



MINUTES

SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY MEETING OF THE BOARD OF DIRECTORS July 28, 2011 – 2:00 p.m. Shoreway Environmental Center

1. **Roll Call: CTO 1:13 p.m.**

In attendance: Atherton, Foster City, Hillsborough, Menlo Park, San Carlos, San Mateo, County of San Mateo and West Bay Sanitary District

2. **Adjourn to Closed Session** - pursuant to Government Code Section 54954.5: Public Employee Performance Evaluation: Executive Director.

3. **Report from Closed Session**

Executive Director to be offered a 2% one-time bonus.

The Executive Committee will meet with the Executive Director to discuss some contract modifications.

THE REGULAR PORTION OF THE MEETING CTO at 2:12 p.m.

Redwood City and Burlingame now present

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 June 23, 2011 BOD Meeting Minutes
- B. Receipt of Recology and SBR Monthly Reports
- C. Resolution Approving Amendment Number 2 to the Agreement Between SBWMA and WM Curbside LLC for Household Hazardous Waste (HHW), Universal Waste (U-Waste), Electronic Scrap (E-Scrap), and Sharps Door-to-Door Collection, Recycling and Disposal Service to Discontinue Collection of Medicine Through the Door-to-Door Collection Service
- D. Resolution Approving Power Purchase Agreement with Fresh Air Energy – II, LLC
- E. Resolution Approving a Contract with SloanVazquez LLC to Conduct the Recology Quarterly Contamination Monitoring for FY 2012
- F. Resolution Approving a Contract with HF&H Consulting LLC for Collection Services and Facility Operations Contractor Data, Records, Systems and Reports Auditing

M/S Nava/Porter approval of consent calendar items 5A through 5F

Roll Call Vote:

Motion Passes 10 – 0 – 0 – 2 (Belmont and East Palo Alto Absent)

| 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 | | | |

6. New Business:

A. Board Election of Vice-Chair

Chair Moura announced that Vice Chair Steffens is leaving Menlo Park to take a position in Sunnyvale. He noted that he had spoken to former Chair Porter about taking on the position of Vice Chair for the remainder of the year.

Member Nava, stated that he would like to nominate Member Porter as the Vice Chair for the remainder of the year.

Chair Moura announced that member Porter is appointed as Vice Chair by acclamation.

B. Review of Cart Migration Data for Member Agencies

Staff Moran introduced the cart migration data, and gave further detail regarding the documents in the Board packet, as well as an additional handout. He explained that overall the SBWMA agencies are about 6.2% lower in total revenue projections. Staff thinks it is in large part due to can migration.

Member Nava asked for clarification. One of the columns on the spread sheet indicated, what the agencies were told last year was the revenue requirement. If an agency adopted a rate higher than the revenue requirement, he asked why would there still be a shortfall.

Staff Moran noted that the first column on the spread sheet was actual numbers, and the second column was projected numbers, but why Burlingame's numbers are so off, he couldn't answer without further detailed analysis.

Staff Feldman added that last year we provided information on revenue for a snapshot in time. Noting that it's not possible to do that now because customers can change can sizes at any time. He added that this exercise was to let agencies know that there is going to be a revenue shortfall from can migration, and it is one of the factors adding to the deficit. There are other factors as well, but trying to isolate what's causing it is very difficult because customer projections are a moving target.

Member Nava asked for additional analysis on how to calculate the Allied Balance Account.

Executive Director McCarthy stated that staff wanted to get agencies these numbers as early as possible so they can be tackled in 2012 rather than down the road.

Member Masbad asked for clarification on when the numbers in column C on the hand out report would flow into a rate requirement.

Executive Director McCarthy stated the revenue reconciliation happens in the first quarter of the following year, so the reconciliation for 2012 won't be able to be captured until your 2013 rates are set.

Member Nava asked if the costs for Recology projected in 2011 have gone up.

Staff Moran answered that Recology's costs are fixed but disposal varies.

Member Galli asked for clarification on whether commercial rates were subsidizing residential rates.

Staff Moran answered that the residential costs are an estimate only.

Staff Feldman added that it is information about what the costs are versus what is being charged by each agency.

Executive Director McCarthy added that the progressive rate structure has exacerbated the shortfall in the most popular cart size categories (i.e., 20 and 32 gallons). We are not likely to see a large amount of cart migration going forward, but as rates go up you may see more people changing cart sizes, moving to a smaller size.

Member Murray noted that the cost per can includes compost which is more expensive to process.

Staff Moran answered that all residential services are built into this cost per can data.

Executive Director McCarthy added that the percentage of the organic portion is higher because it is more expensive to process that portion, but that there are policy goals tied into the rate setting process.

Member Nava commented that the cost of operations is much higher than we thought and that this is worse news than any of us expected.

Staff Feldman noted that our agencies rates are still very favorable in the bay area.

Executive Director McCarthy encouraged Board Members not to over react to the table presented, the purpose is to start a dialogue in the rate setting process, and that consideration should be given to setting rates going forward to cover base costs for the lower cart sizes..

C. Review of Allied Waste 2010 Closeout Rate Applications for Collection and Shoreway Operations

Rick Simonson gave an early look at finalizing the Allied balancing account, noting where we are in the process, what's left and what's disputed in the reconciliation of 2010's numbers.

