

MINUTES
SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
MEETING OF THE BOARD OF DIRECTORS
May 25, 2017 – 2:00 p.m.
San Carlos Library Conference Room A/B

Call To Order: 2:05PM

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	

Member Widmer representing Atherton participated by phone

2. 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

3. Adjourn to Closed Session – Pursuant to Government Code Section Govt. Code Sec. 54957 Public Employee Evaluation: Executive Director

Regular Session CTO: 2:25

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	

4. Additional Public Comment

None

5. Executive Director's Report

Executive Director La Mariana gave an overview of his Executive Director's report. He noted that today staff would be asking for the Board's consideration of 7 different bills of environmental nature that tie directly or indirectly to Agency business. He noted that the last bill is AB1595, not AB1594, and that the resolution is correct, but the staff report is incorrect. He also noted that today there would be a discussion on the budget, the FAX process and next steps, facility updates, and a fire insurance update presentation by John O'Neil. He explained that the recommended approach to insurance coverage is six layers of coverage with seven providers, which is a different route than in the past, and staff will be looking for Board direction and comments so that a decision on insurance coverage can be made at the June Board meeting. He also added that we are now in contract with a national recycling facilities expert consultant on MRFs, and they will be building an alternative program to handle the batteries.S (Unfortunately, Lillian was not able to attend) taff will be back to the Board in September with recommendations for alternative handling of batteries, and a significant public education program around batteries. Finally, he noted that 3 members from our JPA, Joe La Mariana, Lilian Clark, and Tammy Del Bene, were asked by senior CalRecycle staff to participate on an AB1383 workshop panel discussion on organics last week in Sacramento, and there was a lot of positive feedback. And, the June 8, TAC meeting would be a Cal Recycle/Sacramento day to update all of the Member Agencies on all of the legislation on the front burner, and Cal Recycle's approaches to legislative and regulatory compliance, and the annual reporting cycle.

6. 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. Approval of Minutes from the April 27, 2017 Board of Directors Meeting
- B. Approval of Quarterly Investment Report
- C. Resolution Authorizing the Executive Director to execute a letter in support of: AB1158, AB1219, AB954, AB1288, AB1036, AB1594, and SB705
- D. Resolution Approving South Bay Recycling MRF Equipment Refurbishment Expense
- E. Resolution Approving FY16/17 Capital Budget Reprioritizing

Member Widmer asked to discuss item 6C

Chair Grassilli noted the item would be discussed at the end of the meeting.

Member Bonilla made a motion to accept consent items A, B, D and E

Member Brownrigg seconded the motion

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 Dist.	X			

7. Administration and Finance

- A. Resolution Approving the FY17/18 SBWMA Budget

Executive Director La Mariana gave an overview of the staff report, and the goals of the budget: to be in balance, to meet the bond covenant ratios, and to maintain healthy reserves. He noted that table 1 in the staff report is a new variance report of the differences between the preliminary budget in April versus the proposed final budget now. He noted that there is a \$450,000 place holder for a public procurement process if agreement isn't reached in the Contractor and, if it is not used, the money goes to the capital reserve account. He also noted that the new fire insurance premium has been factored in, the expected new number is \$550,000. Also, the HHW pass through costs have been removed as those costs are no longer included in our budget. He also noted that commodity has flattened out a bit, and the Capital Improvement plan includes \$1.2M for a storm water system at Shoreway. Finally, he noted there is anticipated change in tip fees at this time.

Member Widmer commented that if the RFP money is not spent it should not go in the capital reserve because the cost is operational, it should go into an unallocated reserved fund.

Chair Grassilli noted that Executive Director La Mariana and the attorney will get clarification on whether any decision to move that money would need to be approved by the Board.

Member Benton asked why the RFP, and change in insurance premiums were not listed in table 1.

Executive Director La Mariana answered that those two dollar amounts were listed in the preliminary budget that the Board looked at in April, and Table 1 is just the changes between the April and the May presentations of the budget.

Member Bonilla made a motion to approve the FY17/18 budget
Member Benton seconded the motion

Member Brownrigg commented that he supported the motion, and he praised the Executive Director and his team, noting that the financial reports are getting more and more clear. He added that this is a complicated entity with different levels of service, and he thought this was the best budget report to date.

