



MINUTES

SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
MEETING OF THE BOARD OF DIRECTORS
January 26, 2012 – 2:00 p.m.
San Carlos Library Conference Room A/B

1. Roll Call:

CTO 2:04 p.m.

Roll Call Attendance:

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 November 17, 2011 BOD Meeting Minutes
- B. Resolution Approving 401(a) Plan Amendment
- C. Receipt of Recology and SBR Monthly Reports

Member Nava requested agenda item 3B be removed from consent for discussion.

Motion/Second: Porter/Gibbons to accept agenda items 3A and 3C.

Voice Vote: All in favor

Atherton, Belmont, East Palo Alto, and West Bay Sanitary District Absent.

Member Nava asked for more information on what was being approved in the 401(a) plan amendment.

Staff Moran answered that in 2012 there are new laws and our retirement plan needs to be updated to reflect the new laws. These changes have no effect on the selected plan benefits.

Member Nava asked how many employees are participating in the plan.

Executive Director McCarthy answered that everyone except the one contract employee participates.

Member Nava requested information on whether the plan was employee contribution or match.

Staff Moran answered that the agency puts in 10% and matches up to an additional 2% for each full time employee. He added that the agency isn't part of social security which saves the agency about 8%, which is partially offset in this plan.

Member Nava asked about the contract employee.

Executive Director McCarthy answered that we have one contract employee who is part of PERS.

Motion/Second: Porter/Nava to accept item 3B

Voice Vote: All in favor; Atherton, Belmont, East Palo Alto, and West Bay Sanitary District Absent.

4. **New Business:**

Belmont and West Bay Sanitary District now present

Election of New Officers for 2012

Chair Moura opened nominations for chair for 2012.

Chair Moura nominated Vice Chair Jim Porter for Chair.

Member Simonetti nominated Jesus Nava for Chair.

Chair Moura called for each agency to vote for the candidate nominated.

Candidate Porter: 5 Votes

Candidate Nava: 5 Votes

Agency	Porter	Nava	Absent	Agency	Porter	Nava	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	

Chair Moura was reminded by legal counsel that any candidate needs a 2/3 majority. Legal counsel also suggested trying a re-vote and then having a discussion.

Chair Moura asked for a revote:

Candidate Porter: 5 Votes

Candidate Nava: 5 Votes

Agency	Porter	Nava	Absent	Agency	Porter	Nava	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	

Discussion:

Vice Chair Porter suggested considering this agenda item at the next meeting.

Member Nava announced that he would consider the vice chair position. He noted that based on the votes, at least half of the Board of Directors would like to see a new direction for the agency.

Vice Chair Porter asked if the JPA allowed for voting for a chair and vice-chair at the same time.

Legal Counsel Savaree noted that the JPA says you need a 2/3 majority vote to elect any officers, and that there is nothing that says you can't vote for a slate of officers.

Member Nava asked to hear from some of the Director's that voted for him, on some of their opinions as to what the direction should be.

Member Oskoui feels that the rate setting process was pretty painful, and understanding that there is a strategic planning meeting coming up, he hoped that all the agencies could work collaboratively to move things ahead for the agency, but he wanted fresh perspective from a small agency.

Member Hardy liked member Nava's suggestion of a package vote, noting that typically the Vice Chair does move up into the Chair position. He also stated that all Board members should be considered leaders of the JPA, and have an active role in the decision making process.

Member Fotu noted that the people on the Board have changed a lot over the last few years. She stated that she supported Member Porter as Chair because he's taken some difficult questions during the rate setting process. She also stated that she would support a Porter/Nava slate, adding that both candidates are great leaders.

Member Porter noted that whichever way the election turns out, the Board needs to come together collectively.

Member Simonetti commented that he would like to see a fresh perspective on the Executive Board, but is willing to accept Member Nava as Vice Chair.

Chair Moura mentioned that the original Vice Chair had to step down, and Member Porter stepped into the role mid-year.

