

APPROVED

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

Thursday, October 11, 2018

9:00 A.M.

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

Members Present:

Castro Valley Sanitary District
County of Alameda
City of Berkeley
City of Livermore
City of Newark
Oro Loma Sanitary District
City of Pleasanton
City of San Leandro

Dave Sadoff
Keith Carson
Kriss Worthington
Bob Carling
Mike Hannon
Shelia Young
Jerry Pentin
Deborah Cox

Absent:

City of Dublin
City of Fremont
City of Oakland
City of Union City

Melissa Hernandez
Vinnie Bacon
Dan Kalb
Lorin Ellis

Staff Present:

Wendy Sommer, Executive Director
Pat Cabrera, Administrative Services Director
Tom Padia, Deputy Executive Director
Rachel Balsley, Senior Program Manager
Kelly Schoonmaker, Program Manager
Meghan Starkey, Senior Management Analyst
Arliss Dunn, Clerk of the Board

Others Participating:

Julia Chang-Frank, Cascadia Consulting
Jess Halter, Cascadia Consulting

1. Convene Meeting

Chair Shelia Young called the meeting to order at 9:00 a.m.

2. Public Comments

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There were none.

3. Approval of the Draft Minutes of September 13, 2018 (Pat Cabrera)

Board member Cox made the motion to approve the draft minutes of September 13, 2018. Board member Sadoff seconded and the motion carried 8-0 (Ayes: Carling, Carson, Cox, Hannon, Pentin, Sadoff, Worthington, Young. Nays: None. Abstain: None. Absent: Bacon, Ellis, Hernandez, Kalb).

4. Mandatory Recycling Ordinance Project Update (Rachel Balsley)

This item is for information only.

Prior to the staff presentation, Wendy Sommer displayed visual slides showing the correct and incorrect placement of materials found in waste and recycling bins ([available here](#)). The exercise was intended to demonstrate what the inspectors see during inspections and the incorrect slides are examples of violations for incorrect sorting. Rachel Balsley provided an overview of the staff report and a PowerPoint presentation. A link to the report and the presentation is available [here](#). Ms. Balsley recognized MRO staff; Michelle Fay, Eliese Lebsack, Shasta Phillips, and Anna Borg, and staff from Cascadia Consulting, She also thanked Tom Padia and Meghan Starkey for their assistance.

Board member Pentin asked for clarification regarding the authority to levy fines and the process thereafter. Ms. Balsley stated that each jurisdiction has a designated Primary Enforcement Representative that is responsible for concurring with agency staff in authorizing a citation. If there is concurrence, a letter is sent to the business notifying them of an initial fine in the amount of either \$100 or \$150, dependent on the type of violation, service or sorting. The business could potentially have multiple violations and the fines could be a maximum of \$400. Fines increase for subsequent citations. The business is allowed approximately 3 months to correct the violation. There are businesses that have multiple violations and are delinquent in paying the fines and staff is working with the Alameda County District Attorney in exploring avenues for their office to send letters to delinquent accounts. Board member Pentin inquired if there is a legal way to attach the delinquencies to the business licensing process. Ms. Balsley stated that this is something that we can look into on a city-by-city basis. However, she stated that the Agency denies technical assistance and funding assistance to businesses that have a delinquent violation. Board member Carson inquired about the amount of time it takes to complete an inspection. Ms. Balsley stated that inspections take approximately 15 minutes to complete. Board member Hannon inquired if we have looked into attaching the delinquency to the garbage bill. Ms. Balsley stated that we do not have a direct connection to any of the franchise services. Board member Hannon inquired if a request is made for an administrative hearing is the business still liable for the fine. Ms. Balsley stated yes. Board member Hannon inquired if there are administrative fees in addition to the fine to recover administrative costs. Ms. Balsley stated that the ordinance provides for the recovery of administrative fees but we are not currently exercising that provision. Board member Hannon stated that he supports collecting delinquent fees through the business license or on the garbage bills and added he would like to see the ordinance come back before the Board as there are substantive changes that he would like to see in the ordinance with respect to re-inspection fees, administrative fees, a mechanism for recovery of delinquent fines, etc. Board member Hannon inquired if the Board was advised of the decision to reduce the number of inspectors from 3 to 2. Ms. Sommer stated yes, there was discussion during the budget presentation regarding reducing the contracted inspectors from 3 to 2. Mr. Padia added although it is a reduction in the number of inspectors and inspections there has been an increase in the number of citations as we are able to provide deeper enforcement of the ordinance. Board member Hannon stated that the agency is doing due diligence in the official notification and recommended that an administrative fee should be levied if

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a violation inspection is warranted. Board member Hannon added, the notion of a fine is to correct behavior and we will continue to see non-compliance as the initial fine amount of \$100 is too small. Board member Hannon asked for clarification regarding multi-family enforcement. Ms. Balsley stated that multi-family properties have different requirements. The property owner is required to have collection services set-up on the site, however they have limited control over residents' sorting behavior and therefore cannot receive a violation due to the sorting behavior of the residents. Board member Hannon inquired if we are we allowed to charge for inspection services. Ms. Balsley stated that the ordinance contains general language regarding administrative fees but charging for inspection services would require a legal opinion. Ms. Balsley stated that after the SB 1383 regulations are finalized we might have a better sense of the changes that would be appropriate under the ordinance. Ms. Lebsack stated that the citation processing center does submit delinquent citations to the Franchise Tax Board if they can access a social security number or tax ID number but we have not had much success through that process. Board member Carson inquired regarding the percentage of non-collection of fines. Ms. Balsley stated it is approximately 20%.

