



MINUTES
SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
MEETING OF THE BOARD OF DIRECTORS
 September 25, 2014 – 2:00 p.m.
 San Carlos Library Conference Room

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	

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. 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 September 11, 2014 BOD Meeting Minutes
- B. Consideration of Approval of Executive Director's Goals for FY1415
- C. Approval of Quarterly Investment Report as of 6/30/14

Member Olbert made a motion to approve the consent calendar
 Member Carlton seconded the motion
 Voice Vote: All in Favor, Chair Widmer abstained from item 3A

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
Atherton	X		X(3A)		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			

4. Old Business:

A. Consideration of Introduction of Ordinance Implementing a Recycling Reporting System for Commercial Recycling Haulers

Member Brownrigg now present

Executive Director McCarthy gave a brief overview of the staff report. He noted that JPAs adopting ordinances is common practice and gave examples of other regional JPAs that have adopted ordinances. He added that the ordinance language has been made as simple as possible as to not be a burden on the businesses affected, and that it would affect 109 businesses out of the 10,000+ in the SBWMA service area. He also added that if the ordinance were to be adopted it would allow the Executive Director to take enforcement action, and he noted that if he thought if an enforcement effort was required no enforcement action would be taken without first coming back to the SBWMA Board for approval.

Vice Chair Dehn wondered if the data collected through the ordinance would be granular enough to get the information needed by City and consequently is the state's 75% diversion goal measured service area wide or by City.

Executive Director McCarthy noted that currently the 75% goal is a goal and is not yet a local mandate.

Staff Feldman answered that the goal is to get the information by each Member Agency, and that is what is being asked for in the ordinance but isn't required if the hauler doesn't have the data at that level. He added that Cal Recycle will be going back to the state legislature in 2016, after looking at how the mandatory commercial recycling laws have affected diversion, and at that time a local mandate will likely be considered. He noted that the data collected through this ordinance would play into those numbers, because currently, the only commercial diversion data we have is what is collected by Recology.

Vice Chair Dehn asked if there would be an issue with double counting if a business reported to us what they took to Zanker, and then Zanker also reported the same tons.

Staff Feldman answered that Zanker, and any business doesn't have to report to the state, the individual jurisdictions have to report to the state, the businesses are required to recycle, but not to report.

Member Benton asked about language in the ordinance if the word commercial entities referred to the haulers or the clients.

Counsel Lanzone noted that commercial entity is defined as the business that generates the recyclables.

Member Benton asked why the ordinance was limited to commercial entities, and gave an example of Hillsborough residents using debris boxes for tree removal, but under the definition of commercial entity, the hauler wouldn't have to report that pick up.

Counsel Lanzone answered that the reporting requirements are asking for anything hauled from a commercial entity, and noted that if a tree service was using a debris box then the tree service would be the commercial entity.

Member Benton noted that Hillsborough has Clubs and Schools that use debris boxes, and he would like that diversion included even though it's not a commercial entity and wondered if the definition could be broadened.

Counsel Lanzone noted that on page 2 of the ordinance the definition of commercial is very broad, and includes non-profits and schools, so that only thing missing is an individual home owner.

Member Carlton wondered if it included nursing homes and apartment complexes.

Counsel Lanzone answered yes for the nursing home, but was unsure about the multifamily complexes.

Staff Feldman added that most of what Member Benton was mentioning would fall into the C&D category, which requires reporting.

Executive Director McCarthy added that the intent would be to include that tonnage in the data, and suggested tightening the language to amend the definition to include multi-family and C&D collected anywhere.

Member Aguirre now present.

Counsel Lanzone noted that multifamily residences and C&D collected anywhere would be added to the definition, and any motion to adopt this ordinance would include this change in the definition of commercial entity.

Member Benton asked if the online registration would be up and running by January 1.

Executive Director McCarthy stated that it would be ready on time for businesses to register for the program, and money is budgeted for that as listed in the fiscal impact section of the staff report.

Member Brownrigg requested that language be included to insure that the Board has oversight over penalties, and that enforcement action is subject to Board approval.

Counsel Lanzone noted that he would write it in, and it would be included in the motion.

Member Benton made a motion to approve the ordinance as amended and asked the first reading be waived.

Member Stone seconded the motion.

