



MINUTES
SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
MEETING OF THE BOARD OF DIRECTORS
 February 28, 2013 – 2:00 p.m.
 San Carlos Library Conference Room A/B

1. CTO: 2:04 PM
Roll Call

Agency	Present	Absent	Agency	Present	Absent
Atherton	X		Menlo Park	X	
Belmont		X	Redwood City	X	
Burlingame		X	San Carlos	X	
East Palo Alto	X		San Mateo	X	
Foster City	X		County of San Mateo	X	
Hillsborough	X		West Bay Sanitary District	X	

2. Adjourn to Closed Session - Pursuant to Government Code Section 54956.9(A): Conference with Legal Counsel – anticipated litigation – one case.

The Regular Portion of the meeting was called to order at 2:10 PM

3. Report from Closed Session

None

4. Public Comment

Persons wishing to address the Board on matters NOT on the posted agenda may do so.

Each speaker is limited to two minutes. If there are more than five individuals wishing to speak during public comment, the Chairman will draw five speaker cards from those submitted to speak during this time. The balance of the Public Comment speakers will be called upon at the end of the Board Meeting.

If the item you are speaking on is not listed on the agenda, please be advised that the Board may briefly respond to statements made or questions posed as allowed under The Brown Act (Government Code Section 54954.2). The Board's general policy is to refer items to staff for attention, or have a matter placed on a future Board agenda for a more comprehensive action or report and formal public discussion and input at that time.

None

5. Approval of Consent Calendar:

Consent Calendar item(s) are considered to be routine and will be enacted by one motion. There will be no separate discussion on these items unless members of the Board, staff or public request specific items be removed for separate action. *Items removed from the Consent Calendar will be moved to the end of the agenda for separate discussion.*

A. Adopt the January 24, 2013 BOD Meeting Minutes

- B. Approval of Quarterly Investment Report as of 12/31/12
- C. Receipt of Recology and SBR Monthly Reports

Motion/Second: Gibbons/Rodericks
 Voice Vote: All in Favor

6. New Business:

- A. Discussion on Expanded Board Executive Committee

Chair Doughty explained that he was looking to expand the informal executive committee which serves the purpose of agenda review. He added that he hoped the additional members would build a basis for future leadership. He noted that he had spoken with past chairs Jim Porter and Larry Patterson who agreed to join the committee and had left a message for Afshin Oskoui from Belmont.

Member Moura requested that the members of the ad hoc subcommittees be posted on the website as well as Board member requirements and voting rights.

- B. Resolution Approving Mid-Year Budget Adjustments FY2013

Executive Director McCarthy explained that the only reason to have mid-year budget adoption is because of the addition of the Burlingame HHW program which caused the budget to go over the adopted annual budget amount. He then noted that these costs are all pass through expenses covered by the City of Burlingame and have no net impact on the budget. He added that the Board may want to consider a policy change in this area so that if a pass through expense causes a budget fluctuation but no net impact then formal adoption wouldn't be required.

Chair Doughty asked the Board members if they should direct the Executive Director to draft a policy reflecting those changes regarding no net changes.

Member Moura suggested developing a draft policy and putting in on a future agenda for discussion.

Motion/Second: Moura/LaMariana
 Roll Call Vote: 10-0-0-2

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
Atherton	X				Menlo Park	X			
Belmont				X	Redwood City	X			
Burlingame				X	San Carlos	X			
East Palo Alto	X				San Mateo	X			
Foster City	X				County of San Mateo	X			
Hillsborough	X				West Bay Sanitary District	X			

- D. Resolution Approving Schedule for 2013/2014 Solid Waste Rate Setting Process

Executive Director McCarthy gave an overview of the proposed changes to the rate setting schedule, and highlighted some of the notable changes. He added that at the April Board meeting staff would be presenting the revised rate application format, with the goal of trying to address the issues and concerns that have come up about the ease of understanding that report.

Member LaMariana thanked staff and Recology for their work on the more favorable time line.

Member Gibbons asked if conceptually, as we move closer to all index based adjustments, if the compensation application would become simpler.

