SUMMARY

The Recycling Board Rules of Procedure, which are approved and can be revised by a majority of the total authorized vote of the Board, state that no more than two Board members may utilize teleconferencing for a Recycling Board meeting at no more than two teleconferencing locations. Further, the Brown Act sets strict rules for teleconferencing, designed to enable members of the public to access and participate in Board meetings at each teleconference location. The purpose of this memo is for the Recycling Board to consider interim amendments to the Rules of Procedure, consistent with the Brown Act, to remove the limit on the number of Board members who may utilize teleconferencing for Board meetings and to advise staff on the preferred start time for meetings held in each of the five supervisorial districts. The interim amendments would be in place until the end of calendar year 2022, at which time the Board would revisit and consider next steps.

DISCUSSION

In order to promote public health and safety, the Recycling Board has met exclusively by teleconference since the onset of the COVID-19 pandemic in March 2020. Initially, it was an Executive Order issued by the Governor that streamlined legislative body teleconferencing by suspending certain Brown Act rules, including the requirements that all teleconference locations be made available for the public, that each teleconference location be identified on the agenda, and that the agenda be posted at each teleconference location. Then, on September 16, 2021, the Governor signed AB 361 into law, which amends the Brown Act to allow local legislative bodies to continue to meet by teleconference as they did under the Executive Order, subject to various procedural safeguards that have consistently been a part of the Board’s practice. The “streamlined” teleconferencing pursuant to AB 361 is allowed only when the Governor has declared a state of emergency and the legislative body confirms every 30 days that state or local health officials have imposed or recommended measures to promote social distancing. At such time as the streamlined procedures are no longer in place, the Board’s standard Rules of Procedure will take effect. If the
Board makes interim amendments to the Rules of Procedure regarding teleconferencing, then those changes would become effective at that time instead.

The main amendment that staff is recommending that the Board consider is to remove the limit on the number of Board members who may utilize teleconferencing for Board meetings. The current Rules of Procedure also “encourage” Board members who are unable to attend a meeting in person, but are able to participate by teleconference, to have an interim appointee attend in their place (see Attachment 1, Section 3-8). Staff recommends that this aspect of the current Rules of Procedure – namely, encouraging Board members to appoint an interim Board member rather than participate via teleconference – no longer apply. Finally, staff recommends that the Board make these amendments on an interim basis, until the end of calendar year 2022, at which time the Board would reevaluate the interim rules and decide on next steps.

Having corresponded with several other public agencies that operate in Alameda County and the Bay Area, staff has found that it is not standard practice for regional legislative bodies to have rules of procedure that limit the number of board members who may participate by teleconference. Public agencies throughout the region are in the process of setting up “hybrid” meeting procedures, meaning that members of the legislative body, agency staff, and members of the public may participate in Board meetings either in person or via teleconference.

If the Board chooses to adopt interim amendments to the rules of procedure, then staff will provide specific instructions for Board members to ensure that Brown Act rules are followed. Specifically, the Brown Act requires the following once the streamlined procedures of AB 361 are no longer in effect:

- At least a quorum of the legislative body must participate from locations within the local agency’s jurisdiction (i.e., Alameda County);
- Each teleconference location must be specifically identified in the notice and agenda of the meeting, including a full address and room number, as may be applicable;
- Agendas must be posted at each teleconference location, even if a hotel room or a residence;
- Each teleconference location, including a hotel room or residence, must be accessible to the public and have technology, such as a speakerphone, to enable the public to participate;
- The agenda must provide the opportunity for the public to address the legislative body directly at each teleconference location; and
- All votes must be by roll call.

Importantly, once a teleconference location is noticed to the public, Board members must ensure that someone is at the location at the time of the meeting to provide public access to the space and to provide the public the ability to make comments. Also, Board members must provide the Clerk of the Board with their meeting location details at least one week prior to the Board meeting to ensure that the Agency meets required noticing deadlines.

