



**MINUTES**

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

**Call to Order: 2:09 PM**

**1. 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 Government Code Section 54956.9(A): Conference with Legal Counsel – anticipated litigation – one case; and pursuant to Government Code Section 54954.5: Public Employee Performance Evaluation: Executive Director.

**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.

Chair Dougherty welcomed Carol Augustine the newest Board Member representing Burlingame.

Vice Chair Fotu introduced Chip Taylor who is the alternate for Menlo Park and will be attending meetings while she is on maternity leave.

Member Hardy introduced Brad Underwood who is the new alternate for Foster City.

**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 February 28, 2013 BOD Meeting Minutes
- B. Resolution Approving Amended Budget Policies
- C. Resolution Approving Agreement with HF&H to Conduct a Financial Systems Audit of the Collection Services and Facility Operations Contractors
- D. Receipt of Recology and SBR Monthly Reports

Member Augustine noted that the minutes are incorrect showing the Burlingame was both absent from the meeting and abstaining from the votes.

Board Secretary Urman responded that the minutes would be corrected to reflect Burlingame and Belmont were absent from the February 28, 2013 meeting.

Motion/Second: Patterson/Moura

Roll Call Vote: 12-0-0-0

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			

**6. New Business:**

- A. Presentation on Recology San Mateo County 2012 Annual Report

Mario Puccinelli General Manager of Recology San Mateo County gave a Power Point presentation overview of RSMC's 2012 annual report.

Mario also introduced Kam Sung, who is the Call Center Supervisor for Recology.

Gino Gasparini then reminded all the Agencies to let them know when their compost and shred events would be taking place.

Member Oskoui asked how many businesses are hauling back recyclables, and what that impact is on diversion.

Mario answered that it may be hard to quantify the tonnage, but we do know who is hauling back, and could get a general sense and give some estimates.

Staff Feldman added that staff is working on developing a non-exclusive franchise system, to get tonnage data from the local companies that are back hauling so we can have more certainty when giving diversion levels.

Vice Chair Fotu asked how the annual report plays into the rate setting process.

Staff Feldman answered that it is self-reported by Recology and audited by HF&H.

Vice Chair Fotu questioned information in the report regarding recycling tote bags. She noted that the report says no bags were requested, but that bags were handed out, and questioned how that program worked.

Mario answered that he didn't know why the report says no recycling tote bags were requested, but that quite a large number are handed out to MFDs, and he added that he would get back to Vice Chair Fotu with more details.

Vice Chair Fotu also asked about single family missed picked up initial complaints, and what the threshold is for service opportunity each quarter. She then asked about the diversion totals noting that it looked like 2010 was being compared to 2012, and she requested verification that the numbers were from 2011 to 2012.

Mario answered that he would get back to Vice Chair Fotu regarding the threshold and would verify that the report was using the correct year's data on the diversion totals.

#### B. Presentation on South Bay Recycling 2012 Annual Report

Staff Gans gave a brief update on SBR's progress and performance this year. He added a few issues of note. 1) China has tightened restrictions on import of plastics 3-7; it has a potential impact of about \$150,000 this year. 2) Zanker facility has concern that they may not have the capacity to process all of our tons. 3) A staffing issue similar to last year's MRF supervisor issue has occurred in 2012 with the transfer station supervisor position.

Dwight Herring General Manager of SBR then gave a Power Point presentation on SBRs 2012 Annual Report.

Member Gibbons asked if there was any sense of how many people are picking up compost.

Dwight answered that two 50 yard loads per week are being used.

Member Fotu asked where carpet was going.

Dwight answered that it is going to a company called Rethink Green in Oakland, but that he wasn't sure what the end product was.

Dwight also addressed the staffing issue Hilary noted earlier, stating that an offer had been made to a person who would be starting on Monday.

Member Moura requested that the Power Point presentations from both vendors be placed on the new website.