Executive Director McCarthy answered that the process will be the same and that the allocation will be the same, but it may be a little simpler because anything non index based won't be there, and there won't need to be text explaining the non-index based items.

Motion/Second: LaMariana/Fotu
 Roll Call Vote: 10-0-0-2

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
Atherton	X				Menlo Park	X			
Belmont				X	Redwood City	X			
Burlingame				X	San Carlos	X			
East Palo Alto	X				San Mateo	X			
Foster City	X				County of San Mateo	X			
Hillsborough	X				West Bay Sanitary District	X			

D. Resolution Approving Annual Public Education Plan for Franchised Collection Services

Staff Devincenzi gave an overview of the staff report and noted that many of the changes have already been implemented. One of the changes was the elimination of the Recology Public Education Manager and with that the SBWMA would take over the development and management of public outreach. She noted that this resolution only approves the Public Education outreach in the Franchise Agreements, but that going forward starting for calendar year 2014 there will be a more comprehensive public education plan which would include both the franchise agreement items as well as any SBWMA programs.

Member Rodericks asked if digital versions would be available to the member agencies of any outreach that is produced.

Staff Devincenzi answered yes.

Member Gibbons asked how billing inserts work for Redwood City since they do their own billing.

Staff Devincenzi answered that inserts are submitted directly to Redwood City for inserting into the bills.

Chair Doughty asked a similar question because East Palo Alto is billed through the property tax bill those residents wouldn't get bill inserts.

Staff Devincenzi answered that East Palo Alto gets their material direct mailed to the customer address in Recology's data base.

Chair Doughty explained that he has a concern that with EPA's high percentage of renters that the information may be going to the actual tenant of the building.

Member Galli asked about the number of inserts allowed versus planned, against how many bills per year go out and asked if there would be overlap.

Staff Devincenzi answered yes, that there will be times when 2-3 inserts will go at once.

Motion/Second: Fotu/LaMariana
 Roll Call Vote: 10-0-0-2

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
Atherton	X				Menlo Park	X			
Belmont				X	Redwood City	X			
Burlingame				X	San Carlos	X			
East Palo Alto	X				San Mateo	X			
Foster City	X				County of San Mateo	X			
Hillsborough	X				West Bay Sanitary District	X			

7. Old Business:

A. Update on Shoreway Remediation Project

Staff Gans gave an overview of the history and current status of the Shoreway remediation project. He noted that from the \$1.5M settlement money with Allied there is currently about \$1.3M left, and after a 10 year effort we are now at the end of the identification, treatment and assessment of the contamination. He added that we are now in a position to submit a closure report to the San Mateo County Department of Environmental Health that explains the existing level of contamination and asks the County to agree with Iris Environmental's recommendation that the site can be managed through natural attenuation, and no further threat exists. He added that one important component of the report submitted is a covenant to restrict property use, which will limit how the land can be used in the future. It limits the land use to industrial use only it cannot become residential land in the future. He added that he would update the Board once he got responses back from the County.

Executive Director McCarthy added that the deed restriction Hilary is referring to will come to the Board for approval. He also noted that staff would recommend the Board consider using the remaining settlement money to remove the 3 single walled underground storage tanks which are compliant but do leave us with some exposure. He noted that Staff Gans is in the beginning stages of getting cost estimates for that work, and that any left-over settlement money would be unrestricted.

Member Moura asked if the deed restriction had been brought up with the community development department in San Carlos, and recommended going through that notification process so that the City of San Carlos would be aware that it is happening.

Staff Gans noted that he would follow up with the community development department.

Member La Mariana asked if there was any other reserve that would cover contamination if we used the rest of the settlement money and then additional contamination occurred.

Executive Director McCarthy answered that if it came up we would have to request capital funds for a capital repair, but noted that staff's thought is that we don't want another contamination clean up situation and removing those tanks would limit exposure to that possibility. He noted that there is other future

challenges tied in, for example any future collection fleet wouldn't likely use diesel, and we have to consider all options to reduce the Agency's risk for contamination exposure.

Member LaMariana asked when the underground storage tanks were put in.

Staff Gans guessed that they were installed around 1980, and that we wouldn't be allowed to install these tanks today.

