



**MINUTES**

SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY  
 MEETING OF THE BOARD OF DIRECTORS  
 August 22, 2013 – 2:00 p.m.  
 Shoreway Environmental Center Upstairs Conference Room

**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. Announcements:**

Executive Director McCarthy welcomed everyone to the meeting, and went over logistics. He also shared two awards that the JPA has won in the last few weeks. He then handed the meeting over to Legal Counsel Lanzone, who noted that due to the need for a chair and vice chair to run the meeting we would skip to agenda item 4A. He asked for someone to be the temporary chair to run the elections. Member Frisella volunteered to be the temporary chair and run the elections.

**3. New Business:**

A. Election of New Officers

Member Frisella noted that Board Members who knowingly would not be eligible to be on the Board after December should not be nominated. She then called for nominations for Chair.

Member Olbert nominated Member Brownrigg.

Member Brownrigg requested clarification regarding time commitment and how long the term of chair would be.

Counsel Lanzone noted that a Chair and Vice Chair would be chosen annually and this would just be for the remainder of this calendar year.

Member Brownrigg accepted the nomination, but noted that he was happy to defer.

Member Ira nominated Member Dehn

Member Dehn noted that West Bay is in discussion with the County of San Mateo to transfer responsibilities of the West Bay customers. She then commented that since the term was only through the calendar year and that both Member Frisella and Member Ira had participated in the Blue Ribbon Task force and asked if either of them would be open to serving as chair.

Member Frisella suggested that Member Ira serve as chair.

Member Dehn nominated Member Ira as Chair and Member Frisella as Vice Chair

Member Brownrigg seconded the nomination

Voice Vote: All in Favor

#### 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 27, 2013 BOD Meeting Minutes
- B. Receipt of Recology and SBR Monthly Reports

Chair Ira asked for a motion of approval of the consent calendar

Motion/Second: Frisella/Brownrigg

Voice Vote: All in Favor

#### 6. **New Business:**

- B. Approval of Revised 2013 Board Meeting Calendar and 2014 Calendar

Counsel Lanzone noted that the 4<sup>th</sup> Thursday at 2:00 has been the standing time.

Chair Ira asked if any Board Members have any issues with keeping it at that time.

With no comments he requested motion of approval of meeting calendar.

Fran Dehn moved approval of the meeting schedule.

All in Favor

- C. Consideration of Resolution Establishing a Technical Advisory Committee

Counsel Lanzone noted that this issue has been discussed at several of the agencies and with the Blue Ribbon Task force, and explained that the TAC would be made up of staff with the same position qualifications as the previous board, and they would meet as necessary to discuss anything the Board deemed necessary.

Vice Chair Frisella requested that “or their City Manager’s designee” be added to the description of who could serve on the TAC.

Chair Ira asked if there were any objections to that change.

Member Benton clarified that the qualifications of a TAC member were anyone in category A, B or C.

Counsel Lanzone stated yes.

Member Wozniak pointed out that if you say Manager’s designee anyone could be on the TAC.

Member Dehn asked if categories B and C would be eliminated and the term designee would be a catch all.

Vice Chair Frisella stated no.

Member Benton asked if there was a job description for the TAC as an advisory to this Board.

Counsel Lanzone noted that it’s in the resolution which says, “to provide professional advice and direction to the SBWMA Board on matters that are referred to the TAC from time to time by the Board.”

Member Olbert commented that he supported the change Vice Chair Frisella suggested, but would like to see the TAC have regularly scheduled meetings.

Member Ross asked for the Executive Director’s input.

Executive Director McCarthy noted that he thought the institutional knowledge would be beneficial, but that it was up to the Board how formal they wanted the process to be. He suggested a scenario where the TAC would meet two weeks before the Board to go over the packet and then be able to discuss with their agency’s Board Member the issues they would face at the next Board meeting.

Member Benton commented that he supports the concept, but cautioned against turning the Board into a rubber stamp of the TAC. He also expressed concern over staff doing work twice, and asked former chair Larry Patterson for his input.

Larry Patterson suggested leaving some flexibility. He noted that seeing the agenda and providing input on some of the issues without making formal recommendations is valuable. He added that there may be issues that need vetting and can take shape at the TAC level as well. He also added that setting up a regular scheduled meeting and canceling it, is easier than trying to get a meeting scheduled at the last minute.

Chair Ira noted that some items take more than a meeting, and we need to build in some flexibility.

Member Wiest clarified that the Board could approve the resolution as is now, and add on to it later.

Member Olbert asked for clarification if the Board was approving regularly scheduled but cancelable meetings, or if the approval was for ad hoc meetings.

Counsel Lanzone stated that the TAC would be a standing committee subject to the Brown Act and that based on the discussion from the Board with regularly scheduled meetings.