#### C. Update on C&D Certification Program

Staff Feldman noted that this item was a follow up on staff's aspirations to perform certification on C&D facilities. He announced that a new nonprofit RCI will do the certifications in the coming months, so the SBWMA will save the full amount budgeted for this project.

Member Oskoui asked if there was a timeline, noting that Belmont would like have a more robust C&D ordinance.

Staff Feldman commented that the first facility they are working with is Zanker in the April/May time frame, and that the Bay Area is their first market. He added that they are working with Green Halo.

Member Moura asked if this new nonprofit would help the agencies get the data.

Staff Feldman answered that all the data would be with Green Halo, and he didn't know if Agencies would be able to get to the data directly through RCI.

Member Fotu asked if there was a cost to get the certification.

Staff Feldman answered that the cost is internal to the industry, the facilities will pay for the certification, but he didn't know how much it was.

Member Galli asked if we will have to amend Agency ordinances to use the certification process.

Staff Feldman answered no, it is meant to supplement efforts to administer C&D ordinances.

#### E. Discussion on Roles and Responsibilities for Collection Services Franchise Agreement Contract Administration

Staff Feldman gave an overview of the staff report and noted that per a resolution passed in 2009, four areas of contract management were formalized as a role of the SBWMA. He noted that the SBWMA is formally integrated into the contracts in two key areas, rate setting and public outreach. He added that Attachment A of the staff report provides an overview of what the SBWMA does, but it isn't a comprehensive list. He also emphasized that irrespective of those two key areas there is a shared mutual responsibility of staff and Board Members of contract administration to ensure these contracts are providing value to the constituents per the contract documents.

Member Moura requested that the information be broken down a little further into roles for SBWMA staff, roles for Board members, roles for Agencies and roles for contractors.

Staff Feldman answered that we can reformat the report so that it's more comprehensive, but noted that the SBWMA staff is only involved in those two key areas mentioned earlier.

Executive Director McCarthy added that Board members have an obligation to do everything in the contract, and staff will support Board members. This discussion is meant to capture the things staff is doing as a practical matter to support Board members in their obligations to the contract. He also noted that it's not fair to the JPA staff, the Contractor or the Board Members to have any confusion around who is doing what, and today is meant to start that conversation.

Member Patterson added that from his agency's perspective once the franchise agreement was signed he felt responsibility for the relationship. He also added that is a valuable conversation to have so that there is a clearer understanding of how the relationship should work.

Chair Doughty noted that the Executive Committee will discuss, provide input, and bring it back to the Board for further discussions.

Member Porter commented that it would be important to hear what each agency's wants and needs are, and if an agency wants more from staff could it be paid for.

Chair Doughty noted that the Executive Committee can frame the questions to ask each member agency the same set of questions before bringing it back to the Board for discussion.

**7. Old Business:**

**A. Resolution Recommending Administrative Changes to the SBWMA Member Agency Collection Services Franchise Agreements with Recology San Mateo County**

Staff Feldman noted that this is a continuation of the conversation regarding administrative changes to the Franchise Agreements resulting in cost savings. Formal action is requested by the Board to approve these changes and if the resolution is approved they would then need to be approved by each agency. He added that staff would prefer that those approvals happen in this calendar year. He also noted that staff and Recology are moving forward as if these changes are already in place.

Member Patterson requested the paragraph in the resolution that states now be changed to recommendation. He noted that this would reflect that this agency isn't making the change but is recommending the Agencies make this change.

Larry Patterson made a motion to adopt the resolution with that change.

Member Hardy seconded the motion

Discussion:

Chair Doughty asked if an agency decides not to make these changes to their Franchise Agreement what the implications would be.

Executive Director McCarthy replied that the implication is that Recology would then have the option of not doing those things for your agency. It would mean two sets of reports and two sets of dates and so it becomes very complicated, and if several agencies don't adopt them it would put Recology in a very awkward position.

