

APPROVED

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

Wednesday, February 26, 2014

3:00 p.m.

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

(The Boards will vote separately on the portion of the minutes that are relevant to each Board)

I. CALL TO ORDER

President Biddle, WMA, called to meeting to order at 3:05 p.m.

II. ROLL CALL

WMA & EC

County of Alameda	Keith Carson (arrived 3:35 p.m.)
City of Alameda	Lena Tam
City of Albany	Peter Maass
City of Berkeley	Gordon Wozniak
Castro Valley Sanitary District	Danny Akagi
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 Oakland	Dan Kalb
City of Piedmont	Margaret Fujioka
City of Pleasanton	Jerry Pentin
City of San Leandro	Pauline Cutter (left 4:35 p.m.)
City of Union City	Lorin Ellis

Absent:

City of Newark	Luis Freitas
Oro Loma Sanitary District	Laython Landis

Staff Participating:

Gary Wolff, Executive Director
Richard Taylor, Counsel, Authority Board
Arliss Dunn, Clerk of the Board

III. ANNOUNCEMENTS BY THE PRESIDENTS

There were none.

IV. CONSENT CALENDAR (WMA & EC)

- 1. Approval of the Draft Minutes of January 22, 2014 (WMA & EC-Separate Votes) (Gary Wolff) Action**
- 2. Minutes of the February 14, 2014 Technical Advisory Group (TAG) (Gary Wolff) (EC only) Information**
- 3. Amendment to the Human Resources Manual (Attachment A) Action**

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Adopt the revised "Attachment A" to the Agency's Human Resources Manual.
(Gary Wolff & Pat Cabrera) (WMA only)

- 4. Regionalizing Bay-Friendly Landscaping (Gary Wolff & Wendy Sommer) Action**
(WMA only)

Accept the recommendation of both WMA Committees and the Recycling Board.

- 5. Grants Under \$50,000 (Gary Wolff) (WMA only) Information**

Ms. West restated her comments made at the P&A committee meeting with respect to Item #IIIA, Amendment to the Human Resources Manual. Ms. West stated she is looking forward to further improvements. Mr. Wozniak made the motion to approve the Consent Calendar for the WMA Board. Ms. Tam seconded and the motion carried 16-0 (Carson, Freitas and Landis absent).

Ms. Cutter made the motion to approve the Consent Calendar for the Energy Council. Ms. West seconded and the motion carried 15-0 (Carson and Freitas absent).

V. OPEN PUBLIC DISCUSSION (WMA & EC)

Thomas Silva, Director, California Apartment Association, provided comment on the need to create a viable mattress recycling program in Alameda County.

Robert Fraguiglia, San Leandro, property owner, provided comment regarding dissatisfaction with Unions and the City with respect to costs associated with mattress disposal.

Ruthie Smith, resident, recommended assessing a fee for illegal dumping of mattresses. She also stated her opposition to the proposed HHW fee.

VI. REGULAR CALENDAR (WMA only)

- 1. Revisions to the Draft Fee Ordinance (Gary Wolff) (WMA only) Action**

We recommend that the WMA Board hold a public hearing, waive reading of the entire ordinance (Attachment A) and read it by title only, and schedule this ordinance rather than the previous draft ordinance for consideration of adoption on March 26, 2014, unless comments at the public hearing justify delaying the date for consideration of adoption.

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

<http://www.stopwaste.org/docs/02-26-14-fee-ordinance.pdf>

Mr. Wolff stated that the ordinance has been revised in response to comments received stating that the legal authority for the ordinance was not evident in the previous draft. The findings of the ordinance have been substantially revised to demonstrate step-by-step the legal authority to propose this ordinance. There are other minor clarifications or amendments in the revised draft ordinance such as adding the word property before owner, etc.

Staff recommends that the Board hold a public hearing and upon hearing public comments, waive reading of the entire ordinance by title, and schedule the revised ordinance for consideration of adoption at the March 26 meeting.

Ms Fujioka recommended including the definition of hazardous waste in the ordinance, and inquired if the Board considered a fee based on square footage or sliding scale for low-income, seniors or similar populations. Mr. Wolff said that the full definition would be provided in the staff report next month, and stated the board considered a fee based on size of garbage service but the collection mechanism is much more complicated and expensive, and there is no necessary correlation between the amount of household hazardous waste produced and the size of garbage service.