Chair Ira asked if the Board was ready to vote or if they wanted to table the issues.

Member Olbert made a motion to adopt the resolution creating a TAC including the amendment to change the eligibility to add a City Manager's designee and adding a regular schedule of meetings.

Member Carlton seconded the motion.

Voice Vote: All in Favor

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. Discussion on Process for Review of the Existing JPA Agreement

Executive Director McCarthy noted that this was a discussion only item, but at several counsel meetings and at the Blue Ribbon committee there were several comments made requesting a review of the existing JPA agreement. He asked for Board direction on the process the Board would like to have for a top to bottom review of the JPA. He offered suggestions of setting up an ad-hoc committee to review and bring back suggestions to the Board or for the Board to spend a meeting reviewing the JPA.

Member Brownrigg asked Executive Director McCarthy to characterize some of the issues that might arise in the JPA discussion.

Executive Director McCarthy noted that there wasn't anything specific but that it had been mentioned at the Blue Ribbon Committee to review the JPA to see if there were any issues of concern.

Member Brownrigg commented that he would benefit from an entire Board discussion on the issue and would like to see the whole Board invited, but attendance not be mandatory.

Member Olbert agreed.

Executive Director McCarthy said that staff would put the discussion on the agenda of a future Board meeting, and encouraged the Board Members to go through the JPA to prepare for that discussion.

Chair Ira asked that if Board Members do have anything they'd like to discuss to get an email to the Executive Director and legal counsel at least a week ahead of time.

E. Discussion on Establishment of a Code of Conduct

Counsel Lanzone introduced the discussion item and noted at the time of the RFP process the Board adopted a special code of conduct regarding Ex Parte contacts and gifts and compensation which expired in 2009. At the present time there is a code of conduct through the FPPC with the filing of Form 700s for Board Members, and that it was up to the Board if they want to adopt a special conflict of interest code.

Member Olbert noted that San Carlos would like to see a Code of Conduct established.

Member Carlton asked if the Form 700 covered it.

Member Olbert stated that the San Carlos City Council would like to see a more robust policy above the statutory requirements, and that primary concerns from the San Carlos City Council are that the contract is a lot of money, a billion dollars over 10 years, and a more robust policy would offer protection to the elected officials serving on the Board.

Member Benton asked Counsel Lanzone if an additional Code of Conduct Policy was needed.

Counsel Lanzone noted that the concern during the RFP process was to make sure that everything was dealt with fairly. He added that currently Board Members would need to have contact with Recology anyway because the Franchise Agreements are with each agency. He suggested going 3 to 6 months and seeing if it was needed at that point.

Chair Ira noted that Board Members would be in contact with Recology constantly, and noted that his concern regarding establishing a Code of Conduct apply more to the TAC because the TAC will be making recommendations to the Board, and poring over all the detail.

Vice Chair Frisella suggested putting it on a future agenda.

Member Ross commented that things are evolving and it's good to have some flexibility, and suggested leaving things open as constituents may put pressure on this Board going forward.

Member Wiest added the suggestion of working on the language.

**5. Old Business:**

A. Contractor Quarterly Updates

Mario Puccinelli of Recology gave a Power Point presentation to the Board.

Member Moritz asked for further explanation of commercial tons, and if it included restaurants.

Mario answered yes, it included restaurants.

Member Dehn asked about the cost structure of the companies providing kitchen pail service to large MFDs through the janitorial service and asked if they were undercutting Recology.

Tammy Del Bene Waste Zero Manager answered that the MFDs are paying for custodial service which is a service Recology doesn't provide. She noted that in each instance they offer different services, and gave the example of one company providing door to door service picking up the kitchen pails, but added that we don't know their costs, but know that they are being enticed to participate by telling the MFDs that their garbage rates will go down because there will be less solid waste.

Member Wozniak asked if we know where the recyclables end up.

Tammy answered no.

Member Benton asked if these businesses are cutting into or enhancing diversion.

Tammy answered that it could affect diversion in a negative way if the recyclable material is not being brought to Shoreway.

Member Benton asked when the CBA contract expires.

Mario answered October 23, 2013 and its 207 employees, drivers, mechanics and clerical.

Member Benton asked how diversion percentages compare to other jurisdictions and to our goal.

Mario answered that the SBWMA average is in the mid 60's percent diversion and commercial is close to 30% diversion.

Member Brownrigg clarified that Recology's labor cost structure is on a fixed basis, and therefore the risk from a resident's standpoint is not necessarily a cost increase but potentially a service disruption should the contract negotiations not go well.

Mario answered yes.

Member Olbert asked if the firms offering kitchen pail pick up at MFDs offered a business opportunity for Recology or if our contract prohibited that.

Mario answered that Recology does offer organics collection to MFDs, and that at this time there is a fee associated with that service for MFDs to participate, and noted that with Recology's labor costs the business model of going door to door collecting kitchen pails would be cost prohibitive.

