

**APPROVED**

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

**Wednesday, May 28, 2014  
3:00 p.m.**

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

**I. CALL TO ORDER**

President Biddle, WMA, called to meeting to order at 3:00 p.m.

**II. ROLL CALL**

**WMA & EC**

County of Alameda	Keith Carson
City of Alameda	Lena Tam
City of Albany	Peter Maass
City of Berkeley	Kriss Worthington
Castro Valley Sanitary District	Dave Sadoff (left 4:40 p.m.)
City of Dublin	Don Biddle
City of Emeryville	Jennifer West
City of Fremont	Anu Natarajan
City of Hayward	Barbara Halliday
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 (left 4:20 p.m.)
City of San Leandro	Pauline Cutter
City of Union City	Lorin Ellis (left 4:25 p.m.)

**Absent:**

City of Livermore	Laureen Turner
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**Staff Participating:**

Gary Wolff, Executive Director  
Brian Mathews, Senior Program 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)**

- 1. Approval of the Draft Joint Minutes of April 23, 2014 (WMA & EC-Separate Votes) Action  
(Gary Wolff)**
- 2. Minutes of the April 25, 2014 & May 20, 2014 Technical Advisory Group Information  
(TAG) (EC only) (Gary Wolff)**

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**3. Grants Under \$50,000 (WMA only) (Gary Wolff)**

**Information**

Ms. Tam made the motion to approve the Consent Calendar for the WMA Board. Ms. West seconded and the motion carried 15-0 (Ellis, Kalb, and Turner absent).

Ms. Cutter made the motion to approve the Consent Calendar for the Energy Council. Ms. Natarajan seconded and the motion carried 14-0 (Ellis and Kalb absent).

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

There was none.

**VI. REGULAR CALENDAR (WMA only)**

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

**Action**

Staff recommends that the Board approve Option 1, 2, or 3 as stated in the staff memo, depending on public comments and discussion among Board members,

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

<http://www.stopwaste.org/docs/05-28-14-hhw.pdf>

President Biddle opened the floor for public comments. There were 8 speakers. An Audio of the public discussion is available here: [www.stopwaste.org/docs/HHW-comments-5-28-14.mp3](http://www.stopwaste.org/docs/HHW-comments-5-28-14.mp3)

Peter Schultze-Allen	Tom Silva
Kathy Cote	Leslie Strauss
David Mix	Neil Strauss
Angela Sklavonus	Amy Willis

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

Mr. Pentin inquired about options 2&3 with respect to information previously provided to the Board. Mr. Pentin stated that Option 2 would require reversing what was put before the public in the protest notice mailing, as well as increasing the fee to single-family residences in order to lower the fee for multi-family residences. With respect to option 3, it appears that staff is attempting to garner one Board member vote as the Board was initially informed that providing Sunday service would be too expensive. Mr. Wolff stated with respect to option 2, if the option was implemented now single family residences would have to pay more but if the issue is revisited in 2 to 3 years and Sunday services or other efficiencies were found and a new study indicates lower HHW generation by multi-family residences as compared to single-family residences, we could possibly reduce the fee to multi-family without an increase to single-family residences. Mr. Wolff stated option 2 is a good faith effort to work with the Rental Housing Association, but it might require a new notice to the public and a new decision process if the fee were proposed to be amended after the study is complete. With respect to option 3, Sunday services would be provided at only one facility to see if doing that would lower the cost per household served, and it would not cost significantly more because a new crew needs to be hired for the expansion option. We had not thought about having Sunday service at only one facility as an experiment until recently. Mr. Pentin stated that his concern is that we cannot reverse what is done now based on new information 2 or 3 years later. And if more study is justified, it should have been done prior to providing the fee structure to the Board. Mr. Pentin inquired if the Board can consider Option 1 with respect to Roberts Rules of Order. Mr. Taylor stated that Roberts Rules of Order section 38 states the motion that has failed may not be renewed at the same meeting but it can be brought forward and introduced again at any future time. Mr. Biddle inquired about options that may trigger re-noticing the ordinance. Mr. Wolff stated that would not be known until 2-3 years from now.