In addition, per the Alameda County Waste Reduction and Recycling Initiative Charter Amendment (Measure D) that created the Recycling Board, the Board is required to continue to hold at least one
regularly scheduled evening meeting per year in each supervisorial district in a location accessible by public transit and that ensures full access to all Recycling Board meetings by the physically disabled. Agency staff will coordinate with StopWaste member agencies in each supervisorial district to identify appropriate locations that are equipped for teleconferencing and adhere to Measure D requirements.

The Board’s practice, although it is not in the Rules of Procedure, is to start the evening meetings held in each of the five supervisorial districts at 7:00 pm. In other words, the Board’s practice is to meet five times per year at 7:00 pm, while the other meetings begin at 4pm. Staff would like Board direction on if a 6:00 pm start time would be preferable.

Finally, staff encourages Board members to attend the last meeting of the calendar year in person to review 2022 accomplishments and prepare for the new year.

RECOMMENDATION

Adopt Resolution #RB 2022-04 to approve interim amendments to the Rules of Procedure to remove the limit on the number of Board members who may teleconference for Board meetings, and to start each of the five meetings held in the five supervisorial districts at 6:00 pm. The interim amendments to the Rules of Procedure would be in effect until the end of calendar year 2022, at which time the Board would reevaluate and consider next steps.

Attachment 1: Current Alameda County Source Reduction Recycling Board Rules of Procedure
ALAMEDA COUNTY SOURCE REDUCTION AND RECYCLING BOARD

RESOLUTION # RB 2022-04

MOVED:
SECONDED:

AT THE MEETING HELD MARCH 10, 2022

INTERIM AMENDMENTS TO THE RULES OF PROCEDURE REGARDING TELECONFERENCING AND PERMANENT REVISION TO START TIME FOR EVENING MEETINGS

WHEREAS, the Recycling Board Rules of Procedure allow no more than two Recycling Board members to utilize teleconferencing at a Recycling Board meeting at no more than two teleconferencing locations, and

WHEREAS, these limitations were suspended during the COVID-19 public health emergency to allow all Board members to participate via teleconference to protect public health and safety and will take effect at such time as the Board resumes in person meetings, and

WHEREAS, the Brown Act sets strict rules for teleconferencing, designed to enable members of the public to access and participate in board meetings at teleconference locations, and

WHEREAS, having corresponded with several other public agencies that operate in Alameda County and the Bay Area, staff has found that it is not standard practice for regional legislative bodies to have rules of procedure that limit the number of board members who may participate by teleconference, and

WHEREAS, staff is recommending that the Recycling Board consider removing the limit on the number of Board members who may utilize teleconferencing for Board meetings for an interim period, until the end of calendar year 2022, and

WHEREAS, the Alameda County Waste Reduction and Recycling Initiative Charter Amendment (Measure D) requires the Recycling Board to hold at least one regularly scheduled evening meeting per year in each supervisorial district, and

WHEREAS, the Board’s practice is to start the meetings held in each of the five supervisorial districts at 7:00 pm, and that staff is proposing a start time of 6:00 pm.

NOW THEREFORE, BE IT RESOLVED, that the Alameda County Source Reduction and Recycling Board consider and approve removing the limit on the number of Board members who may utilize teleconferencing for Board meetings, and

BE IT FURTHER RESOLVED, that removing the limit on the number of Board members who may utilize teleconferencing for Board meetings is approved on an interim basis by this resolution, through the end of calendar year 2022, at which time the Board will consider and provide direction on next steps, and

BE IT FURTHER RESOLVED, that Section 3-8 of the Alameda County Source Reduction and Recycling Board Rules of Procedure is amended on an interim basis until December 31, 2022, to read as follows:

Section 3-8 Teleconferencing. Recycling Board members unable to attend a meeting in person may participate in meetings by teleconference in accordance with this section. but are encouraged to have interim appointees attend in their place. Interims are appointed by the Alameda County Waste Management Authority (WMA) Board for WMA representatives, and by
the Alameda County Board of Supervisors for county resident representatives. No more than two Recycling Board members may utilize teleconferencing at a Committee/Recycling Board meeting at no more than two teleconferencing locations. A Board member wishing to utilize teleconferencing for a meeting must notify the Executive Director (or designee) prior to the release of the agenda for that meeting, of the teleconference location. The teleconference location must be accessible to the public. The Executive Director will identify the teleconference location in the agenda of the meeting and ensure posting of the agenda at the teleconference location. Votes at a Committee/Recycling Board meeting where teleconferencing is utilized will be taken by roll call. If more than two members request teleconferencing, the two selected shall be chosen on the basis of the order of request, and in the case of ties, by seniority on the Recycling Board. Members shall be compensated for attendance via teleconferencing on the same basis they would be if they were physically present.