Member Moura suggested that the Board strategic plan around the possibility of a natural gas power fleet.

B. Discussion on Potential Amendments to the Uniform Franchise Agreement for Collection Services

Executive Director McCarthy gave a recap of this item noting that these issues came up during the last budget cycle when staff looked at any overlap between the SBWMA staff and Recology to see if there was any streamlining and clean up that could occur. He noted that Recology voluntarily implemented some staff reductions which, combined with SBWMA cuts, saved \$325,000 per year, and those savings were in the rate application. He also pointed out that with the exception of 3 items these changes are administrative in nature and they are discretionary whether a City or Town Manager approves them, or they go to council. He noted if the Board approved the changes, staff would provide a model staff report, and include an addendum to the Agency's Franchise Agreements.

Executive Director McCarthy then explained page 2 of the staff report which explained 3 items that would require formal Council action to change the Franchise Agreements. 1) relates to a change in the scope of the agreement, 2) relates to performance incentives and disincentives and 3) relates to formally capturing this administrative change approval. He noted that approval of item number 2 would save the agencies money.

Executive Director McCarthy then noted 3 items that have been discussed, but that there is not full consensus on. 1) Quality Assurance program, Recology has noted that they're not getting a lot of feedback from these calls, but we have not been able to arrive at an acceptable program alternative. 2) Targeted commercial recycling program, which would reduce the number of assessments but increase the assessment numbers in higher populated areas.

Staff Feldman then gave an overview of the third item without consensus 3) change in scope of the agreement. This would include organic material in the exclusive right to collect provision of the contract that is not currently exclusive for the company to collect. He noted that this would not affect back haulers but would protect the material that Recology is currently collecting.

Mario Puccinelli noted that Cal Recycle reports that approximately 2/3 of what is at the landfill is compostable, which is why Recology feels that it's imperative to franchise local organics, and agencies would retain the franchise fees, and optimize capital investment. He also noted that Recology has identified over 30,000 tons annually.

Staff Feldman added that if agencies lose 30,000 tons of material the cost to pick that up is still in the rate application.

Executive Director McCarthy also added that if Member Agencies wanted to adopt this item into their Franchise Agreements there is a 5 year notice period, so it couldn't take effect until 5 years after the notice period.

Member Scott asked if it would only then effect the last two years of the contract, and if this was an item that every member agency needed to agree on.

Executive Director McCarthy answered yes; it would be the last two to three years of the contract. He added there is no unanimous requirement for any of the proposed changes, these are all for the most part (except where noted) agreed upon by staff, Recology and the subcommittee. He did note that this same group thinks it is an item that would need to be approved by City Council or Board.

Member Moura noted that San Carlos would probably bring it all to council, but would like it parceled out, due to the controversial nature of the Scope of the Agreement and how it would affect cost. He also pondered if all of the Agencies don't approve this how would that affect all of our costs.

Executive Director McCarthy answered the first part noting staff could structure the staff reports any way Board Members would like. He also added that the scope of the agreement change tries to look out over the horizon and trying to protect the franchise especially in light of the 75% goal.

Staff Feldman explained cost allocation and answered the second half of Member Moura's question.

Member Galli asked what is driving the thought that some accounts may be potentially at risk in the future.

Mario Puccinelli answered that it's about protecting the franchise, and explained anaerobic digestion.

Executive Director McCarthy added that with new technologies coming on line it's going to make it easier for a customer to claim something is compostable and then the account is lost.

Member Masbad followed up on the cost allocation question asked that if collectively we lose the tons we are all at risk, because we will still be paying for it without the revenues.

Staff Feldman answered correct; but the burden of the revenues gets shifted.

Vice Chair Fotu explained what some of the subcommittees concerns over the scope of service change. She noted that Agencies pay \$100/ton to dispose of commercial food waste, noting that many Agencies offer some kind of a discount to commercial organics customers. She noted that she was trying to figure out the rate impact if we lost some business or put more on because of the discount, and asked for more account analysis, and business community engagement before heading down this path.