Member Nava stated that he served on the board for 9 years, remembering that the agency has seen a number of changes occur. He stated that his priorities are to make sure that the individual rate payers are being represented and he is willing to work with Member Porter as a partner to provide leadership for the SBWMA.

Member Porter agreed that the last year's rate setting process was very difficult. He noted that there needs to be more emphasis on how the rates are developed, and what each agency is bound by through the Franchise Agreements. He also noted that he'd be very happy to work with Member Nava going forward, so the Agency can move forward as a unified body.

Chair Moura noted that we've had many discussions on the rate setting process, and he reminded Board members that at the beginning of this process in 2007 Executive Director McCarthy predicted that if we add all of these new services rates would go up 15 to 30%, and they have. The retreat will be a great opportunity to talk about what comes next.

Member Masbad asked if there was any other interest for the Vice Chair position from members of the Board. If not, then we can alter our vote and re-vote for both positions.

Chair Moura noted that if there are no other nominations for Vice Chair then we can vote on the slate of officers.

Legal Counsel Savaree stated that if there were no other nominations for vice chair, then a Member would need to make a motion to vote on slate.

Member Hardy made a motion to nominate Jim Porter as Chair and Jesus Nava as Vice Chair.

Member Simonetti seconded the motion

Roll Call Vote:
10-0-0-2; Atherton 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 District	X			

B. Mid-Year Review of FY2012 Annual Operating Budget

Executive Director McCarthy gave an overview Power Point presentation on where the agency stands mid-year on its budget, with supplemental detail added to what was in the staff report.

He noted that the big picture is that the agency is still projecting significant net income of \$3M, but it is less than the \$3.6M that was budgeted. Even with the lower projected net income we are still projected to meet all of our bond covenant requirements. Of which there are two; the break even test, and the 1.4% ratio on debt.

He also noted that there was nothing about the numbers that changes the information given to the Board in November. There is lower projected net income in part due to higher tonnage and disposal expense and in part because we expect lower tipping fee revenue. The numbers presented reflect the lower tipping fees effective January 1st, which were unbudgeted and result in nearly \$200,000 less in projected revenue. Some of the other reasons for the variance are: higher operating expenses with SBR, higher disposal expenses which directly tie to the fact that greater than budget tonnage is being shipped out. Executive Director McCarthy pointed out that 90% of the SBWMA budget is Shoreway Operations, which is something over which there isn't a large amount of control.

He continued with his presentation, noting that areas of focus over the next 6 months will be (1) commercial recycling, focusing more on MFD, assuming we are not going to do any broad based commercial outreach in the next 6 months; (2) a Transfer Station sort line, noting that the agency has a financial incentive to understand what's being disposed of through waste composition work; (3) Increasing 3rd party tons into the MRF; 4) looking at other 3rd party recyclers; and (5) revamping communications through updating our website, electronics newsletter, customer satisfaction survey, rates page on our website, and spring and fall rate workshops for elected officials.

Discussion:

Member Masbad asked about the negative variance of \$1.2M, stating that there are two one-time expenditures of the Allied Balancing account and the SBR payment made in different fiscal years than projected, and the buy-back which leads to roughly ½ of the variance. She asked what the reason is for the other half of the negative variance.

Executive Director McCarthy answered the biggest block of dollars is the increase in disposed tons.

Member Nava asked for clarification on the facilities local competition and asked if there was a price comparison to what the competitor's facilities are charging. He also asked if staff thought that people were being price sensitive, and going to competitor's facilities to save money.

