



MINUTES

**SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
SPECIAL MEETING OF THE BOARD OF DIRECTORS**

December 17, 2014 – 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 (via phone)		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

Alternate Member Art Kiesel represented Foster City

Alternate Member Rosanne Foust Represented Redwood City

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. Shoreway Operations and Contract Management:

- A. Resolution Approving Consent to Assignment of Majority Interest in South Bay Recycling, LLC to Recology, Inc.

Executive Director McCarthy explained that SBR has requested consent to assignment of the Operations Agreement and that staff has negotiated some conditions for approval to ensure that the financial value the SBWMA receives from having chosen SBR in the procurement process remains. He noted that there were a series of letters to Recology and responses back from Recology attached to the staff report, and he went over the list of conditions of approval.

Member Carlton asked if the partnership with the paper mills in China was the partnership being referred to.

Executive Director McCarthy clarified that SBR is an LLC and the partners in the LLC are Community Recycling and Potential Industries, and that was the partnership he was referring to. He noted that the conversation was around making sure that Potential remained a part of the LLC partnership, and clarified that Potential Industries owns two Paper Mills in China, and there will be no change in their relationship with SBR.

Member Olbert asked how any potential savings would flow back to the JPA.

Executive Director McCarthy answered if any savings were identified they would come back as credits on SBR's monthly invoices or done through the annual compensation process.

Member Benton commented that the Board made the strategic decision to separate the MRF operation from the hauling operation and wondered if Recology was gaining any advantage in the future contract negotiations by doing this. He noted that he had a phone conversation with Executive Director McCarthy prior to the Board meeting, and said that he was relieved to hear that Recology buying the 60% ownership of SBR was only a small part of a much larger strategic move for Recology in Southern California.

Member Olbert asked what happens if the assignment is not approved.

Counsel Lanzone answered that as far as this contract is concerned it requires the approval of the Board for the merger to move forward. Community would still be bound under the contract and their interest would not be assigned to Recology. If the merger went forward without the approval of the Board SBR would be in default of the contract, and all of the consequences associated with contract default would be initiated.

Member Foust asked some clarifying questions around SBR's cost proposal, and if this purchase helped SBR get out of a bad financial situation. She also wondered if the assignment wasn't approved, would SBR be able to get the job done.

Chair Widmer asked Recology to respond.

George McGrath, COO of Recology, thanked the Board for their time and explained that Recology has always wanted to get back into the market place in Southern California, and the City of Los Angeles issued a request for proposals to franchise all of the City of LA's commercial businesses and multifamily businesses. He noted that Recology worked with Community Recycling on a partnership to submit a proposal in Los Angeles, but what ended up transacting was Recology purchasing the assets of Community Recycling. He added that it was never in Recology's strategic plan to own SBR, that they have no intention of changing the LLC, and they plan to keep Potential Industries as the lead, as they are marketing experts in the United States, and they would not want to touch that model.

Executive Director McCarthy added that in looking at the table in the staff report, the first half of the table are the originally submitted numbers in which SBR was nearly 27% less than Allied, in the second half of the table the SBR number is only 17.4% less than Allied. He noted that \$1.2M was added back into the proposal at the request of staff, but operationally their proposal was chosen because they were able to offer significant payload gains, and that is where all the cost savings are. He added that staff wasn't concerned that SBR gave a low ball number. He also noted that in the four years SBR been has been operating the MRF they've performed well.

Chair Widmer added that additionally SBR has been using County labor, and that relationship will continue, but condition of approval number 8 is that SBR has been asked to develop a second source because an alternate source of labor gives the JPA more options.

Member Carlton expressed concern that SBR was the lowest bidder and Recology was the second highest and that presented a red flag. She would like to feel more comfortable that at the end of the three year period the price isn't going to go up significantly to more closely match Recology's proposal price.

Chair Widmer clarified that the three year period is an extension at the end of the contract ending in 2020, so it's 2023 before a different price structure could go into effect.

Member Kiesel expressed similar concerns and wondered how valid the originally proposed \$12.8 SBR number versus \$17.5 Allied number was, and who would pick up the \$5M difference if there was a difference.

Executive Director McCarthy responded that there is a very collaborative relationship with SBR, and that ongoing monthly operating reports are received from SBR. He noted that SBR has met every assumption because of the custom specification trailers that achieve much higher payloads, and the efficient MRF. He added that SBR has actually met higher payloads than they assumed in the proposal, noting that they just built a better mousetrap.

Member Kiesel, using the same analogy, asked if with the assignment, the mousetrap would be the same, similar or better.