Vice Chair Fotu then asked if anaerobic digestion is one of the threats to the franchise, and if yes, why aren't we looking at the technology.

Executive Director McCarthy explained the Palo Alto digester isn't going to be big enough to make a dent in our needs. We are watching the ZWED facility closely; we don't know the pricing and it's too soon to tell if they're friend or foe.

Staff Gans added that there is interest in getting energy out of waste, but it is hard.

Vice Chair Fotu stated that it sounded like the risk/threat is about the technology, and she asked that the staff report be very thorough to explain what the risks are and what the rate impact could potentially be.

Executive Director McCarthy noted that if this is an item that remains challenging or difficult for agencies to approve it may be that you decide to file the notice but not amend your franchise agreements.

Member Scott asked if there was a digester in the county that Recology could take the organics to, that would at least get to the point where it could then be taken to the SBSA, would that be a financial benefit to the member Agencies.

Executive Director McCarthy answered only if it was cheaper to do that, at the end of 2014 our two compost contracts expire so Hilary is looking at all alternative options so that when those contracts expire we know what we need to do.

Member La Mariana supported separating the two issues and proceeding on a track to approve and adopt the items Recology, staff and the subcommittee have all agreed on. He thought the topic of commercial organics being franchised is worthy of more thought and discussion, noting that he could see both sides of the argument, but also noted that his general sense would be to go forward with the 5 year notice to have that option down the road.

Vice Chair Fotu asked if it would be possible and what the cost would be to consider text survey's as part of the quality assurance program or possibly post cards.

Chair Doughty clarified that these pieces can be approved independent of each other and they are not a package, and asked what has to go together.

Executive Director McCarthy answered most of them are one off, but some of the administrative items are tied together - for example the public education items. Given the discussion today, it seems staff can come back at the March meeting with approval of the items except the scope of agreement, which you would then take back to your councils for individual action, and how you want to bundle them is up to you.

Member Galli asked if we would get a redline version of the Franchise Agreement.

Executive Director McCarthy answered that on the administrative items you would get an attachment that would summarize the changes, because a red line would be too expensive, but on the 3 that need council approval you would get a redline.

C. Update on "RethinkWaste" Trade Name

Counsel Savaree announced that the name "RethinkWaste" has been successfully trademarked (will use a service mark).

Executive Director McCarthy added that without adding any extra expense we will look for opportunities to use the Trademark symbol, there are legal issues that once you get a trade name, you need to start using in in commerce.

D. Discussion on SBWMA Governance

Chair Doughty noted that we will keep this on the agenda as a place holder to keep discussing status of

the governance issue. Perhaps at the next meeting we can get an official accounting of what agencies have taken official action, but noted that he wanted to provide an opportunity to keep the discussion open.

Member Chan updated the Board on San Mateo's action, noting that their Council agreed to participate in the blue ribbon task force, and that 3 council members don't want to change the current structure and two were not sure, but that all of the San Mateo council agree that if we consider changing the JPA we should consider special voting procedures. The council also asked for more public education in how the contract and rates work.

Member Rodericks updated the Board that Atherton has appointed a Council Member to the Blue Ribbon task force.

Member Scott updated the Board that West Bay Sanitary Dist. has appointed a Council Member to the Blue Ribbon task force.

Member Hardy updated the Board that Foster City has appointed a Council Member to the Blue Ribbon task force.

Member Masbad updated the Board that Hillsborough has appointed a Council Member to the Blue Ribbon task force

Member LaMariana updated the Board that Supervisor Groom had been appointed to the Blue Ribbon task force.

The first meeting of the Blue Ribbon task forces will be March 20th at 6PM at Redwood City Hall.

8. Staff Updates

- a) Update on Recology Commercial Recycling Outreach Efforts
- b) Recycling and Outreach Programs Update
- c) Shoreway Operations and Master Plan Update
- d) Preview of Upcoming Board meetings

Executive Director McCarthy reminded the Board that there was a 2 Million ton event at Shoreway tomorrow and asked the Board who was coming.

9. Board Member Comments

Member LaMariana announced that the County is reactivating the green business program, and looking forward to county wide participation.

10. Adjourn 3:54PM