

Programs & Administration Committee

Shelia Young, Chair
Oro Loma Sanitary District
Jerry Pentin, Vice Chair
City of Pleasanton
Rochelle Nason, City of Albany
Keith Carson, County of Alameda
Susan Wengraf, City of Berkeley
Melissa Hernandez, City of Dublin
Dianne Martinez, City of Emeryville
Jenny Kassan, City of Fremont
Mike Hannon, City of Newark
Dan Kalb, City of Oakland
Tim Rood, City of Piedmont
Emily Duncan, City of Union City
Wendy Sommer, Executive Director

AGENDA
ALAMEDA COUNTY WASTE
MANAGEMENT AUTHORITY MEETING
OF THE
PROGRAMS AND ADMINISTRATION COMMITTEE

Thursday, October 10, 2019

9:00 A.M.

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

1. Convene Meeting

2. Public Comments

Open public discussion from the floor is provided for any member of the public wishing to speak on any matter within the jurisdiction of the Programs & Administration Committee, but not listed on the agenda. Each speaker is limited to three minutes unless a shorter period of time is set by the Chair.

Page

- 1** **3. Approval of the Draft Minutes of September 12, 2019 (Pat Cabrera)**
- 7** **4. Election of Chair and Vice Chair (Arliss Dunn)**
 Staff recommends that the Programs and Administration Committee elect a Chair and Vice Chair for the period November 1, 2019 – June 30, 2020.
- 9** **5. Mandatory Recycling Ordinance Project Update (Rachel Balsley)**
 This item is for information only.
- 6. Member Comments**
- 7. Adjournment**

The Programs & Administration Committee is a Committee that contains more than a quorum of the Board. However, all items considered by the Committee requiring approval of the Board will be forwarded to the Board for consideration at a regularly noticed board meeting.

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**MINUTES OF THE ALAMEDA COUNTY WASTE
MANAGEMENT AUTHORITY MEETING
OF THE
PROGRAMS AND ADMINISTRATION COMMITTEE**

Thursday, September 12, 2019

9:00 A.M.

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

**Teleconference
Tim Rood
San Jose City Hall
3rd Floor Tower
200 East Santa Clara St
San Jose CA 95113**

Members Present:

County of Alameda	Keith Carson
City of Albany	Rochelle Nason
City of Berkeley	Susan Wengraf
City of Dublin	Melissa Hernandez
City of Emeryville	Dianne Martinez
City of Fremont	Jenny Kassan
City of Newark	Mike Hannon
Oro Loma Sanitary District	Shelia Young
City of Piedmont	Tim Rood (teleconference)
City of Pleasanton	Jerry Pentin
City of Union City	Emily Duncan

Absent:

City of Oakland	Dan Kalb
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Staff Present:

Wendy Sommer, Executive Director
Pat Cabrera, Administrative Services Director
Jeff Becerra, Communications Manager
Meghan Starkey, Senior Management Analyst
Rachel Balsley, Senior Program Manager
Arliss Dunn, Clerk of the Board

DRAFT

1. Convene Meeting

Chair Shelia Young called the meeting to order at 9:06 a.m.

2. Public Comments

There were none.

3. Approval of the Draft Minutes of July 11, 2019 (Pat Cabrera)

There were no public comments on this item. Board member Pentin made the motion to approve the draft minutes of July 11, 2019. Board member Wengraf seconded and the motion carried 7-0-1 (Ayes: Duncan, Hernandez, Kassan, Nason, Pentin, Young, Wengraf. Nays: None. Abstain: Martinez. Absent: Carson, Hannon, Kalb, Rood).

4. Proposed Benefit Changes (Pat Cabrera)

That the P&A Committee discuss this item and recommend that the WMA adopt the requested changes as outlined in the staff report.