Board member Cox inquired regarding the frequency of inspections for businesses that have no violations. Ms. Balsley stated on average about once per year and we are looking at revising the frequency to 18 months if no violations. Board member Cox inquired with respect to restaurants, how do we manage if the owners are properly sorting but there are issues with customers. Ms. Balsley stated that the ordinance contains language regarding public litter (front of house) and that is not included in the violation threshold. However, SB 1383 draft regulations do not have exemptions for where the contamination comes from.

Board member Worthington stated with respect to multi-family properties, it is more effective to have the tenants request that the property manager provide service and inquired if there is informational material available for tenants via social media. Ms. Balsley stated that we can develop content that can be used in newsletters and we have a form on our website for multi-family residents to report that their property does not provide service and we will send out an inspector to observe the account. Chair Young stated that she was surprised to learn that the longitudinal study in FY 2017/18 showed that there were no significant differences in the food generating accounts in cities with or without MRO requirements. Ms. Starkey stated that the recent Waste Characterization Study showed modest progress and the 2017/2018 study was prior to the recent revisions in the MRO inspection protocol. Mr. Padia added the City of Dublin, without the MRO requirement, has a had a staff person on behalf of the hauler dedicated to visiting businesses and signing them up for organics and recycling services and considers that this has an equal impact to the ordinance itself. Chair Young thanked Ms. Balsley for her report.

5. SB 1383 Short Lived Climate Pollutant Plan: Rulemaking Overview and Implications (Kelly Schoonmaker)

This item is for information only.

Kelly Schoonmaker provided an overview of the staff report and presented a PowerPoint presentation. A link to the report and the presentation is available [here](#).

Board member Carling commented that he has concerns regarding the Edible Food Recovery requirements and the organizations actually utilizing the food. Ms. Schoonmaker stated that staff has concerns as well and have submitted these concerns to CalRecycle and they have been listening. We have also been encouraging them to have a performance based pathway to these types of programs.

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Mr. Padia added CalRecycle has also received feedback from groups such as the Alameda County Food Bank that supply doesn't always equal demand. Ms. Schoonmaker added we have also recommended to CalRecycle that upstream food prevention should also be a pathway to compliance and they seem to hear us but we don't have a draft to verify this just yet. Board member Sadoff inquired if there has been any discussions regarding the National Sword issue with respect to organics. Ms. Schoonmaker stated that organics is primarily for local markets. Mr. Padia added paper has been moving to recycling markets but wood is a bigger problem. Ms. Sommer added we will probably be hit up by more waste to energy solutions, and we don't see the benefit of gasification and other technologies as they are not allowed in unincorporated areas. Ms. Sommer added as a Board we will need to look at whether we would allow something like that as policy. Board member Hannon inquired if we had the opportunity to comment on the legislative process prior to the bill being adopted. Ms. Schoonmaker stated yes, and the agency supported the intent of the legislation as it aligns with our mission. Board member Hannon stated that he would like staff to provide any drafts to the Board as well as the TAC (Technical Advisory Committee). Ms. Sommer stated the bill started as a dairy bill to recover methane from dairy. Board member Hannon inquired if the League of Cities has weighed in on this issue. Ms. Sommer stated that she would consult with Anu Natarajan to see if the League of Cities has weighed in on this issue and we can draft a summary sheet and distribute it to the Board. Chair Young encouraged the Board to check-in with their TAC members and thanked staff for a thorough report. Board member Young inquired about the author of the legislation. Ms. Schoonmaker stated that author of the bill was Senator Lara. Ms. Balsley added TAC members are waiting for the final regulations to assess what is currently in place in their respective jurisdictions, what is StopWaste already providing to support this effort, and where are the gaps. Chair Young stated that in addition to bringing back the MRO Ordinance, SB 1383 should be a top priority as well. Ms. Sommer stated that this legislation has policy ramifications for our agency and could present a significant shift with respect to MRO enforcement that needs to be discussed during priority setting.

Chair Young thanked staff for a very thorough and important discussion.

8. Member Comments

Chair Young shared that she received a metal straw at a golfing event. Chair Young announced that Ron Dias, a member of Oro Loma Sanitary District, retired on November 1. They have appointed a new member.

9. Adjournment

The meeting adjourned at 10:35 a.m.