

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

**Wednesday, October 26, 2016**

**2:30 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 2:35 p.m.

**II. ROLL CALL**

**WMA & EC:**

County of Alameda	Scott Haggerty, WMA, EC
City of Alameda	Jim Oddie, WMA, EC
City of Albany	Peter Maass, WMA, EC
City of Berkeley	Susan Wengraf, 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	Al Mendall, 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 Pleasanton	Jerry Pentin, WMA, EC
City of San Leandro	Pauline Cutter, WMA, EC

**Absent:**

City of Livermore	Laureen Turner, WMA, EC
City of Union City	Lorin Ellis, WMA, EC

**Staff Participating:**

Wendy Sommer, Executive Director  
Tom Padia, Deputy Executive Director  
Meri Soll, Senior Program Manager  
Jeff Becerra, Communications Manager  
Richard Taylor, Legal Counsel, Authority Board  
Arliss Dunn, Clerk of the Board

**Others Participating:**

Paul Ledesma, Save the Bay  
Jessica Lynam, CA Restaurant Association  
Kirsten MacDonald, Berkeley Chamber of Commerce  
Mindy Craig, BluePoint Planning

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**III. ANNOUNCEMENTS BY THE PRESIDENTS**

There were none.

♦ Presentation by Heidi Sanborn:

California Product Stewardship Council award to Board member Keith Carson for authoring the first sharps producer responsibility law in the United States.

Ms. Sommer informed the Board that we were notified by Board member Carson’s office that he would be unable to attend the meeting today. The presentation will be postponed to the December meeting.

**IV. CONSENT CALENDAR**

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|---|--------------------|
| <b>1. Approval of the Draft Joint Minutes of September 28, 2016 (Wendy Sommer)</b>                        | <b>Action</b>      |
| <b>2. Final Legislative Update and Recommendation to Adopt a “No” Position on Prop 65 (Debra Kaufman)</b> | <b>Action</b>      |
| Receive the 2016 legislative status update and adopt a “no” position on Proposition 65.                   |                    |
| <b>3. Minutes of the October 18, 2016 Technical Advisory Group (Karen Kho)</b>                            | <b>Information</b> |
| <b>4. Grants Under \$50,000 (Wendy Sommer)</b>  | <b>Information</b> |

Board member Biddle made the motion to approve the Consent calendar. Board member Pentin seconded and the motion carried 16-0 (Absent: Ellis, Haggerty and Turner).

**V. OPEN PUBLIC DISCUSSION**

There was none.

**VI. REGULAR CALENDAR**

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|--|---------------|
| <b>1. Expanded Single Use Bag Reduction Ordinance Adoption (Meri Soll)</b> | <b>Action</b> |
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It is recommended that the Authority Board adopt the ordinance set forth in Attachment A at its October 26, 2016 meeting.

Meri Soll provided a summary of the staff report. The report is available here:

[Expanded Bag Ordinance Adoption-10-26-16.pdf](#)

Meri Soll distributed a letter received via email from the CA Restaurant Association asking the Board to fully exempt restaurants/food service establishments from the ordinance. The letter is attached to the minutes as a matter of record. The Board reviewed the letter and Ms. Soll provided a product demonstration on compliant reusable bags. Board member Sadoff inquired about the City of San Francisco reusable bag ordinance. Ms. Soll stated the ordinance in San Francisco covers all retail and restaurants and requires that restaurants charge for both paper and plastic bags. Other cities in the Bay Area, e.g. Palo Alto and Walnut Creek have ordinances that are similar to ours that requires restaurants to charge for reusable bags but not paper bags. Board member Sadoff inquired if staff is aware of any health issues related to the ordinance. Ms. Soll stated that staff is unaware of any health related issues to the ordinance and added there is information available on our website on cleaning reusable bags. Board member Young inquired if the passage of Prop 67 would affect our ordinance and if the State legislation includes restaurants. Ms. Soll stated no the passage of Prop 67 & 65 would not affect our ordinance, and the State legislation does not include restaurants.

Paul Ledesma, Save the Bay, thanked the Board for its support of this litter reduction measure. Mr. Ledesma added once the ordinance is implemented it will be one of the strongest in the region. Mr. Ledesma thanked the Board for its support of Prop 67 and its opposition to Prop 65.

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Jessica Lynam, CA Restaurant Association, provided a summary of the email from the CA Restaurant Association that was distributed to the Board.

Kirsten MacDonald, Berkeley Chamber of Commerce, stated that she just learned of the ordinance and feels that staff has not performed due diligence in reaching out to city councils, chambers and the restaurants to inform them of this pending legislation. Ms. MacDonald added passing this legislation could cause additional hardship to the restaurants especially in light of possible minimum wage and sick leave requirements. She also expressed concerns that restaurants will not be able to use up their single use plastic bags by November. Ms. Sommer stated that since the process began over two years ago, staff has performed significant due diligence including making presentations to City Councils, various Chambers of Commerce and other interested stakeholders. Ms. Sommer added the City of Dublin included the legislation in their recent newsletter. Ms. Sommer stated the restaurants will have a full year to use up their existing inventory. Ms. Soll reminded the Board that jurisdictions will have until December 9, 2016 to opt out of the ordinance by resolution and if they choose to opt out they would need to opt out of both retail and restaurants.