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 Dist.	X			

8. Collection and Recycling Program Support and Compliance

A. Update to Proposed Recology Model Franchise Agreement and Compensation Package Activities

Executive Director La Mariana gave an overview of the Franchise Agreement Extension activities since the May Board meeting. During the last month the SBWMA team presented to all 12 Member Agencies, a TAC workshop to 45 people, a City Managers meeting at a legal review meeting, and the team was able to get a better understanding of the public decision making process. He also noted the high level questions and comments received during the presentations including; a high level of satisfaction with Recology, and maintaining the current services. He added that there were a lot of questions about future rates, which cannot be answered yet, so staff are providing for on-call consulting services to help the Member Agencies get from rate year 2017 to rate year 2021 as smoothly as possible. Member Agencies would be billed back for those services. He also noted that there were a lot of questions about

the 10 year versus the 15 year contract, which is simply a function of the economics of the proposal the 15 year term saves about 4%. He then added that there was a lot of discussion of bulky item collection and abandoned waste issues, and he suggested putting a committee together of the affected agencies and come with a plan and get costing information from Recology. He also noted that the issue for G&A came up very loudly, at two different meetings, and the need for a better deal was strongly expressed. And finally, he added that the last point brought up was the early depreciation roll forward, there we a lot of questions on that. He then went over the next steps in the process, noting that June 22 it will be back at this Board meeting for consideration of approval. In July, each Member Agency will consider approving the model agreement, and then each individual Member Agency will begin negotiations with Recology for individual Member Agency Agreement amendments, with the goal of having a super majority of at least 8 of the 12 Member Agencies with fully executed Franchise Agreement Extensions by December 31, 2017. And then, between 2018 and 2021, working with Member Agency staff to smooth the rate transition between 2017 and 2021.

Member Dehn asked if the 3 month time frame between taking the model agreement to the Member Agencies, and negotiating a final executed agreement was about the time it took for the current Franchise Agreement to get fully executed.

Counsel Savaree noted that she didn't know, but could look back through records.

Executive Director La Mariana noted it would be July through December, 6 months.

Member Brownrigg commented that Burlingame's City Attorney wanted to have enough time to comment meaningfully on the proposed agreement, and she felt at first that there wouldn't be enough time.

Counsel Savaree noted that she spoke to Burlingame's attorney at the legal review workshop and she was comfortable with the June 9 time frame.

Member Brownrigg asked for a deeper analysis of rates than the rate survey. He noted that he would like to see a better job of trend analysis, the rate study was a little misleading because it includes franchise fees, and ranks by one particular variable. He thought a better economic review would be the total cost divided by the total number of people, so analysis of weather to total cost per person was going up or down could be done, and that he'd like to see the cost per person going down due to efficiencies, or at least lower than competitors who don't have this contract's advantage, and if you can show that trend to council members it makes it much more rational to go for a 15 year contract.

Executive Director La Mariana noted that the SBWMA team will have to talk about how to accomplish that, noting that the rates are public documents, but costs are not always so accessible.

Member Brownrigg noted that he is not talking about confidential or proprietary data, he is talking about the publicly proposed document from each of the haulers in comparable jurisdictions.

Member Widmer commented that each of the jurisdictions does want an estimate of what they will be paying so agreed with Member Brownrigg that any additional forecasting would be helpful.

Member Benton reiterated his expressed a concern with some of the numbers that make up the \$65.3M Recology proposal, and he hoped that FAX Committee will have further discussion with Recology on those points.

Mr. Richard Tatum of East Palo Alto gave public comment noting his concern that the contract should be competitively bid, and if the Board votes to go sole source there needs to be a reason Recology is the only company that can do it, and even if you're satisfied with Recology, if someone else can do it cheaper, Mr. Tatum believes that we have to go with the cheaper company.

9. **Shoreway Operations and Contract Management**

A. Shoreway Operations and Fire Restoration Update

Staff Gans gave an update on the fire restoration and few remaining projects that he hopes to have completed by the end of June. He noted that the staff report included a list of payments from Hanover and claims by the SBWMA, and currently there is a credit of \$109,000 on a total claim amount of \$8.5M.

Member Benton asked if there is surplus at the end will it go back to the insurance company.

Staff Gans said yes, it would get reconciled at the end of the process when all of the work is complete, they try to stay ahead on payments so we don't get behind on cash flow.

B. Property Insurance Search Update - Presentation by John O'Neill, President of Risk Strategies Insurance Brokerage

Staff Gans introduced John O'Neil the insurance broker with Risk Strategies. He noted that the current insurance provider Hanover has declined to continue coverage and the contract ends at the end of June, so we need to have a new insurance contract in place by July 1.