Ms. Halliday stated that Hayward staff indicated that they do not consider adding Sunday services at the Hayward facility as an improvement and it will be difficult to determine the popularity of the schedule as it will attract customers from outside of Hayward as well. Mr. Pollack stated that he tracks zip codes and can determine where customers are coming from. Ms. Halliday inquired about the fee revenue and state law. Mr. Wolff stated fee revenue exceeds program cost in the first year because we still have the old fee (subject to

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different law) which causes a surplus in the earlier years but will be allocated towards the later years. However, the new fee revenue alone does not exceed the cost of service in any year. Mr. Taylor added as a safeguard, the ordinance and agreements specify that the fees can only be used to support the HHW program.

Ms. Tam inquired about the Paint Care Product Stewardship program and its effect on future revenue for the HHW program as well as other drop-off facilities as indicated by one of the public speakers, Leslie Strauss. Ms. Strauss indicated that she utilizes the various retail outlets that provide take-back services. She further recommended that StopWaste assist in coordinating and informing the public about these services. Mr. Wolff stated that StopWaste does indeed assist in coordinating these services and plans to do much more outreach with the point-of-purchase outreach effort. Ms. Tam inquired about the HHW fee in comparison with the uniformity of fees in other districts such as the sewer fee in the Oro Loma Sanitary District. Mr. Wolff stated both the HHW fee and sewer fee were under the same health and safety codes and doesn't know why Oro Loma or other districts have chosen to have uniform sewer fees, but that our proposal is not unique in that way. Ms. Tam asked Mr. Taylor to comment on the fee with respect to compliance with the law. Mr. Taylor stated the fee is properly dealt with as outlined in Authority Counsel's memo to the Board at the April 23 meeting.

Ms. West asked for clarification on how the austerity option would affect satellite and drop-off locations. Mr. Pollack stated that the 40 satellite locations across the county feed into the HHW facility. The austerity option would greatly impact these services. Ms. West stated that she wholeheartedly supports the program. Ms. Natarajan inquired if the Board can adopt option 1 and consider options 2 or 3 at a later date. Mr. Wolff stated yes this can be done. Mr. Kalb stated for practical reasons and the variations in sizes of dwellings it is impossible to determine exactly how much waste is produced and given the minimal proposed fee he encourages the Board to do the right thing. He appreciated the comment from the recycling workers and the goal of reducing HHW waste from the landfill, so he pledged his support. Mr. Kalb asked if the Board can adopt option 1 and the Sunday service in option 3, but not the study in option 2. Mr. Wolff stated yes.

Ms. Cutter inquired about Sunday and Monday service. Mr. Pollack stated this is possible but Saturday is the busiest day across the state. Mr. Maass stated his support of the ordinance and inquired about the cost of the study proposed in option 2 and who would assume the cost. Mr. Wolff stated the cost could possibly be included in the benchmark service budget if spread out over several years. Mr. Ellis stated that there were imperfections in the process but the ultimate goal of the Board is to address the issue of reducing the thousands of items classified as HHW materials from going to the landfill. Mr. Ellis stated his support for the ordinance. Mr. Sadoff stated his appreciation for the compromise approach of proposing option 3 Sunday service but stated the proposal as submitted is not robust enough.

Ms. Halliday stated that she will support the ordinance but has concerns about the low participation rates among multi-family residences. Ms. Halliday encouraged staff to work with the Rental House Associations to further legislation toward producer responsibility. Mr. Wolff stated that Timothy May has already forwarded their lobbyist information and staff has made initial contact with them. Ms. Halliday indicated that Hayward staff preferred Friday and Saturday service as initially proposed and not Saturday Sunday service. Mr. Pentin stated the importance of having the service but indicated he cannot support the ordinance due to the flawed process.

Ms. Natarajan stated that she is concerned that if the austerity motion goes into effect it will undo all of the work that has been done. The process was legal and transparent and to try and consider differences among residences is an impractical method. Ms. Natarajan cited the added component of including the sunset clause. Ms. Natarajan stated her support for the ordinance and encouraged the Board to support it as well.

