



MINUTES

**SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
MEETING OF THE BOARD OF DIRECTORS
November 21, 2019– 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		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. Adjourn to Closed Session:

- A. Pursuant to Government Code Section §54957 - Public Employee Performance Evaluation; Title: Executive Director
- B. Pursuant to Government Code Section §54957.6 – Conference with Labor Negotiator; Agency Designated Representative: Jean B. Savaree; Unrepresented Employee: Executive Director
- C. Pursuant to Government Code Section §54956.9 – Conference with Legal Counsel – Anticipated Litigation (one case)

4. Call to Order/Roll Call (Public Session)

Call to Order: 2:42PM

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	

5. Report from Closed Session

No Report

6. Public Comment (Public Session)

None

7. Executive Director’s Report

Executive Director La Mariana welcomed the Board to the meeting and thanked them for their time with the Agency over the year, and especially over the last few months given that it’s been so busy with extra meetings. He then made the following announcements:

- SB1383 final regulations are expected to be complete at the end of January, and at that point staff will take the proposed ranges reported at the study session and start tightening up the numbers. In April staff will present a SB1383 action plan to the Board, that will work into the FY20/21 budget.
- The Organics-to-Energy Pilot’s equipment installation is underway, and Staff Gans will be updating you at agenda item 11A.
- Staff would like to collaborate with The County’s Office of Sustainability on their work regarding sea level rise vulnerability and how that relates to the Shoreway Facility.
- He introduced Reed Addis, who is the Principal of EEC Consulting the SBWMA’s legislative lobbyist, he will be giving a presentation at agenda item 9B recapping the 2019 legislative session.

8. 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. Approval of Minutes from the September 26, 2019 Board of Directors Meeting
- B. Approval of the 2020 SBWMA Board of Directors Meeting Calendar
- C. Approval of Quarterly Investment Report for the Quarter Ended September 30, 2019

Motion/Second: Bonilla/Widmer
 Voice Vote: All in Favor

9. Administration and Finance

- A. Review and Discussion Tipping Fee Increases Effective 1/1/20—No Adjustments Recommended

Staff Mangini gave an overview of the staff report and noted that staff is not recommending a tip fee increase in 2020. He gave the detail on projections for calendar year 2019 and net commodity revenue. He also added that he projected the buyback center to remain closed through 2020.

Member Dehn commented that she thought the board would be evaluating buy back center options and wondered if it would remain closed for all of 2020.

Staff Mangini answered just for the purpose of the budget projection he left the buyback center closed.

Executive Director La Mariana answered that at the January Board meeting there will be a series of options and associated costs presented regarding the buyback center, but it will take 90 days after any decision is made to re-open the buyback center which puts any re-opening very late into the fiscal year.

B. 2019 Legislative Session Update – Presentation by Environmental and Energy Consulting (EEC)

Reed Addis of EEC gave a Power Point presentation highlighting the 2019 Legislative Session with an update on key SBWMA priorities.

Member Brownrigg commented on the two plastics bills AB1080/SB54. He asked why the CRRC sometimes supported it, and sometimes went neutral. He also wondered what plastics would not be permitted if the bill were to pass.

Mr. Addis answered that he couldn't comment on CRRC's changes in position, but it did happen. He also noted that the bill uses the types of plastics that are being picked up on the beaches as the list of the types of single use plastics that would be targeted through the bill, and the language has changed to single use packaging rather than just plastics.

Member Hurt asked if there were walking pieces created for the legislators, and if yes could the Board have copies for their own advocacy.

Mr. Addis said he would be happy share pieces that they've worked on.

Executive Director La Mariana concluded by commenting that staff is working on putting together a Bay Area coalition on these environmental issues to get a louder voice in Sacramento, because currently the local solid waste industry is very decentralized.

Member Brownrigg reiterated that Board Members see the legislators in their work as elected officials so if they could get the walking papers and have the talking points rather than it all going through staff they could help move these messages.

10. Collection and Recycling Program Support and Compliance

No Items

11. Shoreway Operations and Contract Management

A. Organics-to-Energy Pilot Project Update

Staff Gans gave an Organics-to-Energy pilot update, noting that he hopes the pilot will be operational in March. Currently the construction of the pilot equipment is 60% complete and equipment testing is starting. He noted that Silicon Valley Clean Water is ready to take material now, but ran into a permitting issue with the Air Board and can now only take one truck load per day, and the pilot will generate 3 truck loads per day so staff is looking at other partners.

Member Widmer asked if the Air Board issue will impact the full project.