Board member Pentin made the motion to adopt the ordinance set forth in Attachment A. Board member Sadoff seconded and the motion carried 16-0 (Absent: Ellis, Haggerty, and Turner).

**2. Priority Setting Exercise (Wendy Sommer)**

**Information**

This item is for information only.

Executive Director Wendy Sommer and Mindy Craig from BluePoint Planning led a discussion of draft guiding principles that will be finalized by the Board at the November meeting. Ms. Sommer began by providing a summary of how various stakeholder groups responded to the seven topic area “polarities” from the priority setting survey. The results were divided into two groups: those with an identifiable trend among the different stakeholder groups, and those with results that were mixed among these groups. Each of the topic areas had a proposed guiding principle:

<b>Topic Area/Polarity</b>	<b>Guiding Principle</b>
Upstream/Downstream	StopWaste’s non-mandatory projects will emphasize waste prevention over management of discards.
Experiment & Innovate/Tried & True	Explore innovative and experimental approaches that may be leveraged by member agencies.
Doing/Studying	Emphasize project implementation and collect data only as needed to make informed decisions.
Broader Sustainability/Focus on Waste	Pursue projects with multiple sustainability benefits (greenhouse gas reduction, water conservation), only when linked with materials and waste management.
Organics/Non-Organic Waste	Organics, as the largest remaining portion of the waste stream to landfill, will continue to be an emphasis for the next two years.
Outreach: Target Audiences/Member Agencies	Develop programs that directly reach out to target audiences and communities; coordinate with Member Agencies.
Voluntary/Mandatory	Only implement ordinances that are currently in place (bags and mandatory recycling, plant debris), without introducing new mandatory programs in the coming two-year period.

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Board discussion followed with an overall endorsement of the above principles, with two additions. One is to create a separate principle related to coordination and collaboration with other public agencies to avoid duplication of effort, and the second was to ensure that the Agency had the flexibility to add a new project when it made sense, with the understanding that other project work would need to be eliminated to make room for the new work.

**3. 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, November 10, 2016 at 7:00pm – Castro Valley Library, 3600 Norbridge Ave, Castro Valley, CA)

There were no requests for an interim appointment.

**VII. COMMUNICATION/MEMBER COMMENTS Information**

♦ Board member Acknowledgement – Board member Suzanne Lee Chan

Board member Chan attended her final meeting as a member of the WMA Board and the Energy Council. Wendy Sommer presented Board member Chan with a recycled content glass tray in acknowledgement of her service to the Board and the Council.

Ms. Sommer conducted a straw poll of the Board to see if there would be a quorum for the Dec 21 meeting. There was an affirmative consensus among the members present.

**VIII. CLOSED SESSION (WMA only)**

Pursuant to Government Code Section 54957  
PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Title: Executive Director  
(confidential materials mailed separately)

**CLOSED SESSION (WMA only)**

Pursuant to Government Code Section 54957.6  
CONFERENCE WITH LABOR NEGOTIATOR  
Agency Designated Representatives: Board Members Kalb, Hannon, Sadoff, Pentin  
Unrepresented Employee: Executive Director  
(confidential materials mailed separately)

There was nothing to report from the closed session.

**VIII. ADJOURNMENT**

The meeting adjourned at 4:48 p.m.



October 26, 2016

Waste Management Authority/Energy Council  
County of Alameda  
1537 Webster Street  
Oakland, CA 94612

**DELIVERED VIA EMAIL**

**Re: Single-use carryout bags: request to continue to exempt restaurants**

Dear President Kalb and Members of the Authority and Council:

The California Restaurant Association is the definitive voice of the food service industry in California and is the oldest restaurant trade association in the nation. On behalf of our restaurant members within the County of Alameda, we submit this letter regarding a proposed ordinance to ban the use of plastic bags within food eating establishments. As providers of prepared food, restaurants take their responsibility to provide food in a safe and unadulterated manner seriously and devote a tremendous amount of effort to ensure food safety. If plastic bags are banned the only bag options left for restaurants are reusable bags or paper bags. These options pose serious public health and safety risks as well as operational challenges for restaurants. **For these reasons, as well as the reasons explained below, we ask the County of Alameda to continue to fully exempt restaurants/food service establishments.**

Restaurants are currently exempted from all bag ordinances throughout the County due to food safety concerns with using reusable bags for prepared food to-go. Several other Bay Area Counties and Cities have also exempted restaurants from their bag ordinance such as, San Mateo County, Santa Clara County, Monterey County as well as, San Jose, Half Moon Bay, and Richmond to name a few.