Executive Director McCarthy answered that it's similar, and added that if Recology were to bid on this today, they'd have a better number than they did in 2008. When they bid, they weren't running a highly automated MRF, and now they have that experience in Seattle.

Member Benton asked for clarification on whether Executive Director McCarthy was referring to Potential Industries or Community Recycling.

Executive Director McCarthy answered that the JPA deals with one entity - SBR; and that Potential Industries and Community Recycling formed this LLC to bid on the operations. He noted however, if there is a question about the trucks Community Recycling gets the call, and if there is a question about the MRF it's Potential Industries that gets the call.

Member Benton noted that Recology has expressed the importance of Potential in the relationship, but that it appeared to him Potential was the minority holder, and he wanted to be comfortable that Recology wasn't going to take over.

Counsel Lanzzone noted that in the operating agreement for the LLC its 50-50 equal management of the operation, the majority owner can only override the minority owner in some very limited situations. Chair Widmer commented that he met with Dan Domonoske from Potential Industries and George McGrath from Recology today, and expressed concerns to them about the labor for the MRF, and continuance with the County program. He noted that he thought some savings projection should have been part of this consent to assignment.

Member Olbert commented that generally speaking in an acquisition situation things will either get better or get worse, and he wondered what would happen if they're not as efficient under the new agreement.

Executive Director McCarthy answered that the LLC has almost no way to come back and ask for additional compensation unless there is a change in the law.

Counsel Lanzone noted that SBR and the JPA are in a contract that is good until 2020; there is nothing in the contract that can change because of this consent to assignment whether they do better or worse.

Chair Widmer expressed concern that if SBR is obligated to be in a position where they are losing money, issues won't get fixed as quickly.

Member Olbert conversely noted that post the consent to assignment the JPA would be in a stronger position, because Recology would want to keep a positive image.

Lillian Clark asked if the consent to assignment would affect incentives and disincentives with one company reporting.

Executive Director McCarthy answered no, that nothing would change there would still be two entities, and that the Member Agencies would still get reports from both companies.

Dan Domonoske, Vice President of Potential Industries, thanked that Board for their time, and stated that Potential Industries is not going anywhere, he assured that they will continue to deliver the services in the MRF that they have for the last 4 years. He commented on the analogy of the mousetrap, noting that the mousetrap wasn't going anywhere, and nobody was taking it over, and what this JPA has is the best mousetrap in the country. He noted that the trucks which Community Recycling designed are staying here, and carry between 25-26 tons without going over 80,000 gross vehicle weight which ensure continued high payloads going forward. He added that Potential Industries came up with the MRF design that is exceeding expectations. As a result of those two things SBR is exceeding performance projections. He noted that SBR is not in a financially difficult condition, and as far as cost, the JPA is getting a pretty good deal based on the contract which notes specific CPI indexes, so if the 3 year extension option is executed there will be no surprises in costs for the next 9 years.

George McGrath thanked the Board as well and commented on the concerns of the Board Members. He noted that Recology protects its brand, and that Recology has come a long way in being nationally recognized for programs and services that they provide, so anything that would tarnish that brand would be dealt with very quickly and swiftly, and we would carry that relationship to SBR as needed. He commented in terms of the financial structure that Recology is governed by the charter which is 50-50 management of the operations. He also noted that the business model of the trucks is important to their success not only in this service area, but would also like to adopt it as part of Recology's niche in the market place. He noted that Recology is more than willing to fulfill the obligations that are attached to the resolution, and that he anticipated having a Finance Manger on board by May 1st. He noted that Recology looks forward to continuing the relationship and commented that the SBWMA gains significant leverage in talking about extensions and how to control costs going forward with this assignment.

Member Foust thanked Dan and George for their comments, and commented that if they had spoken first, it would have framed more clearly for her what the Board was being asked to approve.

Member Benton clarified that the 3 year extension for SBR doesn't exist in the Recology contract.

Executive Director McCarthy stated that that was correct, and in the year 2017 each Member Agency has to decide whether to extend their Franchise Agreement or not with Recology.

Member Carlton wondered if the union negotiations were still ongoing, and if the consent to assignment would have any effect on the union negotiations.

Executive Director McCarthy answered that SBR is still in negotiations on a transfer station contract, but the hope is that it wouldn't affect the negotiations.

Member Olbert made a motion to approve Resolution 2014-28

Member Stone seconded the motion

Roll Call Vote: 9-0-0-3

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

4. Board Member Comments

5. Adjourn 3:07PM