BE IT FURTHER RESOVED, that the Board directs that the Board meetings held in each supervisorial district shall begin at 6:00 pm moving forward, and

BE IT FURTHER RESOLVED, that the Board recommends that the Alameda County Waste Management Authority (ACWMA) Board make conforming amendments to its Rules of Procedure to the extent that they apply to the ACWMA Planning Committee.

Effective Date and Expiration Date. This Resolution shall take effect immediately upon its adoption, and expire on December 31, 2022.

Passed and adopted this 10th day of March 2022 by the following vote::

AYES:

NOES:

ABSENT:

ABSTAINED:

________________________
Arliss Dunn, Clerk of the Board
ATTACHMENT 1

ALAMEDA COUNTY SOURCE REDUCTION AND RECYCLING BOARD
RULES OF PROCEDURE

Revised July 12, 2018

Article 1
General Provisions

Section 1-1 Name of Board. The name of the Board is the Alameda County Source Reduction and Recycling Board, hereinafter referenced as the "Recycling Board".

Section 1-2 Authority for Rules. These rules apply to the Recycling Board (including Committees of the Recycling Board), and are adopted pursuant to the Initiative Charter Amendment known as County of Alameda Charter Section 64, hereinafter "Initiative", which became effective December 20, 1990, and is hereby incorporated by this reference.

Section 1-3 Purpose of Rules. The purpose of these rules is to provide for the orderly conduct of meetings of the Recycling Board.

Article 2
Organization of Board

Section 2-1 Composition of Recycling Board. The Recycling Board is composed of eleven (11) members appointed pursuant to the Initiative creating the Recycling Board.

Section 2-2 Officers. The Officers of the Recycling Board shall be President, First Vice-President and Second Vice-President, who shall serve until the elections of their successor in accordance with Section 2-4.

Section 2-3 Committees. The Recycling Board may appoint such committees from time to time as may be appropriate to administer the powers and programs of the Recycling Board. A majority of Recycling Board appointed committee members shall constitute a quorum of the committee. A majority vote of the committee members in attendance shall be required for the transaction of business, however, the committee is not empowered to take final action on behalf of the Recycling Board. All other rules followed by the Recycling Board apply to committee meetings unless otherwise determined by the committee. Committee Chairs, or the procedure for selection of a committee Chair, shall be specified by the Recycling Board when the committee is appointed.

In addition to the aforementioned, any committee that constitutes a quorum of the Recycling Board (see Section 3-5) shall be noticed as both a meeting of the committee and a meeting of the Recycling Board.

The Executive Director or designee shall monitor the composition of all Committees on which one or more Recycling Board members sit and notice the meetings as appropriate and required in compliance with the Ralph M. Brown Act (California Government Code Section 54950 et.seq), requiring open and public meetings for the legislative body of a local agency.

Section 2-4 Election of Officers. The Officers shall be elected at the regular meeting of the Recycling Board in the month of December of each year or such other time as the Board may decide when an officer departs the Recycling Board. They shall be elected by a majority of
those present and voting. An abstention to vote by any member shall be construed as
that member not voting. No member may serve more than one term in the same
leadership position on the Recycling Board within a two-year time frame. This does not
limit a person who has served in one office for a year serving in a different office the
following year (e.g., the First Vice President in one year serving as the President the next
year).

Section 2-5 Term of Office. Each term of office shall be no more than one (1) year duration,
commencing January 1 or such other time as the Board may require to fill vacancies, and
expiring December 31 of the same calendar year.

Section 2-6 Executive Director. The Executive Director of the Recycling Board shall be the Executive
Director of the Alameda County Waste Management Authority Board.