Pat Cabrera provided an overview of the staff report and presented a PowerPoint presentation. A link to the report and the presentation is available here: [Benefit-Changes.pdf](#)

Board member Pentin inquired with regard to the Executive Director Authority, if the de minimis cost of no more than \$15,000 is aggregate per year or per incident. Ms. Cabrera stated that it is aggregate per year. Board member Nason inquired if there are any current employees enrolled in educational programs that could be affected by the proposed reduction in the educational benefit. Ms. Cabrera stated that the agency would honor any employee that is currently enrolled in a program as they would be grandfathered in at the current rate.

Chair Young inquired if the agency reviews employee benefits on an annual basis and further inquired as to what prompted the review. Ms. Cabrera stated that the issue arose a couple of years ago as we were looking at work life balance and how the agency compared to other member agencies. Chair Young inquired with regard to the bike allowance, how we would ensure that an employee is actually riding their bike to work 50% of the time. Ms. Cabrera stated that the agency is small enough to keep track of who is biking to work and it is also on the honor system. Board member Hernandez commented that she has worked for a small company for a number of years and they received three weeks of vacation leave very early on. She also added her support for the \$25 bike allowance.

There were no public comments on this item. Board member Wengraf made the motion to approve the staff recommendation. Board member Pentin seconded and the motion carried 10-0: (Ayes: Carson, Duncan, Hernandez, Kassan, Martinez, Nason, Pentin, Rood, Young, Wengraf. Nays: None. Abstain: none. Absent: Hannon, Kalb).

5. Employment Status Change for Board Members (Pat Cabrera)

This item is for information only.

Pat Cabrera provided an overview of the staff report. A link to the report is available here: [Board-Members-Status-Change.pdf](#)

DRAFT

Board member Duncan inquired about the noticeable change in how the Board stipends are currently remitted to Board members. Ms. Cabrera stated that Board members currently receive a check and a Form 1099 is issued at the end of the year. Beginning in 2020, 7.65% will be deducted from the payment for Medicare and Social Security (FICA) payroll taxes and any other withholdings determined by the W-4 form that Board members will provide. Ms. Cabrera added Board members will not be eligible for any employee benefits, but they are allowed a reimbursement for expenses relating to educational or professional instruction, conferences or seminars related to the waste reduction field. Board member Wengraf inquired if this has any effect on the Form 700 filing. Ms. Cabrera stated no, the Form 700 relates to any gifts that are received.

There were no public comments on this item.

6. National Sword Update and Local Impacts (Meghan Starkey)

This item is for information only.

Jeff Becerra and Meghan Starkey provided an overview of the staff report and presented a PowerPoint presentation. A link to the report and the presentation is available here: [National-Sword-Update.pdf](#)

Board member Pentin asked for clarification on the statement “elimination of materials.” Mr. Becerra stated that some materials are not being recycled as they are not being accepted at processing facilities as part of the recycled waste stream. Board member Carson inquired about what is happening domestically. Mr. Becerra stated that we are hearing of more domestic facilities being developed although not in California due to our more stringent environmental policies. Mr. Becerra added it takes time to place these facilities and have them up and running but he feels positive that going forward we will have increased domestic capacity. Board member Carson inquired if due to operating cost there is the potential for closing facilities and moving towards transporting materials outside of California. Mr. Becerra stated that this is already occurring but he has not heard of any local facilities closing. Ms. Sommer added due to National Sword and the inability to move materials as fast as before, it is causing facilities to have more residuals and some facilities are reaching the permitted limit, triggering the threshold that requires a solid waste facility permit from CalRecycle. Ms. Sommer added that she has heard that some facilities/haulers are reaching out to their cities for financial assistance to keep them afloat. Board member Carson inquired if there have been any discussions or conversations among jurisdictions to possibly go to the voters for an increase to provide assistance to the recycling industry. Mr. Becerra stated yes, there have been conversations because haulers are asking the cities for rate increases. Ms. Sommer added we have not seen any action that would involve seeking assistance from the residents. Mr. Becerra added because of SB 1383, we will see more siting of composting facilities. Board member Carson inquired about the development of new facilities outside of the United States and stated that they are becoming stringent in their requirements as well. Mr. Becerra stated that the Southeast Asian Countries that are considering or implementing stricter contamination standards include India, Vietnam and Malaysia. Board member Carson commented that San Francisco is developing more upstream policies from a producer perspective. Mr. Becerra stated that with respect to waste prevention, when staff went to the Board to present and ultimately adopt the Guiding Principles the focus was on waste prevention and in the fall we will be bringing a single use disposables policy to the Board as another example of an upstream strategy.

