

APPROVED

**MINUTES OF THE JOINT MEETING
OF THE
ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY (WMA),
THE ENERGY COUNCIL (EC),
AND
THE ALAMEDA COUNTY SOURCE REDUCTION AND RECYCLING BOARD (RB)**

Wednesday, September 28, 2016

3:00 P.M.

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

I. CALL TO ORDER

Dan Kalb, President, WMA, called the meeting to order at 3:03 p.m.

II. ROLL CALL

WMA & EC:

County of Alameda	Keith Carson, WMA, EC
City of Alameda	Jim Oddie, WMA, EC, RB
City of Albany	Peter Maass, WMA, EC, RB
City of Berkeley	Susan Wengraf, WMA, EC
Castro Valley Sanitary District	Danny Akagi (Alternate), WMA
City of Dublin	Don Biddle, WMA, EC
City of Emeryville	Dianne Martinez, WMA, EC, RB
City of Fremont	Suzanne Lee Chan, WMA, EC
City of Hayward	Francisco Zermeno (Alternate), WMA, EC
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, RB
City of Pleasanton	Kathy Narum (Alternate), WMA, EC
City of San Leandro	Deborah Cox, WMA, EC
City of Union City	Lorin Ellis, WMA, EC

P&O/RB:

Environmental Organization	John Moore, RB
Environmental Educator	Toni Stein, RB
Recycling Materials Processing Industry	Bernie Larrabe, RB
Recycling Programs	Adan Alonzo, RB
Solid Waste Industry Representative	Michael Peltz, RB
Source Reduction Specialist	Steve Sherman, RB

Absent:

City of Livermore	Laureen Turner, WMA, EC
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Staff Participating:

Wendy Sommer, Executive Director
Tom Padia, Deputy Executive Director

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Richard Taylor, Legal Counsel, Authority Board
Meri Soll, Senior Program Manager
Brian Mathews, Senior Program Manager
Jeff Becerra, Communications Manager
Justin Lehrer, Senior Program Manager
Angelina Vergara, Program Manager
Arliss Dunn, Clerk of the Board

Others Participating:

Paul Kumar, Save the Bay
Jessica Lynam, CA Restaurants Association
Gail Lillian, Oakland Indie Alliance

III. ANNOUNCEMENTS BY THE PRESIDENTS

President Kalb welcomed Board member John Moore to the Recycling Board. Board member Moore will serve in the capacity of Environmental Organization representative.

Board member Wengraf made a motion to postpone the Executive Director’s evaluation to the October meeting. Board member Hannon seconded the motion. Board member Wengraf added the closed session item is at the end of the agenda and it would not allow the sufficient time it deserves. President Kalb suggested for consideration that the Board convene the closed session and then continue the discussion in October if necessary. Board member Zermeno attending as the alternate for Board member Mendall (Hayward) voiced support for postponing the closed session. Board member Chan stated that some members did not receive the materials prior to the meeting but she is comfortable with proceeding with the discussion. Board member Young inquired if there would be a conflict with timing if the closed session is postponed. Ms. Sommer stated no. Ms. Sommer suggested that if the Board agrees to postpone the discussion to October to schedule an earlier meeting start time at 2:30 p.m.

The Board voted 14-3 (Narum, Rood, and Young, no) (Ellis, Oddie, and Turner, absent) to postpone the closed session item to the October 26 meeting and to start the meeting at 2:30 p.m.

IV. CONSENT CALENDAR

- 1. **Approval of the Draft Minutes of July 27, 2016 (Wendy Sommer)** **Action**
- 2. **Financial Services Manager Position (Pat Cabrera)** **Action**
The P&A Committee recommends that the WMA Board approve the new Financial Services Manager position, job description and new monthly salary Range of \$8,866-\$10,773. Furthermore, the P&A Committee recommends that The WMA Board eliminates the Chief Financial Officer position, job description and monthly salary range of \$9,598-\$11,661.
- 3. **Minutes of the July 19, 2016, August 16, 2016, & September 20, 2016 Technical Advisory Group (Karen Kho)** **Information**

Board member Biddle made the motion to approve the Consent calendar. Board member Narum seconded and the motion carried 17-0 (Ellis, Oddie and Turner absent).

V. OPEN PUBLIC DISCUSSION

There was none.

VII. REGULAR CALENDAR

- 1. **Reusable Bag Ordinance Expansion – Introduction of Ordinance 2016-2 and Adoption of Addendum to Environmental Impact Report (Meri Soll)** **Action**

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Staff recommends that the WMA Board 1) consider the formally amended ordinance (Attachment A) by title only, waiving a full reading of the full text, 2) introduce the ordinance for consideration of adoption at the October 26 WMA meeting and 3) adopt a resolution (Attachment B) adopting the Addendum to the Final Environmental Impact Report for the Mandatory Recycling and Single Use Bag Reduction Ordinance.