Section 2-7 Duties of President. The President shall serve as Chair and preside at all meetings of the
Recycling Board, and shall conduct the business of the Recycling Board in the manner
prescribed by these Rules. The President shall preserve order and decorum using the
Rules of Conduct of Meetings listed in Article 4 and the discussion ground rules listed in
Article 4, and shall decide all questions of order subject to the action of a majority of the
Recycling Board.

Section 2-8 Duties of the First and Second Vice-President. In the absence or inability of the
President to act, the Vice-Presidents shall perform the duties of the President in order of
their succession.

Section 2-9 Duties of the Executive Director. The Executive Director shall perform the following duties:
a) Attend each meeting of the Recycling Board.
b) Prepare an agenda for each meeting.
c) Appoint a Clerk of the Board to:
   • Notify all Recycling Board members of the time and place of each meeting;
   • Maintain all records of the Recycling Board;
   • Maintain a record of the proceedings of Recycling Board and committee meetings;
d) Perform other duties directed by law or the Recycling Board. These duties may be
delegated as determined necessary by the Executive Director.

Article 3
Meetings of Recycling Board

Section 3-1 Regular Meetings. Regular meetings of the Recycling Board will be set by a majority vote
of those present and voting. An abstention to vote by any member shall be construed as
that member not voting.

Section 3-2 Special Meetings. Special meetings of the Recycling Board may be called by order of the
President of the Recycling Board or by a majority of the members at a regularly
scheduled meeting. The order calling the special meeting shall specify the time of the
meeting and the business to be transacted at such meeting.

Section 3-3 Adjourned Meetings. Any regular meeting of the Recycling Board may be adjourned to
any date prior to the date established for the next regular meeting. Any adjourned
regular meeting is part of the regular meeting. Any special meeting may also be
adjourned, and any adjourned special meeting is part of the special meeting.
Section 3-4 **Effect of Holiday.** If any meeting day or adjourned meeting day falls on a holiday, the meeting of the Recycling Board shall be rescheduled by the Recycling Board.

Section 3-5 **Quorum.** A majority of the members of the Recycling Board shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn from time to time pursuant to Section 3-6 of these Rules.

Section 3-6 **Absence of Quorum.** In the absence of a quorum, the members present shall adjourn the meeting to a stated time and place, and the absent members shall be notified. If all members are absent, the Executive Director or a representative shall adjourn the meeting to a stated time and place and notify all members pursuant to Section 3-7 of these Rules.

Section 3-7 **Notice of Meetings.** All meetings of the Recycling Board shall be held subject to the provisions of the Ralph M. Brown Act (California Government Code section 54950 et seq.) requiring open and public meetings for the legislative body of a local agency. Agendas will typically be released five (5) days in advance of regular meetings.

Section 3-8 **Teleconferencing.** Recycling Board members unable to attend a meeting in person may participate in meetings by teleconference in accordance with this section, but are encouraged to have interim appointees attend in their place. Interims are appointed by the Alameda County Waste Management Authority (WMA) Board for WMA representatives, and by the Alameda County Board of Supervisors for county resident representatives. No more than two Recycling Board members may utilize teleconferencing at a Committee/Recycling Board meeting at no more than two teleconferencing locations. A Board member wishing to utilize teleconferencing for a meeting must notify the Executive Director (or designee) prior to the release of the agenda for that meeting, of the teleconference location. The teleconference location must be accessible to the public. The Executive Director will identify the teleconference location in the agenda of the meeting and ensure posting of the agenda at the teleconference location. Votes at a Committee/Recycling Board meeting where teleconferencing is utilized will be taken by roll call. If more than two members request teleconferencing, the two selected shall be chosen on the basis of the order of request, and in the case of ties, by seniority on the Recycling Board. Members shall be compensated for attendance via teleconferencing on the same basis they would be if they were physically present.

Section 3-9 **Compensation.** Recycling Board members and interim appointments are compensated in accordance with compensation policies approved by the Recycling Board. Recycling Board members must attend a Recycling Board meeting to be compensated for that meeting.