Marcus Crawley requested to speak for 20 minutes. Mr. Wolff informed the Board that Mr. Crawley directed an email to Mr. Biddle and requested to speak for 20 minutes. Mr. Wolff forwarded the email to Mr. Biddle of this request. Mr. Biddle denied the request for Mr. Crawley to speak for 20 minutes and Mr. Wolff invited Mr. Crawley to submit any comments in excess of 3 minutes for review by legal counsel. Mr. Crawley submitted a summary to Mr. Wolff which was handed out to the Board along with Mr. Crawley's original email to Mr. Biddle. Mr. Kalb invited Mr. Crawley to speak for 4 minutes. Mr. Crawley spoke with respect to CA Constitution Article 13D section 4E with respect to the protest ballots be tabulated against the favorable

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ballots. Mr. Taylor stated he has previously addressed this matter in three subsequent memos to the Board over the course of the HHW Fee Ordinance discussions, stating that Mr. Crawley's comments pertain to assessments and not fees. The legal basis for the HHW fee is addressed under Article 13D Section 6.

Ms. West made the motion to approve Option 1 of the staff recommendations. Ms. Natarajan seconded. Mr. Kalb asked for clarification on the Board's ability to revisit other options. Mr. Wolff stated the motion today does not preclude the Board from addressing other options at a later date.

Mr. Wolff conducted the roll call vote. :

City of Alameda	Yes
Alameda County	Yes
City of Albany	Yes
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	Absent
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 12-3-0 (Landis and Turner absent). The motion passed by a 2/3 majority of the 17 members of the Board.

The Board recessed for 5 minutes.

**2. FY 14-15 Budget Adoption (WMA only)  
(Gary Wolff & Pat Cabrera)**

**Action/  
Public Hearing**

That the WMA Board hold a public hearing on the budget and then adopt the portion of the FY 14-15 budget funded by the WMA Board, pursuant to the attached resolution (Attachment I).

Mr. Wolff provided a brief overview of the staff report and highlights of the budget. The staff report is available here: <http://www.stopwaste.org/docs/05-28-14-budget-wma.pdf>

Mr. Wolff reported that legal counsel has stated that the public hearings for Agenda Items 2&3 can be held simultaneously, and he recommended doing so. President Biddle opened a simultaneous public hearing on these items. There were 2 public speakers: Leslie Strauss and David Tam. Ms. Strauss spoke to her concerns with respect to transparency of staff salaries in the budget. Mr. Tam spoke in support of the budget and the agency in general. Upon conclusion of the public speakers the public hearing was closed.

Mr. Biddle inquired if the changes to the Bay Friendly program are reflected in the budget. Mr. Wolff stated yes. Mr. Biddle inquired about the percentage of revenue from the Energy Council. Mr. Wolff stated \$5.7 million or approximately 25% of the budget is attributed to the Energy Council. Mr. Biddle inquired about an update regarding the benchmark service. Mr. Wolff indicated staff will be providing an update to the Board on the benchmark service at the June WMA meeting. Mr. Biddle inquired about the budget adjustment to reflect the recently adopted HHW fee. Mr. Wolff stated that the Board will be asked to approve a shift in the point of purchase outreach project budget to the originally intended funding source. Mr. Biddle inquired about staffing changes since last year. Mr. Wolff stated that there are no added regular or limited term staff positions, but there are two more interns proposed.

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Ms. Cutter stated she is pleased to see the shift in staff paying the full employee share of the pension cost. Ms. Cutter commended staff for implementing this measure. Ms. Halliday stated given the complexity of the agency she agrees with Ms. Strauss with respect to her comments regarding transparency in the budget of staff salaries. Mr. Wolff stated that staff will confer with the Programs and Administration committee to see how they might want to change the budget layout. Certainly it would be easy to add a single line item or note listing the sum of staff salaries. Ms. Natarajan stated the budget powerpoint presentation that is available on the website clearly lays out the details of the budget.

Ms. Natarajan made the motion to adopt the FY 14-15 budget for the WMA Board. Mr. Sadoff seconded and the motion carried 15-0 (Ellis, Freitas, Landis, Pentin, and Turner absent).

### **3. FY14-15 Budget Adoption (EC only only) (Gary Wolff & Pat Cabrera)**

Staff recommends that the EC hold a public hearing, and then adopt the attached resolution, which to maximize transparency readopts the entire EC budget for FY 14-15.