Ms. Halliday asked for clarification on when the fee will be automatically adjusted. Mr. Wolff stated the fee, based on an audit of the tipping fee revenue received, and any cost offsets from other sources (e.g., the PaintCare stewardship program) may be adjusted for the first year in the third year and in the fourth year for

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the second year, and so forth. An additional clarification to the revised draft ordinance was to include that the ordinance does not permit the fee to exceed \$9.55 per year.

President Biddle opened the public hearing on the Draft Fee Ordinance. There were 20 public speakers on this item.

David Mix, Oakland resident, stated the Authority lacked legal authority to levy the HHW "tax," and referenced letters sent to the Board. The Board confirmed that they had received all but one of his letters.

Thomas Silva, California Property Association spoke regarding the lack of transparency with respect to the lack of a budget and to utilize the timeline between now and August 10th (date to file with Assessor's office) to develop a more equitable program with respect to multi-family residents. Mr. Wolff responded that the HHW budget contained in the HF&H report was posted on the website on October 4, 2013, and it was presented at four community meetings in Berkeley, Castro Valley, Fremont and Livermore. The budget contains detailed tables and information about revenue and expenses relevant to the HHW program.

Timothy May, Executive Director, Rental House Association, proposed a reduced fee for multi-family properties. The South Bay Waste Management Authority as well as the city of Danville charge approximately half of the fee imposed on single family homes. Mr. May also spoke to the problems with property owners receiving letters with the incorrect number of units or not receiving a letter at all.

Councilmember Kalb responded to a comment with respect to asking Waste Management, Inc. to help offset the cost of the fee. Mr. Kalb stated that the city of Oakland is currently in process of negotiating its franchise agreement with more than one company to determine who will be the waste hauler and will make a decision this year. Oakland residents can contact their Councilmember to find out which companies are part of the negotiation process.

Other public speakers included:

Barbara Azad	Martin Duane Mongerson	John Sullivan
Charles Feltman	Richard Philips	
H. Hill	Alejandro-Soto Vigil	
Matt Hummel	David Ponas	
Linda Lonay	Ken Pratt	
Terri A. Lutz	Russell Schleske	
Gloria Ma	Neil Straus	

Most were against the fee, and either stated in another way the comments summarized above, or indicated concern about the financial burden of the fee. An audio of the public hearing is available here:

http://www.stopwaste.org/docs/02-26-14-WMA-EC_public.mp3

After hearing from all the public speakers the public hearing was closed.

Ms. Cutter stated that she has some concerns prior to the vote in March. She would like to hear more regarding the mailing issues and request information on imposing half of the fee for multi-family units and the study that shows they are creating the same amount of waste. Ms. West asked for clarification on the two mailings. Mr. Wolff stated the second mailing was a simple postcard that was a supplemental mailing to the first letter. We did not repeat the 'tear-off' structure of the first mailing because it might have led people to believe they needed to submit the protest form again. For those who say they did not receive the first mailing, we've provided a blank letter and form on the website so residents can print the form and write in their parcel number and number of units and provide their signature. Or they can send a letter containing that information and state their opposition.

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Ms. Natarajan asked if staff is comfortable with the data from the 2008 Waste Characterization Study. Mr. Wolff affirmed and stated the data is consistent with data from the 1995 and 2000 study as well.

Ms. Natarajan asked that staff provide a report detailing the issues raised by Mr. May comparing single family to multi-family waste and background on the South Bay decision to charge half as large a fee to multi-family residences.

Mr. Wozniak stated that if the Board decides to reduce the fee for multi-family residents it will require increasing the fee for single family residents. Mr. Wolff added that if that were the case, we would likely need to re-notice the ordinance again.

Ms. Halliday stated that she concurs with the concerns raised by board members West and Cutter as well as looking at the size of units with respect to waste generated. She is further concerned about the problems with the mailing. Mr. Wolff stated that we used the information provided by the County Assessor and we provided the opportunity for residents to correct their information. We will work as best we can with the registrar of voters to ensure the accuracy of the protests. Ms. Halliday inquired about the impact of delaying the vote in March. Mr. Wolff stated that if there is a new proposal that requires changing the ordinance the Board would need to vote on the new draft ordinance in April and then to mail notification letters of a new opportunity to protest the new ordinance 45 days prior to consideration of adoption of the revised ordinance. That consideration would need to take place in June at the latest, so that the ordinance would go into effect prior to the August deadline for submitting information to the assessor's office for their next billing cycle. We will also need to clarify that this is a new ordinance and the protest votes submitted for the old ordinance are invalid.