Roll Call Vote: 9-1-0-2

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			

B. Consideration of Approval of Continued Use of County VRS Workers by South Bay Recycling

Executive Director McCarthy gave an overview of the staff report, noting that the last piece of securing additional 3rd party tons into the MRF is securing the labor supply and this contract will do that. He added that the VRS arrangement is written into the Operations Agreement, which is why this item comes to the Board for approval, and that the approval will allow SBR the continued use of the County VRS workers as a subcontractor. He also noted that table 1 in the staff report, shows the costs of the VRS program versus other options. He noted that there are some significant increases in labor costs included in the VRS contract, but none are included in what the SBWMA pays to SBR to operate the facility. He noted though that while it's not an issue now, if the VRS costs become out of alignment with what SBR is compensated for, it may be of concern down the road when the operation agreement expires.

Member Olbert asked for clarification if the issue of SBR using subcontractors required Board approval even if it continues the same relationship.

Executive Director McCarthy answered that this is a brand new contract with changes, and if there were no changes to the contract there would be no reason to bring it to the Board.

Counsel Lanzone added that it is a modification to the contract.

Chair Widmer commented that he was concerned about down the road in 2017, and would like to know what alternate supplies of labor are possible.

Executive Director McCarthy answered that staff has encouraged SBR to keep options open, noting that it's a 3 year contract.

Dwight Herring noted that it is SBR's intent to go through an RFP process before the 3 years is up and vet possible subcontractors through the RFP process.

Chair Widmer asked if there would be a plan to test out any other subcontractors.

Dwight Herring answered that through the RFP process SBR would make sure any new arrangement could secure the labor supply and understood the scope of work. Some limited testing might be possible.

Chair Widmer requested that the Board kept aware of the plan for future RFP and testing of possible additional labor sources.

Member Brownrigg spoke in favor of the VRS program and its continuance at Shoreway. He noted that using labor trying to get their life back on track and paying them a wage that actually allows them to get their lives on track is really good public policy. He gave praise to SBR for increasing the wage, and challenged the County to possibly reduce the overhead charge to allow this program to continue.

Member Slocum noted that after the SBWMA Board approves this item it will then go to the County Board of Supervisors.

Chair Widmer requested that as SBR enters into agreements with subcontractors, the requirements in the contract flow down from the requirements with the SBR/SBWMA Operations Agreement Contract.

Member Brownrigg made a motion to approve the resolution

Member Aguirre 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 Dist	X			

5. New Business:

A. Resolution Approving 2015 South Bay Recycling Compensation Application

Staff Gans gave the background on the compensation process that is formalized in the Operations Agreement. He noted that the compensation adjustment for SBR in 2015 is a 1.3% increase. He added that the reason for the modest increase is a result of the low increase in the indices that all the cost components are tied to with CPI.

Member Olbert questioned why on page 6 of Exhibit A of the report it noted that the variance couldn't be calculated, and wondered why.

Staff Gans answered that a payment for services in 2015 is being forecasted in this report, but SBR is actually paid month to month on tonnage that is actually processed, so this is an anticipated tonnage number based on historical records.

Member Olbert expressed concern that the language stated that this was based on the original tons in the RFP, and wondered if estimates were being based off numbers from 2009.

Staff Moran answered that the tonnage for this report has not been changed since the beginning of the contract. He explained that SBR is paid a rate per ton, and what's being approved is the payments in the 2015 column of table 1. He noted that those are interpreted on an annual basis depending on the tonnage that actually comes in.

Member Olbert concluded that it seemed odd not to use recent numbers, and that it should be concluded based on whatever recent experience is, because the total cost numbers are much less meaningful than they would be otherwise.

Executive Director McCarthy noted that every other document presented shows actual and forecasted numbers, the intent with this was to show a table that isolates the price effect. The total cost impact is put in our budget documents and shared with the Board at different times of the year in different forecasts.

Member Olbert suggested getting rid of the total cost columns in this particular table because they don't mean much.

Staff Moran added that the reason the column is there is to show the overall impact of 1.3% in tip fee changes. He suggested adding another line to show what the actual projected amounts for each year, but noted if there was a different tonnage amount for 2014 vs. 2015 the 1.3% would be distorted.

Executive Director McCarthy understood Member Olbert's point and agreed to take the conversation off line to fix it.

Member Benton asked if Table 1 represented numbers before commodity revenue.

Staff Moran answered yes this is just what SBR is paid to process material.

Member Benton asked what net of residue meant, and for clarification on what residue was.