**Article 4**

**Conduct of Meetings**

Section 4-1 **Order of Business.** The Business of each meeting of the Recycling Board shall be transacted as far as is practicable in the following order:
(a) Call to order
(b) Roll call of attendance
(c) Announcements by President
(d) Open public comment
(e) Approval of minutes of prior meetings (may be included in the consent calendar)
(f) Consent calendar
(g) Regular calendar
(h) Member Comments and communications from the Executive Director; and
(i) Adjournment

The above order of business may be suspended or changed at any time upon order of the Chair. The consent calendar may contain those matters the nature of which have been determined by the Executive Director to be routine, and items that have been recommended by a Committee for Recycling Board approval, and will be approved by a single action. Any item shall be removed from the consent calendar and placed for discussion on the regular calendar at the request of any member. Recycling Board members who were not in attendance at a meeting but have read the minutes of the meeting may vote in connection with approval of those minutes. The regular calendar shall contain all other matters and business.

Open public comment from the floor is provided for any member of the public wishing to speak on any matter within the jurisdiction of the Recycling Board, but not listed on the agenda. Each speaker is limited to three minutes unless a shorter period of time is set by the Chair.

Section 4-2 **Right of Floor.** Any member desiring to speak shall first be recognized by the Chair and shall, with the exception of open public comment period, confine any remarks to the subject under consideration.

Section 4-3 **Ground Rules for Recycling Board and Committee Discussions:**

a) Speak briefly and to the point.
b) Focus on solutions rather than positions. If disagreeing, offer an alternative rather than merely stating disagreement.
c) Seek input from those who have not spoken before anyone speaks a second time on a given agenda item.
d) Seek group consensus and use voting only when further discussion seems unlikely to change the outcome, or circumstances require an immediate decision.
e) Consensus on any item shall be stated for the written record by the meeting Chair. All motions shall be stated for the written record prior to voting.
f) Identify the next step at the end of each agenda item.
g) The meeting Chair shall prevent personal, verbal attacks on Recycling Board members, staff, or citizens, but shall not prevent criticisms of the policies, procedures, programs or services of the Recycling Board, or the acts or omissions of the Recycling Board or members of the Recycling Board.
h) The meeting Chair, but no other member, may interrupt a speaker to enforce these rules.
i) Serious complaints from one Recycling Board member about the behavior of another Recycling Board member shall be first brought to the attention of the Chair.

Section 4-4 **Procedures Regarding Public Hearings and Action Items**

(a) Introduction

1) Chair announces subject of the public hearings and declares the public hearing open.
2) Chair may set time limit for each speaker and may limit number of appearances per speaker.
(b) Staff and Written Material Presentation
   1.) Staff summary report and other written material included in the agenda packet is received and filed. Written comments (e.g. protest, etc.) are noted for the record.
   2.) Written material not in the agenda packet, if any, is received and filed.
   3.) Oral staff report, if any, is presented by staff member.
   4.) Staff responds to Recycling Board member questions.

(c) Public Comment
   1.) The purpose of this portion of the public hearing is to provide an opportunity to concerned members in the audience who wish to testify in support of or opposition to the matter being heard.
   2.) The Chair shall instruct members of the audience:
      (a) to speak from the podium;
      (b) to give their name and address before speaking;
      (c) that repetition should be avoided.
   3.) Question by speakers will be noted and addressed prior to Recycling Board deliberation.

(d) Recycling Board Deliberation
   1.) After the Chair has determined that no other member of the audience wishes to speak, the matter is returned to the Recycling Board for deliberation.
   2.) The Chair may ask questions of speakers for clarification.
   3.) Staff and/or Recycling Board answers prior speakers’ questions.
   4.) The Recycling Board makes a motion and debates.

(e) Recycling Board Action
   1.) Recycling Board may, at this time, continue the open public hearing.
      (a) This should be done if any additional information is requested (e.g. a staff report).
      (b) Continuing a public hearing to a specific date does not require additional notice.
   2.) The Recycling Board may:
      (a) close the public hearings and vote on the item;
      (b) offer amendments or substitute motions allowing additional public comment; or
      (c) close the public hearing and continue the matter to a later date for a decision. (No additional reports or testimony may be received after the hearing has been closed).

