

APPROVED

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

Wednesday, November 20, 2019

3:00 P.M.

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

I. CALL TO ORDER

President Rood called the meeting to order at 3:02 p.m.

II. ROLL CALL OF ATTENDANCE

City of Alameda	Jim Oddie, WMA, EC
County of Alameda	Keith Carson, WMA, EC
City of Albany	Rochelle Nason, WMA, EC
City of Berkeley	Susan Wengraf, WMA, EC
Castro Valley Sanitary District	Dave Sadoff, WMA
City of Dublin	Melissa Hernandez, WMA, EC
City of Emeryville	Dianne Martinez, WMA, EC
City of Fremont	Jenny Kassin, WMA, EC
City of Hayward	Francisco Zermeño, WMA, EC
City of Livermore	Bob Carling, 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
City of San Leandro	Deborah Cox, WMA, EC
City of Union City	Emily Duncan, WMA, EC

ABSENT:

City of Pleasanton	Jerry Pentin, WMA, EC
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Staff Participating:

Jeff Becerra, Communications Manager
Kelly Schoonmaker, Program Manager
Cassie Bartholomew, Program Manager
Candis Mary-Dauphin, Program Manager
Arliss Dunn, Clerk of the Board
Tamara Galanter, WMA Legal Counsel

Others Participating:

Jason Schmelzer & Priscilla Quiroz, Shaw Yoder Antwih Schmelzer & Lange (via teleconference)

III. ANNOUNCEMENTS BY PRESIDENTS

President Rood announced that Executive Director Wendy Sommer was absent from the meeting due to medical reasons involving her mother. President Rood informed the Board that he is pleased to report that all is well.

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IV. OPEN PUBLIC DISCUSSION FROM THE FLOOR

There was none.

V. CONSENT CALENDAR

1. Approval of the Draft Minutes of September 25, 2019 (Wendy Sommer)

2. Lighting Contractor Authorization (Pat Cabrera)

That the WMA Board authorize the Executive to contract with Layman Electric for \$113,250 to perform the lighting replacement and reconfiguration work.

There were no public comments for the Consent Calendar. Board member Hannon made the motion to approve the Consent Calendar. Board member Sadoff seconded and the motion carried 14-0: (Ayes: Carling, Cox, Duncan, Hannon, Hernandez, Kassan, Martinez, Nason, Oddie, Rood, Sadoff, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: Carson, Kalb, Pentin).

VI. REGULAR CALENDAR

1. 2020 Legislative Priorities (Jeff Becerra)

Discuss and adopt legislative priorities for calendar year 2020.

Jeff Becerra provided an overview of the staff report and presented a PowerPoint presentation. A link to the report and the presentation is available here: [2020-Legislative-Priorities-11-20-19.pdf](#). Staff from the agency's lobbyist, Shaw Yoder Antwih Schmelzer & Lange, were present via teleconference. Board members Kalb and Carson arrived during the presentation.

Board member Hannon inquired that if a reusable food ware ordinance is passed at the state level will it prevail over an ordinance adopted at the local level. Mr. Becerra stated that at this point the state ordinance would not preempt local ordinances and that we are lobbying to keep this provision in the legislation. Board member Hannon inquired if any potential costs to small businesses was included in the resource analysis conducted for the single use food ware ordinance. Mr. Becerra stated that the resource analysis conducted with regard to the single use food ware ordinance was focused primarily on costs to jurisdictions for implementation of the ordinance. Mr. Becerra added, like the reusable bag ordinance, the single use food ware ordinance would include a revenue mechanism borne by the customer that the businesses can retain to offset any costs to the business for implementing the ordinance. Board member Hannon inquired if any analysis has been conducted to demonstrate that the revenues will be sufficient to the businesses. Mr. Becerra stated that if the Board decides to move ahead with the ordinance this analysis will be included in the environmental impact report. Board member Oddie stated that the agency is highly respected in Sacramento as well as our lobbying firm and recommended with respect to sponsoring legislation that we should take the lead on the bottle bill. Board member Oddie added we would have strong support from the local delegation and possibly even an author for the bill. Mr. Becerra stated that if we were to sponsor legislation, some type of bottle bill fix would be the best fit. President Rood expressed his appreciation for the legislative overview especially from a policy standpoint and for the clear set of priorities that are grounded in our mission and guiding principles as well as a review of the legislative calendar.