Board member Wengraf stated that the efforts to address the National Sword issue appear to be a patchwork approach and inquired if there are plans to collaboratively address the issue either regionally or statewide. Ms. Sommer stated if there is a strategy that it should start at the state level as

DRAFT

all of the jurisdictions have different haulers and franchise agreements with differing requirements which makes it difficult to launch a coordinated approach. Ms. Sommer stated that on a local level we can discuss revisiting the permitting process for haulers. Board member Martinez announced that she was pleased that the city of Emeryville worked with Waste Management to continue to include the gable top milk cartons in their recycling stream. Board member Martinez agreed with Board member Wengraf's comments and inquired if there was anything that we can do locally for the upcoming state budget cycle for local infrastructure if we want to keep using these materials. Board member Martinez added they are focused on zero waste.

Board member Pentin asked for clarification on the contamination fee. Ms. Starkey stated that since the issue of National Sword focuses on materials that are deemed too dirty to go into China and for a number of reasons commercial customers are consistently putting the wrong things into bins, some haulers are assessing a contamination fee on those customers. Ms. Sommer stated that Waste Management is starting to assess fees in Oakland and is looking to do it in other jurisdictions as well. Ms. Balsley added in the 2015 franchise agreement with Oakland a provision was added that service providers can charge a contamination fee of \$25 to single family homes. The account holder would first receive a warning notice and the bin would be tagged 3-4 times before a fee was levied. Ms. Balsley added she is not sure if any fees have been assessed to date. Board member Pentin inquired if this would require auditing the bins with cameras. Ms. Balsley stated that it is easier to audit commercial accounts with cameras and use visual inspections with single family residences. Chair Young commented that she is Chair of the Solid Waste Committee at Oro Loma Sanitary District, and Waste Management is doing a pilot in Woodland for residential use of cameras on board the trucks and they are the only company that is currently doing that.

Board member Wengraf commented that it appears that the pressure is on the consumer and it is very difficult given the varying requirements among the different facilities and inquired as to what pressure is being put on the producers for manufacturing these materials. Ms. Sommer stated that producer responsibility is definitely one of the Agency's areas of priority and we are addressing it legislatively. Mr. Becerra stated that EPR for paint has been very successful in helping us lower the fee for the HHW facility, carpet has not been very successful, and mattresses are somewhere in the middle. Staff is continuing in our efforts and we will be able to report on legislation around plastics at the end of the legislative session. Chair Young stated that there is legislation around plastics in the pipeline and provided a copy of an article on plastic legislation to the Clerk of the Board to distribute to the Committee. Ms. Sommer stated that the state legislation is SB 54 and AB 1080 sponsored by Assembly member Lorena Gonzalez and Senator Ben Allen and stated that we should support the language but she is concerned about how the policies will be implemented at the local level and whether local jurisdictions are willing to implement these measures without a funding mechanism. Board member Wengraf inquired if there is a way to work with the authors to amend the item to address those concerns. Ms. Sommer stated that we have been working with them but she has not seen progress so far. Ms. Becerra added we are working with our partners but there is stiff opposition from the plastics industry. Board member Hannon commented that there should be a regulatory approach that focuses on ensuring that recycling facilities are operating with less than 10% residuals and if not requiring that they apply for a solid waste facility permit from the state. Ms. Sommer stated that we are not the enforcement agency. With the exception of the City of Berkeley, the Alameda County Department of Environmental Health serves as the LEA (Local Enforcement Agency) and has jurisdiction over this. Ms. Sommer added that the agencies have been out in the field inspecting these facilities and some of the local facilities have been asked to apply for a solid waste permit. Board member Hannon commented that as a member of the San Jose LEA, the concern was that they allowed the facilities to self-audit and