Member Moura added that he'd like to quantify how much cost savings there are for each item. He also requested that as the changes move forward he would like to know how many agencies have approved it, and if they've done so administratively.

Member Oskoui requested to see how the savings played out in last year's rate setting process.

Chair Doughty responded to Member Moura's query noting that EPA would take these changes to council as a consent calendar item.

Member Scott asked for clarification, noting that it's up to each Agency to adopt each one of these, but added that it could cause problems if all agencies are not doing the same thing.

Chair Doughty noted that it could, and stated that the Board would come back in a few months to check in and see how councils are approving these and if there are issues.

Member Scott clarified that a yes vote today doesn't mean we're tied to anything and an agency has complete flexibility.

Chair Doughty noted that a yes vote says that the SBWMA Board says to each of our member agencies that we'd like each agency to look at these recommended changes. He also added that per the motion and the second the Resolution should read that these are a recommendation, but are subject to review and decision by the respective agencies in whole or in part.

Member Paterson added that the Resolution could say that it's our recommendation that all agencies adopt all the changes.

Member Scott noted that then his would be a no vote, if that was included and that he'd like to see it say approve any or all of the changes.

Executive Director McCarthy noted that these items were negotiated as a package, and there are no additional cost savings. He added that this is the 3<sup>rd</sup> time these changes have been in front of the Board, and it's been through staff of 4 or 5 agencies, it would be disappointing for all the Agencies not to adopt them.

Member Paterson modified the motion, so that the Resolution now says in paragraph 4: "Now therefore let it be resolved that the SBWMA hereby recommends for the member agencies to approve amending their respective franchise agreements as shown in attachment A."

Member Hardy seconded the amended motion  
Roll Call Vote: 10-0-2-0

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	

B. Resolution Recommending Amendments to the SBWMA Member Agency Collection Services Franchise Agreements with Recology San Mateo County

Atherton no longer present

Staff Feldman remarked that this item was part 2 of 3 of Franchise Agreement changes, and that this resolution would affect the rate setting process. He recommended that these go to individual member agencies to be more formally adopted by each Council in time to recognize the cost savings for the 2014 rate year. He added that approving by June would be ideal, but if that's not possible then by the September Board meeting when the rate application will come to the Board for approval.

Member Patterson clarified that there was only one amendment to the Franchise Agreements in this resolution, and the actual change reduces the net paid to Recology under the existing agreement.

Executive Director McCarthy stated that there are 2 amendments. He noted that amendment 2 was on attachment A and that it is to formalize making the administrative changes, and that amendment 1 captures changes to 2 portions of the contract.

Staff Feldman answered the second part noting that it works both ways reducing the net amount Recology pays for disincentive payments to the agencies and reducing incentive payments from the Agencies to Recology.

Member Scott asked what the net anticipated benefit to the agencies would be.

Staff Feldman answered that it's the difference between the incentives and disincentives.

Member Oskoui commented that it seemed like Recology is losing more than the agencies are gaining.

Staff Feldman reminded the Board that all of these changes were part of a negotiation package and the 3<sup>rd</sup> part of the proposed changes the exclusive right to organics is part of the give and take.

Member Oskoui asked if all of the amendments were tied together, and if they are approved separately how would that work.

Executive Director McCarthy stated that they are not tied together, and that this item does stand alone on its own.

Member Patterson made a motion to adopt Resolution 2013-08 with a change in the 4<sup>th</sup> paragraph "SBWMA hereby recommends for member agencies to amend their respective franchise agreements as noted in attachment A."

Vice Chair Fotu seconded the motion.

Discussion:

Member Oskoui asked if all agencies don't adopt this motion how does the formula change.

Staff Feldman replied that if an agency doesn't adopt this then Recology has an obligation to continue with the formula as is, and that agency would be paying more money out.

Member Fotu asked if the timeline should be added to the resolution.

Staff Feldman answered that it's not part of the recommendation, because it wasn't part of the discussions.