Other California jurisdictions outside of the Bay Area that have passed bag ordinances with an exemption for restaurants include Calabasas, Long Beach, Los Angeles County, City of Los Angeles and Santa Monica. For example:

- Santa Monica's ordinance provides: "5.45.040 Exemptions (a)(1): Single-use plastic carry out bags may be distributed to customers by food providers for the purpose of safeguarding public health and safety during the transportation of prepared take-out foods and liquids intended for consumption away from the food provider's premises."<sup>1</sup>

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<sup>1</sup> City of Santa Monica Bag Ordinance at [http://qcode.us/codes/santamonica/view.php?topic=5-5\\_44-5\\_45-5\\_45\\_040&frames=on](http://qcode.us/codes/santamonica/view.php?topic=5-5_44-5_45-5_45_040&frames=on)

- San Jose provided that “Restaurants and food establishments would not be subject to the ban for public health reasons. Reusable bags are considered impractical for these purposes.”<sup>2</sup>
- According to the US Department of Health and Human Services, “Harmful bacteria are the most common cause for food poisoning” or foodborne illness.<sup>3</sup> To safeguard against foodborne illness, restaurants must follow strict food safety standards in food handling under Cal Code, the California retail food code. Restaurants are regularly inspected by their county environmental health department under these guidelines.
- Food safety and food borne illness prevention is a top priority for restaurants, but no matter what precautions are taken by the restaurant to prevent cross contamination, it can all be in vain if people use contaminated reusable bags to transport restaurant food.
- People use reusable bags for various purposes, not just to transport food. They use reusable bags to carry dirty clothes, shoes, pet items and any number of personal items. The co-mingling of non-food items with perishable, food items can expose food to germs and bacteria. Additionally, many people do not wash their reusable bags. Bags are often kept in car trunks for convenience; an environment that can be a breeding ground for bacteria.
- Any potential risk of cross contamination is taken very seriously and cause for concern. This risk exists with reusable bags. (See research by University of Arizona and Loma Linda University, Center for Food Industry Excellence at Texas Tech University, and Health Canada).
- Health Canada warns: “When you are using reusable bags and bins, the biggest food safety concern is cross-contamination. Because these kinds of grocery bags and bins are used frequently, they can pick up bacteria from foods they carry.”<sup>4</sup>

In a study by University of Arizona and Loma Linda University, a total of 84 reusable bags were collected from consumers (25 Los Angeles, 25 San Francisco, and 34 from Tucson). Ninety-seven percent of persons interviewed did not clean their reusable bags.

- International Center for Food Industry Excellence at Texas Tech University tested 11 reusable bags – 8 used and 3 new. Half of the used bags indicated coliform contamination, while a quarter of the used bags tested positive for generic E. coli contamination.<sup>5</sup>

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<sup>2</sup> City of San Jose Bag Ordinance Development, February 2010.

<sup>3</sup> US Department of Health and Human Services at [www.FoodSafety.org](http://www.FoodSafety.org)

<sup>4</sup> Health Canada at <http://www.hc-sc.gc.ca/fn-an/securit/kitchen-cuisine/reusable-bags-sacs-reutilisable-eng.php> and <http://www.halifax.ca/districts/dist08/documents/BeaconSept09.pdf>.

<sup>5</sup> Research by the International Center for Food Industry Excellence at Texas University at [http://www.wpri.com/dpp/news/12\\_for\\_action/reusable-bags-may-carry-contamination](http://www.wpri.com/dpp/news/12_for_action/reusable-bags-may-carry-contamination)

- The use of reusable bags by restaurant patrons increases the owner's/operator's liability because there is a potential for cross-contamination.
- Unlike food purchased at the grocery store, restaurant food is typically not prepackaged or sealed. There can be spills and not all food is completely wrapped up or enclosed in a container (e.g. fries at quick service restaurants).
- Using a new, clean bag is the best way to ensure food is safely transported from the restaurant. Restaurants should have the freedom of choice to determine what type of bag works best to maintain the integrity of their product. Paper bags are not always the most practical choice for restaurants.
- Plastic bags are superior to paper bags in protecting against accidental spills and leaks during transport, whereas the content would just seep through a paper bag. Customers become disgruntled when food from the bag leaks onto their car, carpet, clothes, etc.
- In addition, some types of containers don't fit as well in paper bags. Whereas plastic bags conform to the size of the container, paper bags do not. The bottom of paper bags is generally rectangular-shaped which doesn't work when you have a standard, large square container.
- Restaurants will tightly pack up food in a plastic bag and use the handles to tie the bag so as to prevent the food from moving around and spilling. You can't do this with a paper bag.

**Therefore, we urge the Waste Management Authority to carefully consider these public health reasons for why restaurants are in a unique situation. Continue to fully exempt all restaurants and other food service establishments from any plastic bag ordinance.**

Should you have any questions, please contact me at [jlynam@calrest.org](mailto:jlynam@calrest.org).

Sincerely,



Jessica Lynam  
Director, Local Government Affairs Bay Area Region  
Government Affairs + Public Policy