There were no public comments on this item. Board member Zermeño made the motion to adopt the legislative priorities for the calendar year 2020. Board member Nason seconded and the motion carried 19-0:

(Ayes: Carling, Carson, Cox, Duncan, Hannon, Hernandez, Kalb, Kassan, Martinez, Nason, Oddie, Rood, Sadoff, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: Pentin).

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2. **SB 1383 Short Lived Climate Pollutant Strategy: Update (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: [SB1383-Presentation-11-20-19.pdf](#)

Board member Carling inquired about the status of diversion. Ms. Schoonmaker stated that the state will not have that information until they conduct the analysis. Board member Hannon inquired if CalRecycle incorporated any of our comments. Ms. Schoonmaker stated yes, they've taken many of our recommendations. Board member Zermeno inquired if there are any thoughts on approaching supermarkets to ensure that food is given to organizations that can benefit from it. Ms. Schoonmaker stated that supermarkets are considered food generators in the legislation and jurisdictions will be required to increase commercial edible food generators' access to food recovery organizations and services. Board member Wengraf inquired if health department rules make food recovery challenging. Cassie Bartholomew stated that we are fortunate that the California Legislature passed the Good Samaritan Food Donation Act in 2017, which affords additional protections for surplus food generators. They can now donate to a non-profit as well as a direct recipient. Ms. Bartholomew added that within the Act there is language that requires the Department of Environmental Health during their inspections to engage generators to demystify food donation and to provide education and outreach regarding the protections for food generators. Board member Wengraf inquired if the regulations apply to the state college system and local school districts. Ms. Schoonmaker stated yes. Board member Hannon commented that he supports the intent for donating food but has concerns about how food is being handled once it leaves the generator. Ms. Bartholomew stated that there has never been a successful legal case around food donation as the Alameda County Health Department is very active with oversight. There are intermediate steps for the proper handling of food to ensure that it is kept hot or cold as necessary.

Board member Hannon inquired if the state has dictated what the amount of the fines would be or will the jurisdictions have latitude to set the amount of the fines. Ms. Schoonmaker stated yes, at the state level the fines are set according to the level of the violation. For the first violation the fine is set at \$50-\$100, the second violation is \$150-\$200, the third violation is \$250-\$500, and subsequent violations are defined as violations that have occurred within notification of the first violation. The violation period resets every year. At the jurisdiction level, the fines are defined as minor, moderate, and major, but they have not yet provided guidance on how to measure the levels. We are hoping that they can provide guidance to local assistance staff to provide consistency in enforcement among jurisdictions. Board member Duncan inquired if the jurisdictions would need to hire their own inspectors. Ms. Schoonmaker stated that jurisdictions can choose to work with their haulers with regard to providing inspections but the stakeholder group is continuing to discuss strategies to address these types of issues. Board member Wengraf inquired as to the entity that will administer the fine collection process and where will the money go. Ms. Schoonmaker stated that there are two levels of fines. Jurisdictions can levy fines to generators for contamination, etc. and CalRecycle can levy fines to jurisdictions for not having organics collection services in place. The regulations are not explicit with regard to where the fines would go.

President Rood asked if there is any hope of fixing some of these issues through the rulemaking process or do we need to look to legislative remedy. Ms. Schoonmaker stated that there were final attempts to address some of these issues during the rulemaking process but whatever comes out in January will be final. Ms. Schoonmaker added that oftentimes there are post legislative fixes but we aren't sure if that will occur. Board member Young inquired if this is an unfunded mandate with no financial assistance