DRAFT

although a majority of the time it was fine he recommends that we provide oversight to ensure that they are in compliance and if not regulate that they apply for a solid waste facility permit. Board member Hannon stated that he was pleased to hear about the task force and is interested to hear about the best practices around reducing contamination. Chair Young inquired if the task force is discussing multi-family units. Ms. Starkey stated that they have not taken a deep dive specifically in discussing multi-family units but it is upcoming. The task force is more focused on education and outreach. Chair Young inquired with regard to CalRecycle and CRV deposits. Ms. Sommer stated that we will have a discussion on this issue next month.

There were no public comments on this item. Chair Young thanked staff for the presentation and discussion.

7. Member Comments

Chair Young informed the Committee that we mistakenly interpreted the Rules of Procedure to say that the Chair may serve for two consecutive terms. We will place the election of a new Chair and Vice Chair on the October agenda.

8. Adjournment

The meeting adjourned at 10:07 a.m.

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DATE: October 10, 2019
TO: Programs & Administration Committee
FROM: Arliss Dunn, Clerk of the Board
SUBJECT: Election of Chair and Vice Chair

SUMMARY

Consistent with the WMA Board Rules of Procedure, the Chair and Vice Chair of the P&A Committee shall be elected at the regular meeting of the Committee in the month of June of each year. Due to an administrative oversight the election did not take place in June and will be done instead at the October 10 meeting.

DISCUSSION

According to Section 5-4 of the WMA Rules of Procedure: “The officers of the P&A Committee shall be a Chair and Vice Chair who shall serve until the elections of their successors. Beginning in June 2018 the Chair and Vice Chair shall be elected at the regular meeting of the Committee in the month of June of each year. They shall be elected by a majority of the total authorized vote of the Committee and shall serve from July 1 through June 30 of the following year. Beginning July 1, 2018 no member may serve more than one term in the same leadership position on the P&A Committee within a two-year time frame. This does not limit a person who has served in one office for a year serving in a different office the following year (e.g., the Vice Chair in one year serving as the Chair the next year).”

Board member Shelia Young currently serves as Chair of the P&A Committee. Board member Jerry Pentin currently serves as Vice Chair. Consistent with the practice employed by the Authority Board, the Committee may choose to appoint Board member Pentin to serve as Chair, beginning November 1. The Committee should also elect a new Vice Chair.

RECOMMENDATION

Staff recommends that the Programs and Administration Committee elect a Chair and Vice Chair for the period November 1, 2019 – June 30, 2020.

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DATE: October 10, 2019

TO: Programs & Administration Committee
Planning Committee/Recycling Board

FROM: Rachel Balsley, Senior Program Manager

SUBJECT: Mandatory Recycling Ordinance Project Update

SUMMARY

This memo provides an update of the Mandatory Recycling Ordinance (MRO) and highlights some of the progress through Fiscal Year 2018-19. Staff will also share a presentation at the October 10, 2018, Programs & Administration and Planning Committee/Recycling Board meetings.

DISCUSSION

Program Overview

Ordinance 2012-01, the Mandatory Composting and Recycling Ordinance, was adopted in January 2012. Phase 1 was effective July 1, 2012, with recycling requirements for commercial accounts with four or more cubic yards of weekly garbage service and multifamily properties (five or more units). Phase 2 started July 1, 2014, in participating jurisdictions,¹ adding discarded food and compostable paper to the list of covered materials and expanding to all businesses.