Meri Soll presented an overview of the staff report and a PowerPoint presentation. The report and presentation is available here: [RBO-Presentation-9-28-16.pdf](#)

Ms. Soll announced that the MOU between the WMA and the Alameda County Clean Water Program (Program) was approved by both entities and had received a final signature from the Board of Supervisors.

President Rood pointed out that the date on the first page of the staff memo should be corrected to state "Beginning May 1, **2017**, all retail stores will be required to follow current ordinance requirements," not May 1, 2016.

Board member Biddle thanked Ms. Soll for providing a presentation on the bag expansion to the Dublin City Council. President Kalb inquired if a 5% random inspection rate combined with complaint based enforcement would produce better results and asked staff to consider this as we move forward. Board member Hannon recommended that staff work with the cities' licensing and permitting departments to provide information to businesses as they obtain licenses and permits as well as the county health department and other resources. Ms. Soll stated that staff is working with all city and county resources to disseminate information.

Board member Alonzo inquired if there is current staffing available to handle the complaint based enforcement efforts. Ms. Soll stated enforcement will be done by current contractors that handle enforcement for mandatory recycling as well. Board member Zermeno inquired if food trailers are covered under the ordinance. Authority Counsel Taylor stated that the ordinance language states that "Public Eating Establishment" means a restaurant, take-out food establishment or other business (including, but not limited to, food sales from vehicles or temporary facilities open to the public). Under this definition food trailers are considered affected establishments. Board member Moore inquired about the effects to the expanded ordinance if Prop 67 passes and is not annulled by Prop 65. Ms. Soll stated that Prop 67 (SB 270) would not affect our ordinance because our ordinance has been in effect prior to 2014 when SB 270 was passed.

Board member Biddle inquired about the ongoing cost of the ordinance. Ms. Soll stated that with the contribution of \$180,000 from the Clean Water Program, the budget for FY 16/17 is \$110,000, for FY 17/18 \$100,000, and we have estimated \$80,000 for FY 18/19. Ms. Sommer added this budget is for complaint based enforcement and would increase if we include random inspections.

Board member Chan inquired about how the complaint based process would work. Ms. Soll stated that the process would involve complaints being called into our designated hotline or by completing a form online with information about a particular merchant. Our hotline staff will triage the call and forward to inspection staff to follow up, if necessary. Board member Maass inquired about the number of complaints we are now receiving. Ms. Soll stated we are not currently receiving any complaints and we have received an estimated 120 complaints since implementing the ordinance. Other jurisdictions that use the complaint based system have reported that complaints peak in the initial months of the roll-out of the ordinance but gradually drop off. Board member Maass inquired if there is accommodation for low income or disabled persons. Ms. Soll stated the ordinance leaves it at the discretion of the merchant. Board member Sherman requested clarification regarding the "fine" process with respect to consecutive violations. Mr. Mathews stated that fines are assessed based on whether the violation is a transient or non-transient. A transient violation is one that disappears after the garbage is collected, such as recyclables disposed in the garbage or garbage in the recycling. A non-transient violation persists until corrected, like not having recycling service. A transient violation is a fixed fine amount of \$100 for the first violation. A non-transient violation is charged based on the number of days the

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violation persists at \$5 per day. We set a limit of 30 days for a maximum fine of \$150. Ms. Sommer added that the ordinance would be enforced using progressive enforcement. Mr. Mathews added that a citation would be issued only with the approval of the jurisdiction’s primary enforcement officer.

Paul Kumar, Save the Bay, stated their support for the bag expansion and thanked StopWaste staff for working closely with Save the Bay and other stakeholder groups and considers expansion of the ordinance to be an essential tool in ridding toxic plastic trash from the environment. Jessica Lynam, CA Restaurants Association, spoke against the use of reusable bags in restaurants as they may pose a serious health risk with respect to food borne illnesses and asked that the Board consider these issues. Gail Lillian, Oakland Indie Alliance, support the expansion of the ordinance to include eating establishments that allows for the distribution of recycled content paper bags with no charge to the customer. She asked that the Board think through enforcement of random inspections and consider outreach and marketing as adequate enforcement. Board member Chan inquired if we are planning to do advanced notification of implementation dates to stores so that they may use up their current inventory. Ms. Soll stated that we will mail announcements to all affected establishments with ordinance details as well as provide outreach materials in multi-language (Current outreach materials have been translated to y Spanish and Mandarin). Staff will be working with TAC to assess the need for translation of materials to additional languages.

