only) (Gary Wolff & Brian Mathews) | Action |
|---|---------------|

Gary Wolff provided an overview of the staff report. The staff report is available here: <http://stopwaste.org/Conservation/Easement.pdf>

Board member Cutter made the motion to approve the staff recommendation. Board member Chan seconded and the motion carried 18-0 (Ellis and Turner absent).

- | | |
|--|---------------|
| 2. Interim appointment(s) to the Recycling Board for WMA appointee unable to attend future Board Meeting(s) (WMA only)
(P&O and Recycling Board meeting, October 8 th at 4:00 pm – StopWaste Offices, 1537 Webster Street, Oakland, CA) | Action |
|--|---------------|

President Pentin and Board member Jones requested an interim appointment for the October 8th meeting. Board member Biddle stated that he would attend as the interim appointment for President Pentin. Board member Young stated that she would attend as the interim appointment for Board member Jones. Board

APPROVED

member Martinez made the motion to approve the interim appointments. Board member Wengraf seconded and the motion carried 18-0 (Ellis and Turner absent).

3. Enforcement Update (WMA & RB only) (Gary Wolff & Brian Mathews) Information

This item is for information only.

Brian Mathews provided a summary of the staff report and presented a PowerPoint presentation. The combined staff report and presentation is available here:

<http://stopwaste.org/Enforcement/Presentation.pdf> During the presentation, Mr. Mathews pointed out that due to recent activity, number of notifications sent out to regulated parties under the Resuable Bag Ordinance is 224, not 207 as reported in the memo.

Mr. Wolff publicly commended staff members of the enforcement team for their efforts on the enforcement project. Staff members recognized include Brian Mathews, Adrienne Ramirez, Elise Lebsack, Dean Stavert, Greg Morgado, and the inspectors that work for Stealth. Mr. Wolff added the team has created an enforcement capacity that did not exist five years ago and is doing a tremendous job.

President Pentin inquired how the out-of-county haulers are identified absent AB901. Mr. Mathews replied that for the most part landfills have been very cooperative in providing information. The largest numbers of active landfills in the near Bay Area are owned by Republic and they are covered by our cooperative agreement which requires them to provide us with the names of the haulers. In the case of Waste Management landfills (primarily Redwood, Kirby Canyon, and Guadalupe), they don't need to provide hauler information to us because Waste Management collects the fee for us. We have experienced difficulty in getting information from landfills in Solano County. The company most resistant to AB901 has been Waste Connections, the owner of the Protrero Hills landfill.

Board member Maass inquired if there have been issues with landfills out of State. Mr. Wolff stated that the ordinance exempts waste going out of State from fees to avoid any possible legal challenge involving interstate commerce clause. However, no waste from our County goes out of state.

Board member Kaplan inquired about the earliest start date for mandatory collection of organics. Mr. Mathews stated that the cities of Livermore, Albany, Berkeley, Emeryville, Alameda, and unincorporated Alameda County started July 1, 2014, and enforcement began January 1, 2015. Board member Kaplan inquired if small businesses have been phased in. Mr. Mathews stated that the small businesses are phased in according to the schedule indicated in the presentation. Board member Kaplan added the restaurants in Oakland are having difficulty with the new composting rates and staff is working hard to address the challenges. She also inquired about education and outreach for recycling and the balance between enforcement and education. Mr. Mathews replied the Mandatory Ordinance only covers the covered materials listed in the ordinance such as newspaper, white paper, cardboard, HDPE, PET, food and beverage containers, glass and metal food containers. A Styrofoam container with a metal top is not covered under the ordinance and therefore enforcement action would not occur in this instance. Each jurisdiction has their own list of accepted materials in their recycling program and those lists are on our website with links to each City as well as our hotline for the public to call in for assistance and information. Mr. Wolff added the website address is RecycleRulesAC.org. Board member Kaplan added that she would like to see illegal dumping included in agency enforcement efforts.

Board member Alonzo inquired if enforcement efforts target the illegal haulers that are stealing tons from residents and therefore away from Republic as they are the processing facility for residents in the Tri Cities area (Fremont, Newark, and Union City). Board member Alonzo stated that there is a facility in Fremont operating illegally that was shut down by the LEA over a year ago and inquired if enforcement action is viable in this instance. Mr. Mathews replied that the facility would need to be identified in the siting element of the COIWMP which we would then review. The agency has no jurisdiction with respect to scavenging. However there has been State legislation to discourage the scavenging by limiting the number of pounds (50) an individual can redeem in a day. Board member Biddle stated that revenue loss from the export of waste out of county to avoid fees is significant, and asked Mr. Wolff to share again with the Board

APPROVED

estimates he had provided previously. Mr. Wolff stated that based on the 2013 and 2014 calendar year data from the State Disposal Reporting System, missed revenue attributable to tons leaving the County and which avoided the \$4.34 facility fee which they are subject to is \$300,000 to \$600,000 per year.

Board member Sherman stated many of the jurisdictions or cities that have franchised commercial recycling or franchised commercial organics prior to mandatory had an incentivized rate structure that kept recycling rates lower than garbage rates. Most of the cities have kept this structure and for those that have not is the agency considering putting additional resources in communities that have a perverse or disincentive rate structure or would the agency be adverse to putting in financial incentives as a fourth leg in the three legged enforcement chair (described in the presentation). Mr. Mathews stated for our enforcement program to be legitimate we must have a fair and equitable distribution of our resources and won't target a particular community one over the other based upon an unrelated decision that was made by that jurisdiction (e.g., the rate structure). This is evident in how we distribute our inspections in East, North and South counties. Additionally, the need for financial incentives is less where mandatory recycling is the law.