On the facility side there are four items still being negotiated over the next 4 to 5 weeks; the prepaid vehicle license fees, the safety incentive program, corporate overhead expense, and bridge repair.

Member Nava asked if the bridge repair was covered under insurance.

Mr. Simonson answered yes, it is covered through their self insurance, but these items are over and above.

Mr. Simonson noted the disputed items on the collection side are schools, and greater than estimated expenses. He also noted that there is still a worker's compensation issue, and bad debt to be reconciled.

Member Masbad asked about the worker's compensation noting that additional costs should be paid by insurance premium. She asked if the agency is to be responsible for the difference between what insurance pays.

Mr. Simonson said yes, that we've asked for additional information on how much, and how many this could be.

Member Nava asked if Allied or the SBWMA was responsible for the bad debt.

Mr. Simonson answered that it is an expense that is written off in the balancing account.

Member Masbad asked for clarification about the logistics of paying Allied.

Executive Director McCarthy stated that payment is the responsibility of each agency, adding that if an agency has built paying off the balancing account into rates, the each agency will need to have Recology remit it back to them.

D. Discussion on Issues Potentially Affecting 2012 Compensation for Recology San Mateo County and South Bay Recycling

Staff Moran pointed out that there are two issues affecting 2012 rate application compensation for Recology: The cost for servicing the non franchised public schools was included in the Recology cost proposal, and the schools are not being serviced because they are not part of the franchise. Therefore, staff recommends that this cost be deducted.

The second is the payment for teamsters benefit trust. Allied paid the January bill due to their obligations to the union, even though they were no longer the service provider. Additionally 12 benefit trust payments were built into the new service providers costs. Staff recommended that Recology and SBR reimburse Allied for the January payment. SBR did pay Allied, but Recology declined, and now that amount is on the Allied balancing account. A second option is to deduct this amount from the Recology 2012 revenue reconciliation.

On the SBR side there is a mechanics true up item, which is a very minor item.

Member Masbad offered the suggestion to Recology to pay the benefit trust as a prepaid expense not an operating expense.

Member Steffens asked if it was an obligation Allied had or a mistake Allied made.

Staff Moran answered that it was an obligation of Allied to the union, it is not an obligation of the SBWMA.

Executive Director McCarthy added that the union and Allied thought it was an obligation so they paid it, and if it had not been paid there would have been a work stoppage.

E. Discussion on Recology Request for a Waiver from 1st Quarter 2011 Incentive and Disincentive Payments

Staff Feldman broke down the staff report, noting that the first section was staff's opinion and the second was a legal opinion from Ray McDevitt. Staff can agree with some of the requests, but disagree with others. Recology's request included a waiver of the contamination incentive/disincentive payments, and staff Feldman noted that contamination would be addressed by staff separately, and is not included in this analysis.

Staff Recommendations on Recology's requests:

- Premature to consider the waiver at this time. The waiver is only being requested for the first quarter, and we will have 4 quarters of data to look at over the course of the year, which will then be aggregated and applied through revenue reconciliation.
- We've contracted with HF&H to audit Recology's systems, the information we've received from Recology is unaudited.
- The cost average for each individual agency is insignificant for the first quarter, but may turn around by the end of the year.

Staff Feldman added that there is some merit to Recology's request, and staff does agree to waive the incentive disincentive payment for January but not for the whole quarter, without additional data.

7. Old Business:

A. RSMC Franchise Agreement Operational and Contract Administration Update

Mario Puccinelli updated the Board on Recology's operations. He introduced Tim Hester as the new Assistant General Manager, and announced that Gino Gasparini would be transitioning back into his role as the Manager of Public Affairs. He also introduced two Waste Zero Specialists.

B. SBR Shoreway Operations Agreement Update

David Langer gave an update on SBR's operations and explained that SBR is focused on expanding diversion opportunities, and that a strong market is carrying them forward. He also handed out a tonnage report for each member agency.

8. Staff Updates

- a) Results of 2011 Second Quarter Recology Franchise Agreement(s) Quarterly Contamination Measurement for Loads of Recyclable Materials, Organic Materials and Plant Materials
 - b) Update on Recology Commercial Recycling Outreach Efforts
 - c) Recycling and Outreach Programs Update
 - d) Shoreway Construction Update
 - e) 2012 Rate Application Update
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Executive Director McCarthy noted that the rate application schedule is laid out in the staff update and encouraged Board Members to look at it to figure out how to work out each individual agency's 45 day schedule.

f) Preview of Upcoming Board meetings

Executive Director McCarthy noted the Grand Opening of Shoreway event on Tuesday, September 27th, and a scheduling of an October board workshop to work collaboratively on commercial recycling.

9. Board Member Comments

Member Nava added that he appreciated the information on actual costs, but added that he is feeling dismayed, because he worked hard to get a good handle on what the actual costs would be. He added that understanding that our budget is in good shape; he asked the board to consider using those surplus funds to reduce the impact to the rate payers.

Chair Moura noted that the Executive Committee would consider Member Nava's request.

. **Adjourn 3:44 p.m. Next Regular meeting scheduled for September 22, 2011, San Carlos Library at 2 pm**