Executive Director McCarthy answered that it has been the case, that even with the extra drive time people are driving to Ox because it's cheaper. He also stated that the comparison of our rates to local competitors was shared at the November Board meeting. Noting that our facility has lost all of the large generators that used to come to our facility, they can now get much cheaper rates at FERMA at the Port of Redwood City, and we've seen those volumes completely go away. He also noted that one point are public rate was \$40/yard, and Ox Mountain was less than \$20. Now, Ox Mountain prices have gone up, and Shoreway rates have come down. He added that there is still a gap, but it's much closer, and he thinks it's gotten to a point where customers coming back to the facility. He also noted that an intangible factor is the impact we had on customers during the construction, so there has been a push to re-promote the facility.

Member Nava asked about reserve levels, and asked for a reminder of the JPA reserve policy. Referring specifically to the surplus at the end of the year, and wanting to know where any surplus would go.

Executive Director McCarthy answered that any surplus flows down through operation budget. He noted that there was a chart shared at the May, June and November Board meetings that showed the cash flow through organization. The chart stated that the agency pays operations and maintenance expenses, debt service payments, and San Carlos franchise fees. After all of that is the net operating income, which goes into the reserve buckets. At this point those are: rate stabilization reserve, operations reserve, and an equipment reserve. After those are all filled up, we have unallocated cash. Right now the largest single place that that is being allocated is the repay the Burlingame Bond, that is due in lump sum in 2014, and based on the \$3.6M figure there weren't any unallocated funds beyond that.

Member Nava questioned if there were alternatives to the reserve equipment policy.

Executive Director McCarthy answered that alternatives were looked at, and that it was the direction of the Board to look at the expected life of the equipment and start accruing money to replace the equipment after that expected life time.

Member Nava stated that current rate payers are paying for the bond to cover the cost of the equipment and paying for the equipment reserve fund. He requested that the Board discuss the equipment reserve policy at the long range planning retreat.

Member Masbad asked if staff thought there would be any unallocated funds left to help alleviate the agencies rate increases.

Executive Director McCarthy answered not in the short term, but in 3-5 years, the projection is that the agency will have significant unallocated funds.

Member Oskoui asked about the commercial auditing and education piece that's being scaled back, in light of the passage of Assembly Bill 341 and the new goals for commercial recycling, he asked staff to comment on the decrease in the program budget in light of the new law.

Executive Director McCarthy stated that part of the money budgeted was for a broad based education campaign. We are now only doing small pieces of that. But, as far as AB341 goes the Agency has no indication that Cities need to do more than is already in place through your franchise agreements.

Staff Feldman added that the SBWMA is positioned well to comply with AB341, given the scope of the bill so far. It could affect SBWMA programs, because if the state doesn't meet the 75% goal, then Cal Recycle will start looking at programs.

Executive Director McCarthy added that AB341 is a state wide goal, it's not a local mandate, but we need to watch the progression of it.

Member Fotu requested information on the buyback program and what is accepted in that program, and asked if the state reimburses us and what is that amount.

Executive Director McCarthy responded that it is a pass through, the state pays the SBWMA back, and it's in the commodity sales revenue line item.

Member Fotu questioned SBR's commodity revenue share, and asked if SBR was guaranteed a certain amount from commodity sales.

Executive Director McCarthy answered that the SBWMA has a very explicit contract with SBR. There is a revenue share above the guarantee. The amount of the guarantee was prorated for the first year, because SBR only operated the MRF for 8 months of the first year. Anything above the guarantee number SBR gets 25% revenue share by contract.

Member Fotu asked if SBR includes the revenue share in their rate application.

Executive Director McCarthy answered that it is backed in, because it's based on tonnage projections. It's an estimate in the budget.

Member Fotu asked the Board to look at how to maximize commodity revenues.

Executive Director McCarthy stated that the way the contract is written, SBR has to pay the best prices. So whether the tons go to domestic or foreign mills, SBR has to pay the SBWMA the best price, those contractual protections are in place. So our agency needs to focus on getting more tons.

Member Nava asked for clarification in understanding the SBR contract. He asked what the minimum is, and what the criteria for setting the minimum are.