The WMA has a routine inspection program with progressive enforcement, meaning regulated parties receive two notices before a citation (and fine) is issued:

- Official Notification Letter – informs covered accounts of the ordinance requirements; may or may not be the result of an observed violation
- Notice of Violation/Warning Letter – sent after an official notification has been issued, and upon observation of a violation

Before a citation is issued, it is reviewed and approved by the member agency’s Primary Enforcement Representative. Fines range from \$100 to \$150 per violation for the first citation. Fine amounts increase on subsequent citations at the same account within 12 months.

¹ Member Agencies were given the option to opt-out or delay aspects of each Ordinance phase.

The WMA has prioritized enforcement of commercial accounts with one or more cubic yard of weekly garbage service, about 68% of covered commercial accounts. Smaller commercial accounts (typically once a week garbage *cart* customers) are not currently being inspected.

For multifamily enforcement, an administrative process is used to review hauler service data since the MRO simply requires the *provision* of recycling and/or organics collection service and gaining access at multifamily sites is often difficult. If an official complaint is submitted through the Ordinance website to inform the WMA of a site that is not providing the required service to residents, that account may receive an on-site inspection. Routine on-site inspections were performed at roughly 50% of multifamily sites in each participating jurisdiction during 2013 and 2014.

Technical assistance is provided by WMA's contracted TA provider, Cascadia Consulting Group, focusing primarily on Ordinance compliance. Properties may directly request assistance through the ordinance help line or website. In addition, the TA team proactively contacts many businesses and multifamily properties to offer compliance assistance after they violate the Ordinance.

The MRO website, www.RecyclingRulesAC.org, is the hub of outreach and TA with detailed information about the requirements, support materials, and tools to assist in compliance.

Highlights from Fiscal Year 2018-19

Enforcement activities throughout the county

The WMA conducted over 5,300 inspections throughout the county in FY 2018-19 with two full-time contracted inspectors for the majority of the year. Close to 1,300 additional inspections were conducted in Oakland with direct funding provided by the City of Oakland. Over 1,400 commercial accounts were sent an enforcement letter based on an observed violation. Moreover, about 1,800 administrative notifications were mailed to primarily new accounts officially informing them of the MRO requirements.

Enforcement is progressing

In FY 2018-19, 610 accounts were sent a citation (and fine), compared to 471 accounts in FY 2017-18. Of the approximately 2,000 citations issued to-date, 26 have been appealed by the cited parties and all have been upheld after formal appeal hearings were conducted.

Providing more feedback on improper sorting

In FY 2018-19, 54% of the inspections resulted in at least one MRO violation. After inspection protocol changes were implemented in February 2018, businesses are receiving more feedback about improper sorting than in prior years. A violation for recyclables in the garbage was the most common and given in 38% of inspections, while 15% of inspections found a violation for garbage in the recycling. While not all businesses generate organics and discarded food is often more difficult to see in significant quantities, 15% of inspections had a violation for organics in the garbage and 8% had a garbage in organics violation.

Stricter enforcement on organics service

Historically in MRO enforcement, a commercial account was only given a violation for lack of organics service if a significant quantity of organics was observed in the garbage during the inspection. “Significant quantity” is currently defined as 20 gallons in a garbage bin. However, given study data showing the continued high amounts of organics going to the landfill and the state regulation AB 1826 lowering the threshold of accounts that must have organics service, enforcement protocols were modified earlier this calendar year. In addition to accounts where a significant quantity of organics is observed, violations for lack of organics service are also now given to accounts that have four or more cubic yards of total weekly solid waste service and that are known to have a food generator permit.

Businesses continue to add recycling and organics service

More businesses subscribe to new recycling service every year, with 70-92% of commercial garbage accounts in most member agencies now having some level of recycling service. This is a significant increase when compared to 20-82% in 2011, prior to implementation of the MRO. The percentage of commercial garbage accounts that have organics service in most member agencies is now between 15-69%² compared to 0-17% in 2011, although it’s not expected that all commercial garbage accounts will need organics service. More than 7,000 of the nearly 20,000 covered commercial garbage accounts have organics service.