Ms. Halliday motion to adopt the FY 14-15 budget for the Energy Council. Mr. Kalb seconded and the motion carried 16-0 (Ellis and Freitas absent).

### **4. Amendment to Wind Easement on ACWMA Property (Gary Wolff & Brian Mathews) (WMA only) Action**

Authorize the Executive Director to sign and implement the terms of the attached First Amendment to the Amended and Restated Easement Agreement (Attachment C).

If the Board would like to consider further negotiations with NEER with respect to price and key terms related to price, it may use the optional closed session on the agenda to have this discussion and give direction to the Executive Director as its negotiator. Such direction can also take place in open session, but then NEER will be aware of the Board's directions.

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

<http://www.stopwaste.org/docs/05-28-14-wind.pdf>

Emre Ergas, NextEra Energy Resources, provided an overview of the proposed project and background on NextEra. Ms. Tam stated that the P&A committee was provided a detailed summary of the project and commends staff on an excellent negotiation process. Mr. Wolff recognized Brian Mathews, Senior Program Manager, for his efforts on the project. Ms. Tam made the motion to approve the staff recommendation. Mr. Carson seconded and the motion carried 14-0 (Ellis, Freitas, Landis, Pentin, Sadoff, and Turner absent).

### **5. Draft Resolution on Recycling Worker Pay and Health Benefits Action**

That the WMA Board adopt the attached draft resolution.

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

<http://www.stopwaste.org/docs/05-28-14-recyclingworkers.pdf>

Ms. Cutter stated support for the resolution and because it is not an ordinance cities can act appropriately. Mr. Maass stated that although workable, there will be complications with Waste Management serving several cities. Ms. West commended Fremont for taking the lead on this issue and staff for bringing the issue to the Board and inquired about the status of the Franchise Task Force and how this issue could be incorporated into that work. Ms. West added this issue aligns with the agency's mission of creating safe and well paying green jobs. Mr. Wolff added that the intent is to provide the resolution to the member agencies and other entities that we work with asking them to take a look at the issue. Ms. Halliday indicated this helps to make the case that we need to pay for recycling. Ms. Tam stated that as an agency we should make a statement of support for a prevailing wage for workers in the recycling industry.

There were 4 speakers in support of the resolution: Amy Willis, ILWU, Augustin Ramirez, ILWU, Doug Block, Teamsters, and Monica Wilson GAIA.

Ms. Tam made the motion to accept the staff recommendation. Mr. Worthington seconded and the motion carried 14-0 (Ellis, Freitas, Landis, Pentin, Sadoff, and Turner absent).

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- 6. 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 Offices - June 12, 2014 at 4:00 p.m.)

Mr. Wolff informed the Board that Ms. Turner was absent from the May Recycling Board meeting and informed staff that she would be absent from the June meeting as well. Ms. Turner was informed that two consecutive absences is automatic dismissal from the Recycling Board. Due to her schedule, Ms. Turner asked to be removed from the Recycling Board. Mr. Wolff stated that if Ms. Turner is absent from the June meeting the Board will be notified in June of a vacancy on the Recycling Board. Mr. Biddle volunteered to serve as an interim for Ms. Turner at the June meeting to ensure that a quorum is present. Mr. Worthington made the motion to approve the interim appointment. Ms. West seconded and the motion carried 14-0 (Ellis, Freitas, Landis, Pentin, Sadoff, and Turner absent)

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

Ms. Natarajan stated that she was troubled by comments made by Board member Landis in the May 22, 2014 article in the San Jose Mercury Newspaper.

Ms. Cutter and Ms. Halliday recommended that staff continue to work with the Rental Housing Association, at minimum on EPR policies and outreach, and possibly an agreement on a future study method. Ms. Halliday asked in addition to provide information on multi-family rates of participation now and two to three years from now. Ms. Cutter asked in addition to implement customer surveys that provide information on the type of dwelling. Mr. Wolff affirmed that customer surveys are currently in progress and will be modified to include the type of dwelling (e.g. duplex, triplex, etc.), how they heard about the facility, etc.

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

The meeting adjourned at 5:15 p.m.