Executive Director McCarthy explained that the RFP stated that the agency wanted to get paid \$6.5M in commodity revenue. Ultimately the company that we went with guaranteed \$6.75M, but with a one-time provision for the first year, that said if the tons don't show up, they will be prorated, and that is what happened. We expected 74,000 tons, and we got 64,000, but the revenue sharing of SBWMA getting 75% and SBR getting 25% that has never changed.

Lillian Clark asked for clarification on the buyback numbers.

Executive Director McCarthy noted that staff projected a number that we thought was going to be paid out, and those tons just didn't come in. Adding that that we think the difference of \$.5M is in the fiber. He also noted that the agency has a project underway to understand where the tons are going, and the detail of what is being paid out/brought in is in the SBR monthly reports for comparison.

C. Resolution Accepting the Fiscal Year 2010-2011 Annual Financial Statements

Staff Moran presented the audited fiscal year 2011 financial statements, compared to FY 2010.

Member Nava asked if the unrestricted net assets were mostly cash.

Staff Moran answered yes, they are completely different accounts but in the end yes.

Motion/Second: Moura/Hardy

Roll Call Vote: 10-0-0-2; Atherton 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 District	X			

D. Update on Contractor Auditing: Collection Services and Facility Operations Auditing and Financial Systems Auditing

Staff Feldman explained that staff recently issued an RFP to do a financial audit of Recology and SBR. That project should get started in March. The ongoing HF&H project started in September/October, which should be coming to a close soon, is to audit how the data is maintained and kept. The project is auditing customer service, performance standards, and all the self-reported metrics related to incentive and disincentive payments.

Member Masbad asked if HF&H was the lowest bidder in the RFP process or if there were other factors that went into the decision of awarding the bid.

Staff Feldman answered that there were 3 bidders, all were price competitive. The approach and experience of HF&H gave their proposal the advantage.

Member Oskoui stated that he would like copies of both RFPs. He stated that he is concerned about discrepancies between what their staff is logging into the system and what is showing up in the report on customer service issues.

Staff Feldman answered that it is one of the specific areas that the audit is focusing on.

Member Nava stated that our assumptions are that were only paying for services within our own city limits.

Staff Feldman answered that it is another specific audit criteria, how the company is allocating tonnage across the three waste streams.

Chair Porter announced that the County is going through a very detailed audit of accounts, and they would be happy to share their findings with HF&H.

Staff Feldman added that if agencies have specific discrepancies, bring them to us, it's a good time to include any discrepancies in the audit process.

Member Nava asked about the software on the trucks and how that is tied to each agency.

Mario Puccinelli stated that RouteWare captures crossings of jurisdictions by geocode.

Staff Nava stated that the assumptions are that the maps are correct.

Mario Puccinelli answered yes.

Staff Feldman added that Recology inherited the data from Allied and there were some discrepancies, Recology worked through quite a few of them in the first year of the contract. The billing review will audit 1/3 of the customers every year, and as that that process is gone through the discrepancies will get worked out over time.

Chair Porter stated that it's an incredible amount of data and out of 26,000 accounts 256 have discrepancies. We put our accounts into GIS, and it was a fairly simple exercise. Adding that, by in large they are happy with the process, and it's insignificant what the corrections do in terms of rates.

Member Fotu would like to revisit the issue of route efficiency.

E. Results of 2011 Fourth Quarter Recology Franchise Agreement(s) Quarterly Contamination Measurement for Loads of Recyclable Materials, Organic Materials and Plant Materials

Staff Feldman stated that this is the 4th report of its kind, being that it is the 4th quarter results. The company didn't comply with 2 categories in the first quarter, 1 or 2 at a much lower level in the 2nd quarter, in the 3rd quarter full compliance with the thresholds. In in the 4th quarter, the only one they didn't comply with was commercial recycling, and a fine of approximately \$29,000 will be associated with that. He also added that on the residential side the trend through the first 3 quarters had gone down, the trend in Q4 is very different, and it's frustrating to have that number up at nearly 12%.