Mr. Pentin stated that he is concerned that maybe this was a flawed process regarding the mailing problems and the transparency in correcting the problems. Mr. Maass stated that invariably there will be glitches with a mailing of this size. Additionally, the opposition is better directed towards the state that mandates the law that StopWaste is following. Mr. Maass stated that he is more concerned about the studies that South County used to assess its fees as well as other agencies that may have done analysis on this issue. Mr. Wolff stated that he was informed by staff a year ago upon checking with these agencies that charged half to single family and there was no data to support those decisions. But staff will research again to see if such data exist.

Ms. Turner stated she is not assured that multi-family residents generates as much waste as single family residents, and requests that staff provide information on lowering the fee for multi-family residents. Ms. Turner stated she is concerned about the mailings and whether people had success in submitting their protests. Ms. Turner stated we should have used a full election balloting process and asked Legal Counsel to research to see if it is viable. Ms. Turner cautioned against relying solely on the website for dissemination of information. Mr. Wolff stated that the registrar of voters is responsible for counting the protests and we will ask them to keep a tally of all disqualifications. They will make the official count and Board members will have this information prior to the vote on the ordinance.

Mr. Ellis stated that he shares the concerns regarding the mailing problems. Mr. Ellis encouraged the Board to focus on the items that the EPA designates as household hazardous waste and the agency's mission of properly disposing of these items, noting that many of these items are related to having a residence, regardless of the size of the residence. One example he provided was oven cleaner; every residence has an oven.

Ms. Tam asked if staff will have sufficient time to gather the information by the March 26 meeting. Mr. Wolff affirmed.

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Mr. Wozniak cautioned against relying on the data comparing multi-family to single family. Mr. Wozniak asked if staff can provide information on the number of people that did not receive the letter and weigh against the number of letters mailed.

Ms. West stated her appreciation for Mr. Ellis' comments and stated the importance of having a functioning HHW program in the County. She added she looks forward to a point-of-sale program.

Mr. Wozniak made the motion to hold the public hearing, waive reading of the entire ordinance (Attachment A) and read it by title only, and schedule this ordinance rather than the previous draft ordinance for consideration of adoption on March 26, 2014. Mr. Ellis seconded and the motion carried 17-0 (Cutter, Freitas and Landis absent).

2. Appointment to the Recycling Board (Gary Wolff) Action

Ms. Natarajan made the motion to appoint Board member Turner to the Recycling Board for a second two-year term. Ms. West seconded and the motion carried 17-0 (Cutter, Freitas and Landis absent).

3. Interim appointment(s) to the Recycling Board for WMA appointee unable to attend future Board Meeting(s) Action

(P&O and Recycling Board meeting- StopWaste Business Awards - March 13, 2014 at 8:00 a.m. - Zero Net Energy Center, 14600 Catalina Street, San Leandro, CA)

Ms. Cutter volunteered to attend as the interim for Ms. Turner. Ms. West made the motion to approve the interim appointment. Ms. Natarajan seconded and the motion carried 17-0 (Freitas, Natarajan, and Turner absent).

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

There were none.

CLOSED SESSION (WMA only)

CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Sections 54956.9(d)(2): (1 potential case)

(confidential materials mailed separately)

CLOSED SESSION (WMA only):

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (pursuant to Government Code Section 54957) Title: Authority Counsel

B. CONFERENCE WITH LABOR NEGOTIATORS (pursuant to Government Code Section 54957.6) Agency Designated Representative: Gary Wolff. Unrepresented Employee: Authority Counsel (confidential materials mailed separately)

Due to the number of speakers for the public hearing, Board members present decided to move the scheduled Closed Session items to the beginning of the March 26th meeting, and to start at an earlier time at 2:30 pm instead of 3:00 pm. Staff will send an email to ensure that a quorum of the members will be able to attend at the earlier start time.

VIII. ADJOURNMENT (WMA & EC)

The meeting adjourned at 5:05 p.m.