Enforcement is advancing at multifamily properties

In FY 2017-18, multifamily properties began receiving Notice of Violation/Warning letters for a lack of recycling and/or organics collection service, with letters batched in a city-by-city process. Of the approximately 2,700 multifamily accounts reviewed in seven jurisdictions in FY 2018-19, 357 accounts were sent enforcement letters for lack of service (usually organics service). Member agency reported data for FY 2017-18 indicates approximately 97% of multifamily properties have recycling service and 89% have organics service. It is expected that non-compliant multifamily accounts will begin getting citations in FY 2019-20.

The TA team assisted 574 commercial and multifamily accounts

The Cascadia TA team contacted 673 commercial and multifamily accounts to offer assistance. A total of 527 commercial accounts, and 47 multifamily accounts, received on-site, phone, and/or email assistance in FY 2018-19. Of the multifamily properties assisted, 14 properties requested and received residential outreach including group presentations or door-to-door communication about proper recycling and composting at their site. The TA team documented 80 service changes to start or expand recycling and/or organics collection programs. These service changes equate to approximately 9,100 cubic yards of annual new diversion. A little more than half (58%) of the service changes resulted in an increased solid waste bill, while 34% resulted in a cost savings, and 8% had no change in cost.

² The percentage commercial garbage accounts that have recycling and organics services is based on member agency data submitted for FY 2017-18 in the fall of 2018 in their Measure D annual report. FY 2018-19 data is expected to be available in November/December 2019.

Additional details regarding technical assistance are in the StopWaste Business Assistance Program Fiscal Year 2018-19 Annual Report. A full copy of the annual report is available [here](#).

Sites are utilizing free indoor green bins and support materials

The Free Indoor Food Scrap Bin Program continues to help businesses build internal infrastructure for proper sorting of organics. Over 310 sites were approved to receive free indoor green bins and over 2,700 pieces of equipment were distributed in FY 2018-19. Close to 18,000 stickers to label indoor bins were mailed to 435 sites last fiscal year. A new series of three instructional videos in English, Spanish and Chinese provide an overview of the recycling rules, steps for setting up indoor recycling stations, and proper sorting. These videos are utilized by the TA team when in the field and by businesses that opt to tackle compliance on their own. Other support materials including the Bags to Bins customizable poster tool, enhanced Sign Maker tool, and Indoor Bin Guide are also helpful resources for setting up and improving diversion programs.

Looking Ahead

Inspectors on staff

This fiscal year, the WMA has transitioned from contracted inspectors to two full-time employee inspectors that work primarily on the MRO, but also support enforcement of the Reusable Bag Ordinance, and data sampling for the Measurement & Analysis project.

Strategic planning and more outreach to high organics generators

Strategic planning efforts are underway regarding the project's communications and outreach tactics. This includes a campaign targeted at high organics generating businesses, as well as possible revisions to the MRO website, enforcement letters, and other support materials.

Full county participation

The City of Dublin, the last jurisdiction in the County to participate, is now opted-in to the MRO with requirements effective January 1, 2020, and enforcement actions on their approximately 550 commercial and multifamily accounts will begin in July.

Compliance assistance with state regulations

Planning is underway to conduct an AB 341/AB 1826 mailing on behalf of the jurisdictions to non-compliant accounts. A separate SB 1383 presentation in November will provide updates on the development of the aggressive new state requirements. Some of the mandates on generators to divert more and on jurisdictions to enforce the requirements are similar to what the WMA has been doing for MRO implementation. However, based on CalRecycle draft regulations, it is anticipated that an ordinance amendment will be required prior to the 2022 effective date to better align the MRO with SB 1383 compliance.

RECOMMENDATION

This report is for information only.