Section 4-5 Precedence of Motions

When a motion is pending before the Recycling Board, no further motion shall be entertained except:

(a) Motion to Amend – A motion to amend is debatable only as it relates to the amendment.
An amendment which modifies the motion is in order; however, a substitute motion is in order if the intent is changed. A substitute motion on the same subject shall be acceptable, and voted on before a vote on the amendment. Amendments are voted on first; the main motion vote is last. A motion may be amended more than once with each amendment being voted on separately. There shall only be one amending motion on the floor at any one time.

(b) Motion to Postpone – A motion to postpone to a date uncertain is debatable. If such a motion is adopted, the principal question is lost. A motion to postpone to a definite time is subject to debate and amendment only as it relates to propriety of the postponement and time set.

(c) Motion to Table – A motion to table is not debatable and not subject to amendment. A motion to table is only in order when another item later on the agenda is time-sensitive. The tabled item is taken up for discussion upon completion of the time-sensitive item.

Section 4-6 Motion to Reconsider

A motion to reconsider any action taken by the Recycling Board must be made at the same meeting where the item was first voted upon, in accordance with the following:

(1) The motion must be made by a member who voted on the prevailing side, when the item was first voted upon; and

(2) The motion is debatable and has precedence over a pending motion.

Section 4-7 Comments from the Public

Recycling Board members may ask questions but the Recycling Board shall not discuss or act in connection with such citizen comment, if the subject is not on the agenda for action. A Recycling Board member may, however, refer a subject to staff or other resources for factual information or for action, if appropriate. In addition, members of the public may comment on any item if recognized for that purpose by the meeting Chair. The Chair has full discretion over the time allowed for public input.

Section 4-8 Parliamentary Rules. The rules laid down by Rosenberg’s Rules of Order are hereby adopted for this Recycling Board in all cases not otherwise provided for in these rules.

Section 4-9 Vote Required. A majority of the total authorized vote of the Recycling Board shall be required for the adoption of the following:

(a) Adopt the annual work program and budget

(b) Adopt policies, rules of procedure, etc. for operations of the Recycling Board and staff

A majority vote of those present and voting shall be required for any other action. An abstention to vote by any member shall be construed as that member not voting on a particular matter.

Section 4-10 Interim Member Vote. An interim member may vote on any matter under consideration only in the absence of the regular member from the meeting.
Section 4-11 Roll Call. Each roll call of the Recycling Board shall be in alphabetical order, except that the Chair shall be called last.

Section 4-12 Roll Call Votes. Roll call votes shall proceed in the following manner:

(a) The Chair will direct the Clerk of the Board to report on the Recycling Board members who have joined or left the meeting since the roll call of attendance at the beginning of the meeting;

(b) The Chair will ask for a voice vote on the matter;

(c) If there are no “nay” votes or abstentions, the Chair will direct that the matter be reported as passed unanimously with the names of all Recycling Board members in attendance reported as voting in favor;

(d) If there are any “nay” votes or abstentions, the Chair will direct the Clerk of the Board to call the name of each member and record the vote of the member and then report the total number of “aye,” “nay” and “abstain” votes. The Chair shall be called last.

Section 4-13 Roll Call Not Required. The roll need not be called in voting upon a motion except when requested by a member. If the roll is not called, in the absence of objection, the Chair may order the motion unanimously approved.

Section 4-14 Voting Ineligibility. Any Recycling Board member attending a Recycling Board meeting and ineligible to vote on any matter under consideration by the Recycling Board at that meeting shall briefly describe the reason for being ineligible and then shall leave the Recycling Board table before the matter is considered and refrain from participation in any action concerning the matter. If the member is ineligible due to a conflict of interest under the Political Reform Act, the member’s disclosure shall include the information required by that Act and the member shall leave the room and not be counted towards a quorum. Notwithstanding the foregoing, a member is not required to leave the Recycling Board table or room for matters that are on the consent calendar.

Section 4-15 Ex Parte Communications. Ex parte communication report forms should be submitted only for ex parte communications that are made after the matter has been put on the Recycling Board’s agenda, giving as much public notice as possible.