Staff Gans answered that the full project hasn't been addressed with the Air Board yet, the permit is just for the pilot. However, Silicon Valley Clean Water learned in bringing the pilot through the Air Board's process that the Air Board is a potential obstacle for the full project.

Member Widmer asked if the Board should be involved with more education with the Air Board and Silicon Valley clean water on what the whole project is about to help move things along.

Member Groom noted that she is a long time Air District Board Member and a past chair of the Board. She noted that she can help move discussions up to a higher level and help move things along.

Executive Director La Mariana noted that we are lucky enough to have two Board members who serve on the Air Board.

Vice Chair Aguirre noted that she is the Chair of Silicon Valley Clean Water and reminded staff to use the Board Members to help move projects along especially those with a regional benefit like this project.

Member Hurt commented on her perspective from the Air Board noting that with anaerobic digestion the Air Board needs to be conscientious about the odor. So, while the SBWMA is trying to be innovative they're trying to think about public health and safety.

- B. Resolution Approving Change Order #2 in the Amount of \$121,496.39 and Allocating an Additional \$103,504 for Future Change Orders on the Amended Public Project Agreement for Organics Extrusion Recovery System Purchase and Installation at Shoreway Environmental Center with Anaergia Technologies, LLC

Staff Gans gave an overview of the staff report.

Chair Benton clarified that the \$121,496.39 is for the work detailed in the staff report, and that the \$103,504 is contingency.

Staff Gans answered yes, there was never a contingency set up for the project in the beginning.

Member Hurt asked for clarification that there was already a change order of \$300,000.

Staff Gans answered yes, but this work and their \$300k costs were, indeed budgeted in the original project total because the dollar amount was known when the project was bid. So it was anticipated, but there was missing information from PG&E to include it in the original contract.

Motion/Second: Carlton/Bonilla

Member Widmer asked if \$103,504 was enough contingency.

Staff Gans answered yes, for the Anaergia contract it will be enough, there are some collateral complications related to transportation that are unanticipated that may be another cost item associated with the pilot.

Member Brownrigg asked for a reminder when the upgraded paper sorting equipment will come online.

Staff Gans answered that the contract is with BHS, and final engineering on that project equipment was recently approved, and BHS has moved into manufacturing. The equipment will start to arrive in late January, and installation will take place through the spring, and start up is targeted for July 1. He added that there is an expectation that this equipment will pre-sort the organics out of the garbage to feed into the Organics-to-Energy equipment and thus simulate the full project.

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			

C. Resolution Approving a Part-Time, Exempt, Non-Benefitted (unless mandated by law),5-Year Limited-Term Position of Senior Facility Projects Engineer (unbudgeted)

Executive Director La Marina gave an overview of the staff report, and list of the known projects this part time limited term employee would be working on.

Member Dehn noted that she's in support of the position but wondered if there was someone who would want this work part-time.

Executive Director La Marina answered yes, we already have a strong candidate in mind who is a high-level solid waste engineer who has another part time commitment.

Member Widmer asked for confirmation that the fiscal impact would be the one on the resolution and not the one on the job description.

Executive Director La Marina answered yes, the job description salary range is full time and matches the other two senior position salary ranges, but the resolution divides that range in half due to the position being 20 hours per week.

Motion/Second: Bonilla/Aguirre

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			

D. Resolution Authorizing the Executive Director to Direct South Bay Recycling to Transport Organic Material Produced During the Organics-to-Energy Pilot Program to Various Processing Facilities

Executive Director La Marina gave an overview of the staff reporting noting that the amendment to the SBR agreement that was approved by the Board for the Organics-to-Energy pilot work included operation of the processing equipment but not the transportation. The SBWMA has the contractual right to direct SBR to do that work.

Member Widmer didn't want to direct SBR to buy a tanker for the pilot for a short-term.

Executive Director La Marina noted that the short period of time is the challenge. If the pilot yields the results in the pro-forma it's a full project and more long-term. He added that the details of the solution are not fully vetted yet, there is some possible solutions being discussed, but staff has identified a gap in the contract language and this approval bridges that gap.

Member Widmer wondered if the item could be continued and approved once all the details of the transportation are worked out.

Member La Mariana answered that this approval bridges a contractual gap, and directs them to transport the pilot material, and staff feels like it's been pretty well vetted.

Chair Benton noted that this authorizes staff to direct SBR, which is different than an amendment.

Counsel Savaree answered that this is not an amendment because in the contract the SBWMA has the right to direct them to do this work. So this resolution indicates that the SBWMA would like to direct SBR to take this material wherever they are directed to do so. She added that staff doesn't have the right to direct SBR, it's a Board decision, since the SBWMA holds the contract with SBR. She noted that the details of how the material is transported can all get worked out later, this is just the authorization to direct that they do the work.

