

APPROVED

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

Wednesday, March 23, 2016

3:00 P.M.

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

I. CALL TO ORDER

First Vice President Kalb, WMA, called the meeting to order at 3:05 p.m.

II. ROLL CALL

WMA & EC

County of Alameda	Scott Haggerty, WMA, EC
City of Alameda	Trish Spencer, WMA, EC
City of Albany	Peter Maass, WMA, EC
City of Berkeley	Kriss Worthington, WMA, EC
Castro Valley Sanitary District	Dave Sadoff, WMA
City of Dublin	Don Biddle, WMA, EC
City of Emeryville	Dianne Martinez, WMA, EC
City of Fremont	Suzanne Lee Chan, WMA, EC
City of Hayward	Greg Jones, WMA, EC
City of Livermore	Laureen Turner, WMA
City of Newark	Mike Hannon, WMA, EC
City of Oakland	Dan Kalb, WMA, EC
Oro Loma Sanitary District	Shelia Young, WMA
City of Piedmont	Tim Rood, WMA, EC
City of Pleasanton	Kathy Narum, WMA

Absent:

City of San Leandro	Deborah Cox, WMA, EC
City of Union City	Lorin Ellis, WMA, EC

Staff Participating:

Wendy Sommer, Executive Director
Tom Padia, Deputy Executive Director
Karen Kho, Senior Program Manager
Elese Lebsack, Program Manager
Richard Taylor, Legal Counsel, Authority Board
Arliiss Dunn, Clerk of the Board

APPROVED

Others Present:

Ken Bukowski
Gayle Lillian, Liba Falafel, and Oakland Indie Alliance
Ethan Tucker, Save the Bay

III. ANNOUNCEMENTS BY THE PRESIDENTS

There were none.

IV. CONSENT CALENDAR

- | | |
|---|--------------------|
| 1. Approval of the Draft Minutes of February 17, 2016 | Action |
| 2. Mandatory Recycling Ordinance (MRO) – Site Inspector Analysis (Pat Cabrera)
The P&A Committee recommends that the WMA Board direct staff to continue the use of contracted services for MRO site inspectors. | Action |
| 3. Product Decisions Targets – Recommendations (Justin Lehrer)
The P&A and P&O Committees recommend that the WMA Board approve the proposed recommendations for the PD Targets and direct staff to implement them in the FY 16-17 budget. | Action |
| 4. Minutes of the February 16, 2016 and March 15, 2016 Technical Advisory Group (Karen Kho) | Information |
| 5. Grants Under \$50,000 (Wendy Sommer) | Information |

Board member Rood made the motion to approve the Consent Calendar for the WMA Board. Board member Worthington seconded and the motion carried 17-0 (Cox, Ellis and Spencer absent).

Board member Rood made the motion to approve the Consent Calendar for the Energy Council. Board member Worthington seconded and the motion carried 15-0 (Cox, Ellis and Spencer absent).

V. OPEN PUBLIC DISCUSSION

VII. REGULAR CALENDAR

- | | |
|--|---------------|
| 1. Reusable Bag Ordinance – Ordinance Expansion Language (Wendy Sommer)
Staff recommends that the WMA Board review the proposed reusable bag ordinance expansion language (Attachment A) and direct staff to prepare formal amendments to Ordinance 2012-02. | Action |
|--|---------------|

Wendy Sommer led the presentation and discussion in the absence of the project manager Meri Soll. A link to the staff report and the presentation is available here: [Bags Expansion memo-03-10-16](#)

Vice President Kalb opened the floor for public comments. Ethan Tucker provided comments on behalf of Save the Bay. Mr. Tucker thanked staff for providing an informative presentation and for supporting Save the Bay's efforts by introducing an expanded plastic bag ordinance. Mr. Tucker encouraged the Board to not exclude farmers markets from the ordinance and to consider including flea markets. He added a uniform rule and complete participation across the County is essential as a piece meal approach would create confusion. Mr. Tucker inquired if there would be CEQA concerns if the ordinance did not include a fee for restaurants and encouraged staff to look at San Francisco's ordinance which includes a \$0.10 fee for paper bags at restaurants.