Member Paterson added that staff can make the recommendation to their councils.

Member Scott commented that attachment A of this resolution has the description of the administrative changes that he would have liked to see in the previous resolution. He noted that this would give him more flexibility. Noting that he doesn't see where he has to adopt all of the changes.

Staff Feldman added that the SBWMA is not part of your contract so the most we can do as an agency is put forth our perspective.

Member Moura suggested taking the 8.08D amendment first to see if Councils would let you approve them administratively first.

Roll Call Vote: 9-0-2-1

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	

C. Discussion on SBWMA Governance

Chair Doughty stated that this would be a standing discussion item on the agenda, to discuss updates.

Executive Director McCarthy handed out information on how other solid waste JPAs in the Bay Area are structured. He noted that Bob Bell, the City Manager of Redwood City, requested this research. He also added that there is a mix of responsibilities among the solid waste JPAs in the bay area, and that the SBWMA is the only agency involved in rate setting, facility ownership, contract administration and public education.

Member Moura suggested headings and X's in a column format so that it would be clearer and easier to follow.

Vice Chair Fotu asked to see how many agencies are participating on the Blue Ribbon committee.

Executive Director McCarthy noted that 9 agencies were at the first meeting, Atherton had a council meeting conflict or would have been there, and East Palo Alto and Menlo Park were not there.

Member Patterson wondered why this is such a process, and why we aren't just being asked to make an amendment to the JPA, wondering what was the breadth of the discussion at the Blue Ribbon meeting.

Chair Doughty noted that he thought there were 8 votes to change the structure, but there was some disagreement about how it would work. He noted that as a board member we have an obligation to provide them with as much information as we can so that they can make the best educated decision.

Member Moura noted that if the Blue Ribbon committee goes straight to an elected board then some of the expertise of the current Board would be lost, and acknowledged that it is complex. He added that he was glad to see that the Executive Director was providing information.

Member Oskoui added that the blue ribbon committee is looking for opposing viewpoints, as they make decisions going forward.

Executive Director McCarthy added that there still seems to be some confusion about the rate setting process, and what is controllable. He mentioned the document that the City Manager of San Mateo put together stating it's the best document he's seen that explains the process and how most of the costs are controlled by the process.

Member Paterson added that we need to make sure Bob Bell has that document, because it really shed light when it was presented to his council. He added that the Board shouldn't be in a position of having an opinion about what the Blue Ribbon committee decides.

Executive Director McCarthy added that his role would not be to provide opposing viewpoints to the Blue Ribbon committee, but to provide information.

Member Oskoui added that it goes back to the earlier discussion about roles and responsibilities.

Executive Director McCarthy added that staff got the message from the city managers' meeting that they wanted our agency to be their solid waste staff. He added that whenever staff approaches something we approach it for all 12 agencies, because there is only so much bandwidth.

Vice Chair Fotu suggested presenting information in a pros and cons kind of format, to help find out what are their real concerns.

Chair Doughty commented that he thought that was a conversation at the city manager level unless the Blue Ribbon committee asked for it.

Member Hardy added that the next Blue Ribbon Committee is Wednesday, April 24<sup>th</sup> at 6PM, and commented that this Board doesn't need to be an advocate or an opponent; noting that we are implementing the vision of the elected officials at the time the current structure was created.

## **8. Staff Updates**

- a) Update on Recology Commercial Recycling Outreach Efforts
- b) Recycling and Outreach Programs Update

Executive Director McCarthy noted the Earth Day event on April 20<sup>th</sup>, and asked Board Members to vote on the trash to art contest.

- c) Shoreway Operations and Master Plan Update
- d) Preview of Upcoming Board meetings

## **9. Board Member Comments**

Chair Doughty presented an award of gratitude to Jim Porter for his tenure as Chair of the SBWMA Board of Directors.

## **10. Adjourn 4:56 PM**