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from the state. Ms. Schoonmaker stated there is no financial assistance from the state because according to the state, cities can raise collection rates. However, there will be some grants available. Board member Young asked what CalRecycle is doing with the \$213 million that they have on hand and commented that some legislation can be put forward to allocate that money to provide financial assistance to the jurisdictions. Mr. Becerra stated that because this is such a significant issue, he suspects that collectively the League of Cities could become involved and propose some legislative action but we still need to move forward. Board member Young commented that the two sanitary districts don't have the resources as the larger jurisdictions and this legislation places a substantial burden on the smaller organizations. Mr. Becerra stated that the California Special Districts Association could possibly get involved as well. Board member Cox stated that the city of San Leandro recently renegotiated their franchise agreement and increased their rates because of SB 1383 and inquired if the task force is communicating with the waste haulers. Ms. Schoonmaker stated that they have had general conversations with the waste haulers and added she would be interested in seeing the franchise agreement especially since the final regulatory package has not been released. Board member Sadoff stated that with regard to additional fees, the new franchise agreement for the Castro Valley Sanitary District includes curbside textile recycling twice a year. Board member Martinez inquired if the state considered what is going to happen with all of the non-compliant garbage carts after 2025. Ms. Schoonmaker clarified that the deadline for compliance with the color requirements is 2035. She continued that cities may be able to comply by having color-compliant lids and often the carts can be recycled.

President Rood thanked Ms. Schoonmaker for a very thorough presentation.

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

(Planning Committee and Recycling Board meeting, December 12, 2019 at 4:00 pm, StopWaste, 1537 Webster Street, Oakland, CA)

There were no requests for an interim appointment.

Energy Council President Cox chaired the EC item.

4. BayREN 2019 Contract Amendment #2 (Candis Mary-Dauphin) (EC only)

Adopt a Resolution authorizing the Executive Director to enter into a 2019 contract amendment of \$625,550 for Bay Area Regional Energy Network (BayREN) multifamily incentives and other related actions.

Candis Mary-Dauphin provided an overview of the staff report. A link to the report is available here: [BayREN-Amendment-11-20-19.pdf](#)

There were no public comments on this item. Board member Oddie made the motion to approve the staff recommendation. Board member Duncan seconded and the motion carried 15-0: (Ayes: Carling, Cox, Duncan, Hannon, Hernandez, Kalb, Kassar, Martinez, Nason, Oddie, Rood, Wengraf. Nays: None. Abstained: None. Absent: Carson, Pentin, Zermeño).

VII. MEMBER COMMENTS AND COMMUNICATIONS FROM THE EXECUTIVE DIRECTOR

Mr. Becerra distributed a copy of In Your Community and a topic brief on the reusable food ware ordinance. Mr. Becerra stated that the topic brief is designed to enable the Board to communicate with their council or board what the agency is considering and some questions that they can pose to their council or board so that we can obtain feedback. Staff needs to know how much we would need to take on for this issue and also to consider what other programs that we might need to reduce or eliminate in

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order to pursue this effort. Mr. Becerra added we will send out an electronic link to these items as well. Board member Cox asked if staff can provide a summary of the programs that could be affected. Mr. Becerra stated that there are two questions that need to be clarified: Is your community interested in pursuing this at all, and if so, would you prefer a model ordinance with more flexibility and customization at the local level, or a countywide ordinance. Mr. Becerra added the countywide ordinance taps into the resources of StopWaste because we would be responsible for inspections, fines, etc. Mr. Lehrer provided to the committees an illustration of the costs that would be incurred. If we were to pursue a model ordinance there would be some upfront costs for StopWaste but primarily the costs would be incurred by the jurisdictions if they chose to participate. Board member Duncan inquired if this has been discussed with the TAC (Technical Advisory Committee). Mr. Becerra stated yes, we have discussed the topic with the TAC and we are now interested in having the Board members have the discussion with their respective councils and boards. President Rood stated that it is not a fair question to ask to rate the importance of the reusable foodware ordinance against SB 1383 as the latter will be a mandate. Mr. Becerra clarified that the question was relative to StopWaste and its resources. Board member Oddie requested that when staff returns to the Board in January with the reusable foodware information that staff provide more details on StopWaste's proposed costs and proposed costs to jurisdictions.

VIII. ADJOURNMENT

The meeting was adjourned at 4:18 p.m.