Staff Gans answered that it is an added financial incentive for SBR to maximize recovery of materials at the MRF. The RFP included language that required the proposers to pay for the disposal of the residual as a disincentive. He noted that residue is that material that doesn't get sold.

Member Aguirre made a motion to approve the resolution

Member Benton 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			

B. Resolution Approving 2015 Recology San Mateo County Compensation Application

Staff Moran presented the staff report that discussed Recology 2015 Compensation application, and the recommended 2015 rate adjustment. He noted that the total adjustment is a 0.2% increase, which happens to be the same as last year, so clearly the cost stability that was the goal when the new contracts were initiated has been achieved. He added that the most important take away in the report is table 8 which shows the cumulative total surplus for the end of 2015, noting that part of it is still estimated, but it is estimated to be a \$2.2M surplus and an overall 2.3% rate reduction. He noted that the results vary greatly by member agency, for many reasons.

Member Olbert asked for clarification on some of the costs indicated on table 3 as to whether there were indices based or not, and why interest expense was down.

Staff Moran answered that fuel costs are one of the costs that are index based. Regarding the interest expense he noted that Recology's interest is fixed on capital. At the beginning of the contract Recology spent roughly \$60M on capital, and they also get reimbursed the interest on that capital, at the beginning

of the contract there was a schedule that showed the declining interest payment each year, so unless there is a change in capital that is approved the interest is fixed for every year of the 10 year contract.

Member Olbert asked for further explanation of the drop in performance incentives and disincentives.

Staff Feldman answered that Recology still got an incentive payment because of the overall diversion but it was not as large as in years past, so the number dropped. He also how the incentive payments work is that Recology has to achieve what they achieved the prior year plus in order to get to the incentive payment.

Member Olbert commented that performance incentive dropping isn't necessarily a good thing programmaticly, it is favorable from a financial point of view but not from a program point of view.

Staff Feldman noted that yes the goal is to have diversion increase continually over time, but as the bar continually gets raised higher and higher it becomes harder to achieve that goal, as predicted the larger strides were made very early in the contract and in the later years of the contract it will be harder to reach big diversion numbers.

Member Olbert commented that it sounded like there was a goal set of where diversion numbers should be over the life of the contract and in this last year that goal wasn't met.

Staff Feldman answered that there is no set trajectory; the goal is changed each year based on the previous year's performance.

Member Olbert noted that this raises cause for concern that Recology didn't do as well most recently as they had in years past.

Executive Director McCarthy added that the calculations are done on diversion, and the piece that Recology really controls is that sales force that tries to set up new services for businesses. For the most part after the first year of a franchise the residential organics and recyclables flatten out, so over time there is a smaller and smaller amount that Recology can move, but it's their commercial efforts that they are being measured on.

Member Olbert commented that the reason he asked these questions is because he wanted to be cautious to understand what is causing news, to make sure good news is really good news.

Member Benton noted that the table shows the wages up 1.9% controlled by the index, and asked how the new labor contracts Recology recently negotiated compare to the 1.9% increase.

Mario Puccinelli answered that Recology settled at an average of 2.4% per annum on wages, and health and welfare went up 8%, so the difference is not being compensated through the contract.

Member Benton asked how the Franchise influenced the negotiation with the union.

Mario Puccinelli answered that the union looks at the market and how other contracts and their increases line up, so Recology walked away feeling OK about the negotiations.

Executive Director McCarthy added that the previous average labor increase was about 4.5%, so this contract helped put pressure to get that number down, but the benefit side is still where there is risk exposure.

Member Olbert would like to see it as a total compensation number including wages and benefits relative to the indices.

Member Benton thanked Marshall and the SBWMA team for the work on preparing this data.

Member Brownrigg made a motion to approve the resolution

Member Olbert seconded the motion.

Roll call Vote:

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. Staff Updates:

- a) Potential Future Board Agenda Items

Chair Widmer asked Board Members to review future calendar dates so that if they overlap with something important the dates can be changed well in advance.

- b) Check Register for July and August 2014
- c) Technical Consulting Contracts – 3rd Quarter 2014
- d) Update on 2014/15 Franchise Rate Setting Process
- e) Recycling and Outreach Programs Update
- f) Shoreway Facility Operations and Maintenance Update
- g) Receipt of Recology and SBR Monthly Reports

7. Board Member Comments

8. Adjourn 3:11 PM