Motion/Second: Dehn/Rak

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			

E. Resolution Approving the Expenditure of Funds in an Amount Not to Exceed \$236,500 to Fund the Stormwater System Improvements at the Shoreway Recycling and Disposal Center to be Completed by South Bay Recycling

Executive Director La Marina gave an overview of the staff report, noting there is an ongoing issue with compliance of the storm water quality at the facility. By contract, SBR is required to maintain the permits, and therefore maintain compliance. He added that staff and SBR are currently at a difference of opinion after a number of discussions with SBR. There is a non-negotiable timing component on this work, so even though the difference of opinion has not yet been resolved staff is recommending moving forward with the proposal from SBR on a protest basis. That way the work could be funded and concurrently the dialogue could continue to try and resolve the difference of opinion.

Member Carlton asked who would get penalized if the timing didn't get met.

Executive Director La Marina answered SBR that would have to pay all fines that would be leveled.

Counsel Savaree added that it would be in both parties' best interest to get this work done.

Member Widmer commented that he was disappointed to be back in a similar situation to the one faced a few years ago with the Riverwatch lawsuit. He believes SBR should be responsible for the costs associated with this work.

Executive Director La Marina answered that this protest approach allows the work to move forward, while negotiation continues. He added that there has been a step up in regulations since July 1, so it's even more important that the work gets completed.

Member Bonilla asked if the project was shovel ready, and if it would it interfere with operations.

Dwight Herring of SBR answered yes, the project is ready, and it will not interfere with operations.

Member Carlton asked if the project total was the total amount of money in dispute.

Executive Director La Marina answered that the original scope of work was \$1.2M and the team at SBR and their compliance group came up with this interim measure of \$236,500 that is a subset of the full project.

The idea is to try a less expensive solution first to see if it passes storm water regulations, and if it doesn't there will be subsequent steps at additional cost up to the original cost of the project or more.

Member Carlton asked if the Agency could pay half and SBR could pay half of the amount of the project.

Counsel Savaree noted that the Board could decide to do something different than what is recommended in the staff report. Her recommendation was that the Agency pay the whole thing because of the tight timeline to get the project done. And, that she would continue to negotiate with SBR regarding who is responsible for the costs, so whether that negotiation is over half the cost or the full cost is irrelevant. The hope is to come to some sort of agreement, but if not, there will be mediation.

Dwight Herring noted he would need to talk to his Board before knowing if SBR would be willing to pay for half of the project.

Member Widmer suggested approving the whole amount but wait for a Board response from SBR before starting the project.

Member Dehn asked if this is an allocation that is given to SBR with protest, but without expectation of repayment, and she also asked for the total settlement on the lawsuit a few years back on a similar issue.

Counsel Savaree answered that the settlement was negotiated at \$35,000. She added that they have advised SBR and they don't believe the SBWMA is responsible of any portion of the payment, and they have taken the position that they think the SBWMA is responsible for all of this cost. And that is where the negotiations stand with a project that needs to be done.

Member Bonilla suggested putting a timeline on the negotiations, that they would need to be completed by a certain date, and to treat the payment as a loan, and withhold payment if negotiations aren't complete.

Counsel Savaree noted that staff is recommending the Agency fund the project under protest to ensure that SBR does move forward with the project, and to continue with negotiations concurrently. She added that the plan is to come back to the January meeting with either a report that it's been resolved, or to get direction from the Board on the next steps.

Member Brownrigg asked if the project SBR is suggesting as an interim measure is based on the newer storm water standards.

Executive Director La Marina answered the new July 1, 2019 standards.

Chair Benton asked how long the work will take.

Dwight Herring answered 3-4 months.

The Board discussed the logistics of the cash flow. Staff Mangini noted that SBR would be reimbursed for monthly expenditures on the project through the monthly invoices. Or it could be reimbursed at the term of the project.

Member Bonilla motioned to approve resolution 2019-58.

Member Carlton motioned to amend the resolution to be contingent upon payment at completion.

Member Widmer seconded the amendment.

Chair Benton clarified that payment would be made at the completion of the work and under protest.

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			

12. Public Education and Outreach

No Items

13. Informational Items Only (no action required)

- A. 2019 Finance and Rate Setting Calendar
- B. Check Register Detail for September – October 2019
- C. Potential Future Board Agenda Items

14. Board Member Comments

Chair Benton wished everyone a Happy Thanksgiving, and holiday season.

15. Adjourn 4:07PM