Mr. O'Neill noted that knowing that Hanover might decide to get out of the business he started the process early to get into the marketplace. He noted that when a carrier has paid a significant amount on a loss it's not uncommon to see either raised rates to a very high degree or just decide not to renew. He noted that the insurance carrier noted that the cause of the fire was likely to continue to be a loss threat, and until that can be controlled from a more automated standpoint like fire rover, and some of the other options the Board is considering the SBWMA will be in a surplus lines of business condition which means a surcharge in premiums for approximately 3 years. Mr. O'Neill noted that he was concerned that, unless there was a good story to tell regarding loss control, the premiums were likely to stay high beyond the 3 year period.

Mr. O'Neil added that on the property section of the policy previously there was just one carrier that charged approximately \$185,000 per year for \$60M worth of coverage with a \$5,000 deductible. Now, insurance options are looking to be maintaining an insurance risk of approximately \$2.5M internally, and premiums would go close to \$530,000 per year. He noted that insurance has been competitively bid to more than 40 insurance carriers, many outright declined the risk, and those that did offer numbers the best ones were put forth. He noted that towers of layers of coverage have been built using multiple carriers to build up to the desired coverage.

Chair Grassilli asked if the Board voted on this at the end of June would it be enough time for a July 1 start date.

Mr. O'Neill answered yes, if the Board takes action at the June meeting and approves the renewal, it's a 24 hour process from that point.

Chair Grassilli commented that currently we have \$68M worth of coverage in 3 different areas, and asked if the Tower would cover all that is covered now, and asked if the companies offering coverage are well rated.

Mr. O'Neill answered yes, all areas are covered, it is \$60M in coverage, plus the \$2.5M risk the SBWMA would assume. He also noted, that as a National brokerage firm, Risk Strategies has a policy of not placing clients with customers with anything less than an A+8 rating, which is A+ being the highest rating you can receive and 8 being a surplus of \$500,000 to \$1B.

Member Benton asked if there was earthquake insurance on the facility, and will there be a firm quote presented to us next month.

Mr. O'Neil answered no, there is no earthquake insurance, and firm quotes were included in the staff report for the Board's review.

Vice Chair Bronitsky asked what a surplus lines carrier is, and does going with a surplus lines carrier entail additional risk.

Mr. O'Neil answered that answered that it is a carrier that is not a backed by the California Guarantee Solvency Association. It means they don't have to file their rates with the California Department of Insurance which may take 6-9 months to review, they can file and use their rates tomorrow, which gives the insurance carrier the ability to react to the market place. He added that not being a part of the California Guarantee Solvency Association, means that if the company were to go bankrupt you'd have no backstop. He also added that this is not concerning because as long as insurance is being purchased from solid reputable carriers, he has never had an issue with that.

Member Bronitsky commented that he wants everyone to understand that the first \$2.5M of loss comes out of the SBWMA budget, so he wanted to discuss reserving for that, since it's a big jump from \$5,000.

Mr. O'Neill noted there was also a \$1M deductible option, and the Board could look at the premium difference and see if that made economic since.

Member Widmer commented that the \$2.5M was an awfully high deductible, and agreed that there will be a need to increase the reserve to cover the deductible.

Mr. O'Neill noted that it is about an \$85,00 per year differential in premiums to go down to a \$1.5M deductible for the primary carrier, and then nominal for the additional carriers, but the total cost could be \$100,000 – 125,000 additional in premiums each year.

Member Widmer asked to see a number of options to look at when the decision is being made at the June meeting.

Member Dehn asked what the status of the installation of the Fire Rover, and if the insurance figures are predicated on installation of the Fire Rover.

Executive Director La Mariana noted that the Fire Rover did not get Board approval, because more information was requested.

Staff Gans added that the money for this equipment and support programis in the FY17/18 budget which was approved today, so it will be coming back to the Board for approval and review.

Mr. O'Neill noted that the figures for insurance were not predicated on the installation of the Fire Rover system.

Member Brownrigg asked for the status on the battery plan.

Executive Director La Mariana answered that there will be a comprehensive presentation at the September Board meeting, with a battery plan. He noted that alternative battery options need to be in place before the plan can be implemented.

Member Brownrigg asked if there is an obligation to take batteries.

Executive Director La Mariana answered no.

Member Brownrigg noted that one of the options is to simply not take them any longer.

Member Bonilla commented that batteries will come anyway, even if they are not collected in the programs.