Board member Sadoff inquired if adopting the expanded ordinance would create any conflict with State legislation. Mr. Taylor replied that the current State legislation regulates stores, narrowly defined, and we cannot change the rules to existing stores but State legislation does not apply to other retail, e.g. restaurants, etc. Board member Maass inquired if food vendors at street fairs are included in Public Eating

APPROVED

Establishments. Mr. Taylor stated yes. Board member Maass recommended that staff look at redefining the language to more clearly define the types of public food establishments covered by the ordinance. He further inquired if staff could revisit the definition of a reusable bag. Mr. Taylor stated that if the State referendum does not pass this is something that we can look into. Ms. Sommer added the current bags in circulation have met rigorous requirements and the State definition aligns with our definition. Board member Martinez inquired about any CEQA challenges if we do not impose a fee for carryout bags at restaurants. Mr. Taylor stated that our consultants are aware of this issue and any information will be provided to the Board prior to a decision. Mr. Taylor added the San Francisco ordinance includes a provision that restaurants may impose a fee for carryout bags but he has not incurred such a fee while dining in San Francisco. Board member Biddle inquired about a breakdown of the ordinances according to the County and Cities. Ms. Sommer provided a verbal summary of the information and the link is available here: [Bags-City Ordinance Synopsis-03-23-16](#)

Board member Hannon recommended revising the enforcement language in the ordinance to clearly illustrate the administrative strategy utilized by the agency. Mr. Taylor stated that we could add headers to that section of the ordinance. Board member Spencer suggested clarifying “food providers” in Section 6(a). Ms. Sommer stated that staff would do so, and thanked Board member Spencer for attending on behalf of Board member Oddie. Board member Chan stated her concerns that the proposed schedule not overwhelms restaurants as they will also be implementing the organics phase of mandatory recycling. Ms. Sommer stated that the ordinance becomes effective May 1, 2017 for all retail, but restaurants will be phased in effective November 1, 2017. Complaint based enforcement for restaurants are effective June 2018.

Vice President Kalb stated that he is pleased that there is a phase in period for restaurants and that they are not required to charge for a paper bag. He inquired that staff provide information on operations and cost of doing random inspections (5% of total retailers) in addition to complaint based enforcement. Elese Lebsack, Program Manager, stated that in order for the enforcement protocol to be equitable among all stores the inspections must be routine and therefore random inspections would not allow stores to be inspected. Mr. Taylor added it has not been the agency’s protocol to do random inspections to avoid claims and to make our cases as strong as possible however if it is important to the Board we can look into it. Board member Kalb stated that at times vendors at farmers markets use the single use plastic bags and inquired into why they are being excluded from the ordinance. Ms. Sommer stated vendors at the farmers markets do not utilize cash registers and cannot provide itemized receipts, which makes it easier to validate the fee on bags when doing complaint based enforcement. Board member Maass commented that we could inform agencies that work with farmers markets that although they are excluded from the ordinance to educate the farmers about the ban on single use bags. Mr. Taylor added that cities could also require in their use permits that events held in their cities must comply with the single use bag ban.

Gayle Lillian, Liba Falafel and Oakland Indie Alliance, commented that she strongly supports the bag expansion ordinance and is pleased to see that it does not require restaurants impose a fee for brown paper bags. Ken Bukowski stated his support as well for excluding restaurants from imposing a fee on brown paper bags.

Mr. Taylor stated that all of the comments today will be used to make the ordinance clearer and will be used as part of the CEQA analysis. Board member Sadoff suggested that the ordinance should clearly define the establishments that are excluded from the Ordinance. Mr. Taylor stated that the ordinance says which establishments are covered by the ordinance and those that are the exceptions.

Board member Spencer made the motion to approve the staff recommendation. Board member Worthington seconded and the motion carried 16-0 (Cox, Ellis, and Haggerty absent).

2. Priorities Program Areas for 2016-2018 (Karen Kho)

Action

APPROVED

Staff recommends that the Energy Council discuss and approve the Priority Areas for 2016-2018.

Karen Kho presented an overview of the staff report and a PowerPoint presentation. The combined report and presentation is available here: [Energy Council Priorities FY16-18-03-23-16](#)

Board member Spencer thanked staff for the insight into the two areas (Municipal Building Operations, and Fuel Switching) and for the revisions to the priority areas.

Board member Biddle made the motion to approve the staff recommendation. Board member Rood seconded and the motion carried 14-0 (Cox, Ellis, and Haggerty absent).

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

(The April 14, 2016 P&O and Recycling Board meeting is cancelled in lieu of a joint meeting of the WMA Board, the Energy Council, and Recycling Board on April 27, 2016 at 3:00 p.m. at StopWaste offices).

Board member Martinez requested an interim appointment for the April 27 joint meeting. Vice President Kalb volunteered to represent her as the interim appointment. Board member Turner made the motion to approve the interim appointment. Board member Worthington seconded and the motion carried 16-0 (Cox, Ellis and Haggerty absent).

VII. COMMUNICATION/MEMBER COMMENTS Information

Board member Young announced that Board member Cox was unable to attend the meeting due to a family illness.

VIII. CLOSED SESSION:

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Section 54956.9(d) (2):
(One potential case)

There was nothing to report from the closed session.

IX. ADJOURNMENT

The meeting adjourned at 4:30 p.m.