Board member Rood made the motion to introduce Ordinance 2016-2 (Attachment A) by title only, waiving a full reading of the text. Board member Wengraf seconded and the motion carried 18-0 (Oddie and Turner absent).

Board member Ellis made the motion to direct staff to place the ordinance on the agenda for consideration of adoption at the October 26 WMA meeting. Board member Young seconded and the motion carried 18-0 (Oddie and Turner absent).

Board member Cox made the motion to approve a resolution (Attachment B) adopting the Addendum to the Final Environmental Impact Report for the Mandatory Recycling and Single Use Bag Reduction Ordinances. Board member Wengraf seconded and the motion carried 18-0 (Oddie and Turner absent).

2. Support Position for Proposition 67, the Plastic Bag Ban Referendum (Debra Kaufman) Action

Staff recommends that the Authority Board adopt a position of “support” on Proposition 67 to uphold Senate Bill 270, the Plastic Bag Ban.

Debra Kaufman provided an overview of the staff report. The report is available here:

[Prop 67-memo-09-28-16.pdf](#)

Paul Kumar, Save the Bay, concurred with the staff recommendation and added there is strong opposition from plastic bag manufacturers to defeat and overturn current law. Board member Rood inquired if there was consideration to take a position on Prop 65. Ms. Kaufman stated that we felt that Prop 67 is more closely related to our work and Prop 65 references where the money goes. Board member Zermeno stated that the Hayward City Council took a no position on Prop 65 and is disappointed that the Board has not taken a position on it. Board member Moore stated that Prop 65 only references where the money goes but if Prop 65 receives more votes than Prop 67 then Prop 65 passes, which is why he recommends that the Board take a no position on Prop 65. The Board by consensus recommended that staff place the Prop 65 issue on the October 26 WMA agenda.

Board member Chan made the motion to approve the staff recommendation. Board member Rood seconded and the motion carried 17-0 (Oddie, Turner, and Wengraf absent).

3. Priority Setting Exercise (Wendy Sommer) Information
This item is for information only.

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Wendy Sommer provided an overview of the staff report and presented a PowerPoint presentation. The report and presentation is available here: [Priority Setting memo-07-27-16.pdf](#). Ms. Sommer introduced staff Angelina Vergara, Jeff Becerra, and Justin Lehrer, who led the Board through the priority setting exercise.

Mr. Becerra noted a few outcomes from the exercise:

- There was a very clear emphasis on an upstream waste prevention versus downstream discard management focus
- Board results favor a balanced approach on a broader sustainability versus solid waste only focus
- Experimenting and innovating versus tried and true was split 60/40 with a slight emphasis towards experimenting and innovating
- No clear emphasis on organic versus non-organic waste
- Mandatory approaches received slightly more support than voluntary (approximately 60/40 split)
- We should emphasize “doing” over studying and research
- The Board felt strongly that we should be working directly with target audiences instead of conducting outreach via the member agencies

Board member Kalb inquired if the Board could see the results from the TAC exercise. Mr. Becerra stated that the exercise and discussion with TAC revealed a strong preference for mandatory recycling versus voluntary with an emphasis on organics versus non-organic waste. TAC overall wanted the Agency to continue broad-based outreach to supplement their direct outreach to constituents. Board member Stein stressed the importance of having metrics to inform when making a decision. Ms. Sommer stated that staff will provide indicators that will illustrate where we are and where we want to be.

Ms. Sommer stated that staff will synthesize the information received today and will provide more specifics regarding the information from TAC as well as staff. Ms. Sommer added she will present survey results to the City Managers. So far we have received input from the Measure D committee and Arthur Boone, and we are awaiting information from the Northern California Recycling Association (NCRA). Ms. Sommer concluded that we will synthesize all of the input that we are currently gathering from stakeholders and will come back in October to propose guiding principles for the Board to adopt in November. President Kalb inquired if CalRecycle has proposed an area of emphasis. Mr. Lehrer stated that the State has aggressive goals for organics and packaging and has developed strategies to reach those goals. Ms. Sommer added there are also bills that set percentages for food waste and organics to be diverted from the landfill. Ms. Kaufman added the targets include a 50 percent reduction in the level of statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025. The regulations are also intended to meet a goal of recovering at least 20 percent of edible food that is currently disposed for human consumption by 2025.

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

(P&O and Recycling Board meeting, October 13, 2016 at 4:00pm – StopWaste, 1537 Webster St, Oakland, CA)

There were no requests for an interim appointment.

VII. COMMUNICATION/MEMBER COMMENTS

There were none.

Information

VIII. ADJOURNMENT

The meeting adjourned at 4:48 p.m.