Executive Director La Mariana noted that there needs to be a responsible approach to this, and since residents have already been conditioned to batteries being accepted, staff feel like all options need to be exhausted before they are no longer collected at all.

Member Brownrigg suggested using the messaging on the Recology bills in the meantime with a standard message of no batteries in the trash.

Member Benton suggested newspaper articles on the importance of keeping lithium ion batteries out of the waste stream.

Mr. O'Neill concluded by noted that Executive Director La Mariana and Staff Gans would give direction as to what options the Board would like to see.

Executive Director La Mariana noted that the direction from today is that the Board would like to see options that have multiple layers to them.

Vice Chair Bronitsky asked if \$1.5M was the lowest deductible any company was willing to bid on.

Mr. O'Neill noted that it was tough to get them to go lower than that, not that they wouldn't, but at what price point does that it makes economic sense.

10. Informational Items Only (no action required)

- A. April 2017 Check Register Detail
- B. 2018 Finance and Rate Setting Calendar
- C. Future Board Agenda Items

Agenda Item 6C:

Member Widmer commented that the SBWMA Board approval carries a lot of weight, and he had comments on 3 of the items. First AB1158 he felt the carpet solution didn't do anything, even though he agreed with putting the responsibility back on the manufacturers, but Board support should require something more concrete. Second, he noted that he's not really sure what AB1288 does. And, third AB1594 and SB705 seem to be the same thing, and should be combined and those comments should be added if we lend our support.

Executive Director La Mariana commented that AB1158 the Carpet Stewardship Act takes aim at a problematic segment of the waste stream. He added that a law passed a few years ago has not been effective, and this bill tries to get a wide group of industry voices together to come up with a better alternative, so it is support of a conceptual movement, but that he recommended support at each level of the process.

Executive Director La Mariana commented that AB1288 is recommended tip fee reform. Everyone ton disposed of in California represents \$1.40 to Cal Recycle, and is their primary source of revenue. With the tonnage of disposed material going down Cal Recycle's revenue source is also going down, and year after year Cal Recycling is being tasked with performing more compliance and enforcement activities. So, this bill proposes an industry wide coalition to determine a fair number and fair priorities so the industry could work with the regulators.

Member Bonilla is now absent at 3:26.

Executive Director La Mariana commented that AB1594 and SB705 do have a lot of similarities, and staff's understanding that they'll likely get merged into one piece of legislation at the committee level. He added that he didn't see a lot of downside to supporting both as a statement that the SBWMA is a leader on these kinds of issues.

Member Benton noted that there is a new line item in the budget for advocacy, and asked how it ties to support of these bills.

Executive Director La Mariana answered the budget line item will support agencies that take the lead in getting these kinds of bills to a place where they can become legislation, and our SBWMA voice gets amplified by supporting these organizations on the front lines.

Member Benton noted that he supports that, and has expressed frustration in the past over things being in the waste stream because they can't be recycled. So, to the point where we can get manufacturers to produce items that can be recycled, that helps.

Member Brownrigg commented that it's not unusual to have two bills that are doing the same thing in both the Assembly and the Senate, so he is in favor of supporting both sides. He also asked for clarification on the carpet, asking if it was a consumer fee similar to CRV for bottles to fund recycling for carpet, and he supported that as well.

Executive Director La Mariana commented regarding carpet that the first bill that passed a few years ago was well intentioned but didn't do what the industry had hoped. This version takes an EPR (Extended Producer Responsibility) approach, and the SBWMA has adopted supporting the EPR approach through the Long Range Plan which identifies problematic waste streams and provides funding for end of life recycling and recovery of that material if possible.

Member Benton asked if there was any opposition to any of these bills.

Executive Director La Mariana answered no, they seem pretty straightforward at this level, if that changes he would inform the Board.

Member Aguirre made a motion to support the recommended legislation.

Member Benton seconded the motion

Roll Call Vote:9-0-0-3

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
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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 Dist.	X			

11. Board Member Comments

Member Brownrigg commented that it came to his attention that another jurisdiction was putting their waste services contract out for bid, and it made him wonder if the SBWMA Members would derive economic benefit if the SBWMA were bigger. He noted that there may not be it may just be linear, but strategically if the SBWMA were bigger there would be more critical mass, so he suggested investigating that, and possibly courting additional members if it works to a financial advantage.

Member Widmer commented that he supported the purchase of a Polycom unit to support members that need to dial in to the Board Meetings.

12. Adjourn 3:35PM