Member Fotu suggested a "Recycle Right" campaign for the commercial sector. She asked Recology what difficulties they been encountering, since this is the 3rd time this year they've gone over the threshold.

Mario Puccinelli stated that the process is done statically and it's the luck of the draw. One sample was all swimming pool lanes that became a very large piece of the percentage.

Staff Feldman added that the allowable threshold for commercial recycling is 8%, which is a fairly aggressive number. It was 2 or 3 loads that really skewed the data for the other 10.

Member Nava questioned why the customer isn't penalized, and how do we know this isn't normal.

Staff Feldman answered that SBR can flag loads, and if it becomes an ongoing problem there are systems in place to assess the amount of contamination in that load. If happens 2 times in one month on the same load then they have to do a costly monthly route audit for that particular route. The standards for contamination levels that are in the contract were not done arbitrarily. They were picked on standards that were established elsewhere. However on the residential side, we didn't think it would have been fair to pick a number based on different areas' results, due to the level of changes coming in residential services. So for years 2-9 of the contract the residential levels will be based on the results from the first year of the contract.

Member Fotu asked when a load is sent to the landfill.

Staff Feldman answered that the threshold for sending a load to the landfill is over 20%, but a load at over 10% gets audited.

Roxanne Murray asked how many loads have been rejected by SBR.

Staff Gans answered SBR hasn't rejected any.

F. Discussion on Topics for Future Board Retreat

Executive Director McCarthy stated that the purpose of this item is to get more board feedback on topics for the retreat to be held in February. He mentioned the high level items that had been mentioned before including; the 75% goal becoming a local mandate, the Ox Mountain contract expiration, and rate stability and predictability. It's a goal to have a retreat that is at a high level, what are the policies and direction that the agency should be pursuing.

Jim Hardy stated that this item could take a lot of time to discuss all of the issues, and suggested that Board members email the Executive Director with their suggestions of topics.

Chair Porter asked the Board Members to email the executive director with their suggestions for topics at the board meeting.

Member Nava asked what the process is for choosing a facilitator. And, asked that the resume of the facilitator is shared with the Board.

Member Nava also suggested asking the Board and Elected Officials what they see as working well, needing improvement, and how they think SBWMA should be perceived within the service area. I think it's important for us to get a sense of how we are perceived.

Chair Porter added that if Board members have feedback from elected officials please include those in your comments to the Executive Director.

5. **Old Business:**

A. RSMC Franchise Agreement Operational and Contract Administration Update

Recology had nothing to report.

B. SBR Shoreway Operational and Contract Administration Update

Dwight Herring announced the hiring of a Site Manager Jim Duffley, and stated he would be a great asset.

6. **Staff Updates**

a) Update on Recology Commercial Recycling Outreach Efforts

b) Recycling and Outreach Programs Update

Staff Hidalgo announced that she will be helping agencies with the compost give away, BYOB, and document destruction events, and that there is a new form to help streamline the process with Recology. She also announced the launch of Rethink@Work, a contest to get people to pledge to recycle more at work, and asked Board members to spread the word.

Staff Mututa announced that the public tour and school tour program is up and running, and in January we had 144 participants, and we have 220 scheduled so far in February.

c) Shoreway Construction Update

Staff Gans announced that there is conclusion to the Master Plan work and the Solar is completely installed. The SBWMA is submitting for LEED certification.

Member Gibbons, asked for an updated on the conveyor between the Transfer Station and MRF.

Staff Gans answered that it should be fully operational in February.

- d) Update on 2012/2013 Franchise Rate Setting Process
- e) Preview of Upcoming Board meetings

7. Board Member Comments

Chair Porter thanked Brian Moura for his service as the chair.

8. Adjourn 4:08 PM

Next Regular meeting scheduled for February 23, 2012, San Carlos Library at 2 pm