Board member Chan inquired about the timeframe for the three step process. Mr. Mathews replied that the inspection process began two and a half years ago and the initial inspection objective was two times per year. If a business was in compliance during both inspections they would shift to a once a year inspection cycle. If they were out of compliance we would inspect the business more frequently, every 4 months instead of every 6 months. If there was a second violation it would increase to every ninety days. After receiving a citation it could be as early as 30 days but due to the 30 day appeal period it could be within 60 days. The goal is to work with them to bring them into compliance. Board Chan inquired if there have been any citations issued of the 63 pending citations. Mr. Mathews stated no, but we have just received 2 citations that were approved by a Primary Enforcement Representative and Mr. Mathews concurred with the findings and will be issuing the citation. Mr. Mathews confirmed that the Primary Enforcement Representative from the City of Fremont is currently reviewing 33 citations for approval or disapproval and they will then be submitted to Mr. Mathews who will issue them.

Board member Rood inquired as to who is typically acting as the Primary Enforcement Representative. Mr. Mathews stated that the ordinance has a set of criteria that must be met and the jurisdiction's Chief Executive typically designates someone within their organization who has the specific training around code enforcement or law enforcement.

Board member Hannon inquired if the information provided to multi-family property managers designated for tenants is available in multiple languages. Rachel Balsley stated that the mandatory recycling rules are available in both Spanish and Chinese and a lot of signage is picture based which transcends language. Board member Hannon inquired if those property managers that have the opportunity to opt out and have the processor evaluate their materials are required to pay a fee for this service. Mr. Mathews stated no, not necessarily. Mr. Wolff added it depends on the rate structure which the agency does not set. Mr. Mathews clarified that Waste Management has not been certified as a High Diversion Mixed Waste Processing Facility for multi-family waste, only for commercial waste. Board member Hannon inquired if the agency charges the property a fee if a second inspection is required. Mr. Mathews stated no. Board member Hannon encouraged the agency to impose a fee if a second inspection is required as it requires additional resources to do that. Mr. Mathews replied that the ordinance as currently written does not allow us to do that. It would need to be amended. Board member Hannon inquired if the Board has the authority to amend the ordinance. Mr. Mathews stated yes, and added the fine from the violation could be used to cover inspection costs. We have not collected fines yet, but could use future revenue in that way. The fines vary according to the violation. There is a \$100 fine if it's a transient violation, non-transient violations are \$5 per day and we assume a 30 day violation period. Board member Hannon encouraged staff to consider a re-inspection fee in addition to the fine. Board member Hannon inquired about the amount of the fine for haulers transporting waste out-of-county. Mr. Mathews stated that the primary goal is to

APPROVED

collect the the \$4.34 per ton fee and when citations are issued the ordinance allows for a fine of up to s \$100 per day per violation, however typically we charge \$10/day/violation.

Board member Stein expressed her apologies for arriving late as she had a physical therapy appointment. She asked to be counted as present and expressed her vote for approval of the Recycling Board minutes.

President Pentin thanked Mr. Mathews for the presentation.

VII. COMMUNICATION/MEMBER COMMENTS (WMA, EC & RB) Information

Board member Alonzo announced that Fremont Recycling is not being sold to Republic Services.

VIII. ADJOURNMENT (RB only)

The Recycling Board portion of the meeting adjourned at 4:00 p.m.

IX. REGULAR CALENDAR

The Board adjourned to Closed Session at 4:00 p.m. and returned to Open Session at 4:35 p.m.

1. CLOSED SESSION (WMA only)

PUBLIC EMPLOYMENT

Pursuant to Government Code Section 54957(B)

PUBLIC EMPLOYEE APPOINTMENT

Executive Director

There was nothing to report from the closed session.

2. CLOSED SESSION: (WMA only)

(Pursuant to Government Code Section 54957.6

CONFERENCE WITH LABOR NEGOGIATOR

Agency Designated Representative: Board Member Jerry Pentin

Unrepresented Employee: Executive Director

(confidential materials mailed separately)

There was nothing to report from the closed session.

3. OPEN SESSION: (WMA only)

A draft contract with Wendy Sommer was distributed. There were no public comments. Board member Cutter made the motion to approve the contract with Wendy Sommer to become Executive Director beginning January 1, 2016 after Gary Wolff retires at the end of December, 2015. Board member Jones seconded and the motion carried 16-0 (Carson, Ellis, and Turner absent).

4. PG&E Local Government Partnership: Contract Amendment (EC only) Action
(Wendy Sommer & Heather Larson)

Adopt the Resolution attached.

Heather Larson provided an overview of the staff report. The report is available here:

<http://stopwaste.org/PGE/Contract/Amendment.pdf>

Board member Rood indicated that it is unclear if the \$202,000 is new cost to the agency or pass-through from PG&E or a combination of both. Ms. Larson replied that it is all funding coming through PG&E. There is \$24,000 for agency staff for coordination, 10% admin overhead, and the remainder is pass-through for the East Bay Energy Watch (EBEW) Independent Partnership Manager position, benefits and expenses.

Board member Rood made the motion to approve the staff recommendation. Board member Cutter seconded and the motion carried 15-0 (Carson and Ellis absent).

VIII. ADJOURNMENT (WMA & EC)

The WMA & EC portion of the meeting adjourned at 4:40 p.m.