Dwight Herring of SBR gave a Power Point Presentation.

Member Olbert asked if the increased number of self-haul tons implies that the amount of solid waste our residents are generating is going up, and how does that affect the diversion rate.

Dwight answered that it is the public vehicles which are self-hauling to the facility that is increasing, and noted that another slide would see how diversion is affected.

Member Ross asked for a clarification if 3<sup>rd</sup> party tons from other sources and self-haul tons are the same.

Dwight answered that it is the private citizens, not other haulers bringing in material.

Member Benton asked if it was analyzed why self-haul was going up, do we know if it's coming out of the franchised material or if it is new construction or part of the economy.

Executive Director McCarthy answered that historically our public garbage volumes have dropped, and this is the first time that we are seeing those numbers rise. He attributed the increase to economic activity and to the fact that Ox Mountain has been slowly raising its rates and our rates have been stable so we are more competitive than we used to be.

Member Dehn asked if we have information from Ox Mountain to know if their self-haul is going down.

Executive Director noted that Hilary Gans the Facility Manager gets those reports, but that he couldn't say for sure, but added that the Ox Mountain rates have gone up significantly in the last few years which has made Shoreway much more competitive.

Member Dehn asked where people could self-haul.

Executive Director McCarthy answered, Shoreway, Ox, South San Francisco, and Sunnyvale.

Member Benton asked for clarification of terms in Dwight's presentation.

Dwight explained that OCC is old corrugated cardboard, MP is mixed paper and ONP is old newspaper.

Member Olbert asked if there was any economic impact on the franchise arrangements due to increased self-haul. Wondering if self-haul should be encouraged or discouraged.

Executive Director McCarthy answered that we want to encourage it. He noted that 80-85% of the gate revenue is charges to the franchise tons, the balance is the self-haul tons. He also noted that we are essentially a business in the open market and the more self-haul tons we get to the facility the revenue goes back against expenses.

Member Olbert asked if 3<sup>rd</sup> party tons were advantageous.

Executive Director McCarthy answered yes, noting that the building was built on a single shift operation, so there is an entire second shift of capacity available.

Member Ross asked about future costs in relationship to the filling of the Ox Mountain landfill. If we are getting more tons locally now, but filling up Ox Mountain faster is it worth it.

Executive Director McCarthy answered that this was more a concern 10-15 years ago when Ox was going to fill up in 2019. Now because of municipal diversion programs we have a lot fewer tons going to Ox.

Lillian Clark from the County stated that Ox is saying their current capacity is another 22 years.

Executive Director McCarthy added that it was a good question, and it wasn't going to be a concern for us for a while, but that the Ox Contract that expires in 2019 is a bigger concern, because we will be in a competitive situation, and no longer have most favored nation pricing.

Lillian Clark added that due to state legislation we restrict Ox usage to only our county, and we can't control Ox rates.

Member Wozniak asked if there were a percentage of new things that could be recycled each year that would further reduce our use of Ox.

Dwight answered there is no way of knowing a percentage, but there are constantly efforts to recycle new material and take it out of out of the waste stream.

## **6. Staff Updates**

### **a) Update on 2013/2014 Franchise Rate Setting Process**

Executive Director McCarthy noted that starting in February or March of each year there is a standing report included in the Board packet to keep you up to date on the process. He added that the most notable milestone was the SBWMA report on the compensation application for Recology and SBR went out on August 16<sup>th</sup>, and that comments are due back by the 30<sup>th</sup>. He noted that that leaves about a 3 week window to address any issues. Typically at the September board meeting the Board votes on a revenue requirement. The report that went out last Friday does give you projected revenue for 2014 compared to 2013, and the good news is 9 of you don't have to put in a rate adjustment this year. He also noted that we would like to schedule a Special Board Meeting on September 12<sup>th</sup>, to discuss the rate reports and any questions you have.

Vice Chair Frisella suggested approving the special meeting now.

Executive Director McCarthy said that it would be scheduled for September 12, at 2:00 PM.

Member Benton asked if TAC members should be there.

Executive Director McCarthy stated yes, we would encourage them to be there.

### **b) Preview of Upcoming Board meetings**

Executive Director McCarthy commented that this is the other item you'll see in every packet for agenda planning purposed.

## **7. Board Member Comments**

Chair Ira requested that the presentation given to the Redwood City committee on costs versus rates be included at the September 12 study session.

Member Olbert thanked everyone for a great first meeting. He requested enabling Wi-Fi access in the room. He also requested a review of the roles and responsibilities and authorities of the SBWMA Board.

Executive Director McCarthy stated that if there was interest from the Board we would go through it at a future Board meeting.

## **8. Adjourn 3:49 PM**