



**MINUTES**

SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY  
 SPECIAL MEETING OF THE BOARD OF DIRECTORS  
 August 20, 2020– 2:00 p.m.  
 Via Zoom Tele or Video Conference Only

**Call to Order: 2:01PM**

**1. Call to Order/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	

All Members and public participated by Zoom Conference Call

**2. Public Comment**

Counsel Savaree amended the public comment to note that because this was a Special Board of Directors and the agenda was originally prepared as a regular meeting agenda, public comments were limited to items on the posted agenda only

No public comments were made.

**3. Executive Director’s Report**

Executive Director La Mariana noted that was no report other than the written report

**4. 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 the Minutes from the June 25, 2020 Board of Directors Meeting
- B. Resolution Approving the Use of Shoreway Sewer Line for Discharge of Landfill Leachate by BFI’s Ox Mountain Landfill (Half Moon Bay) Facility
- C. Resolution Extending and Ratifying Declaration of Local Emergencies by SBWMA’s Member Agencies and Proclaiming a Local Emergency Within SBWMA’s Jurisdiction as a Result of COVID-19

Member Widmer pulled agenda item 4B, he noted he has questions about indemnification on liabilities. Chair Benton noted that items pulled from consent would be rolled to the next meeting.

Member Widmer made a motion to continue agenda item 4B to the September 24<sup>th</sup> regular Board Meeting Agenda.

Member Bonilla seconded the motion.

Roll Call Vote: 11-0-0-1

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			

Motion/Second to approve Agenda items 4A and 4B:

Aguirre/Hurt

Roll Call Vote: 11-0-0-1

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. Administration and Finance**

- A. Resolution approving Recommendation to establish a one-time fee to satisfy the Town of Atherton’s debt service obligations to exit the Joint Powers Authority – South Bayside Waste Management Authority.

Counsel Savaree introduced the item and explained that the Board’s task is to determine how to calculate the Town of Atherton’s (Atherton) debts, obligations, and liabilities as of December 31, 2020. She noted that no other Member Agency has ever withdrawn from the SBWMA, and therefore there is no institutional precedent to follow in determining how to calculate Atherton’s exit costs. She added that in preparation for this item, SBWMA retained KNN Public Finance (KNN) and HF&H Consultants (HF&H) to calculate Atherton’s exit costs. Those costs were broken into two major categories: bond related costs; and all other costs.

Counsel Savaree explained the other costs category per the HF&H analysis. HF&H concluded that there are no other currently existing obligations or liabilities for Atherton identified beyond December 31, 2020. HFH noted in their report that the only possible exception would be an insurance claim, were one to be filed prior to December 31, 2020, but no such claim has been received to date.

Counsel Savaree then explained the bond related portion of the exit costs, noting that KNN recommends that Atherton satisfy its debts, obligations, and liabilities by paying its proportional share of SBWMA’s bond obligations through a legal defeasance process. This means that Atherton would be required to pay its portion of the JPA’s bond debt prior to withdrawing. KNN has recommended that Atherton’s exit cost to defease its portion of SBWMA’s 2019 bonds should be calculated based on Atherton’s historic use of the Shoreway Facility measured in franchise tonnage. This results in an estimated exit cost of approximately \$2.2M.

Counsel Savaree then noted that Atherton’s financial consultant, NHA, proposed instead 5 different scenarios for calculating Atherton’s exit costs. These 5 scenarios would result in an exit cost ranging from a high of \$1,677,498 to a low whereby SBWMA would pay Atherton \$79,573 prior to its withdrawal. Having presented this range of options, Atherton proposed to the Board that its exit cost should be \$903,623. She noted that, according to the KNN analysis, this amount would only partially defease Atherton’s portion of the

SBWMA 2019 bonds.

Counsel Savaree then noted the terms of the JPA agreement state that a Member Agency may not withdraw unless and until it has liquidated in full its proportion of any and all existing debts, obligations, and liabilities as they exist on the date of withdrawal. This includes, but is not limited to, the 2000 Revenue Bonds. In the PowerPoint presentation Atherton provided ahead of the meeting, it asserts that the JPA Agreement limits exit costs to the 2000 Revenue Bonds issued by SBWMA. That position is not supported by the JPA language because, as noted, Article 15.1 requires Atherton to pay in full its debts, obligations, and liabilities on the date of withdrawal, including, but not limited to, the 2000 Revenue Bonds. She also noted that the fiscal impact of Atherton's withdrawal depends on the exit cost determined by the Board. Staff recommends that the Board approve KNN's proposed methodology which is labeled in the staff report as Option 1: full defeasance of the 2019 bonds because full defeasance would result in Atherton paying its full share of existing debts, obligations, and liabilities as required by the terms of the JPA Agreement. If the Board approves any other option, Atherton will not liquidate all its debts, obligations, and liabilities. That means the remaining Member Agencies would each be responsible to pay a higher amount of debt service on the bonds.

Counsel Savaree concluded her comments by noting that Atherton has suggested that the JPA Agreement contemplates that the Board would determine Atherton's exit costs and then, by a 4/5 vote, also approve its withdrawal. Staff does not agree with this interpretation. Article 15.1.c of the JPA requires Atherton to obtain the approval of 4/5 of the "Equity Members" in order to withdraw. Exhibit C to the JPA Agreement defines Equity Members as the 12 public entities comprising SBWMA. So, the clear language of the JPA requires Atherton to obtain approval from 4/5 of the Member Agencies in order to withdraw.

Melissa Schick of KNN then presented their analysis to the Board. She noted that KNN provided the SBWMA staff with an initial bond defeasance allocation analysis based on a memo from staff in December 2019. Because the outstanding bond obligations financed capital and equipment improvements at the Shoreway facility, a reasonable means for allocating Atherton's proportionate share of debt is to measure Atherton's historical use of the facility based on total franchise tonnage. KNN's analysis was based on Atherton's overall tonnage for the years 2016, 2017 and 2018. In 2018 Atherton's overall tonnage was 3.25%, and the average over this three-year period was 3.27%. KNN applied these percentages to the cost to defease SBWMA's outstanding obligations, which included certain assumptions for interest rates on the investment of these pre-payment funds until the bonds can be called in September of 2029. Under this methodology Atherton's costs for pre-paying their allocable debt obligation ranged from \$2,019,383 to \$1,987,908. KNN has also advised the SBWMA staff to include \$100,000 for costs related to work that would be required by bond counsel, verification agent, escrow agent, and a municipal advisor related to the defeasance transaction. After the SBWMA received Atherton's June notice of intent to withdraw, SBWMA staff asked KNN to update their December 2019 analysis. In a July 22, 2020 letter, KNN provided an updated analysis based on the July 14, 2020 market conditions. In that updated analysis Atherton's 2019 franchise tonnage percentage was 3.24, slightly smaller than the 3.25% from 2018. Additionally, interest rates have fallen since December 2019, so the cost of the defeasance escrow has increased. Based on these changes, KNN determined that the updated amount of Atherton's proportionate share of the bond obligations, using the 3.24% figure from 2019, equals \$2,103,016. Adding the \$100,000 for defeasance transaction costs, the estimated bond pre-payment equals \$2,203,016. She added that KNN believes that Franchise tonnage is the most reasonable measure to determine Atherton's proportionate share of the debt liability because it follows SBWMA's long standing business practice for allocating costs. She also noted that Atherton's consultant NHA acknowledges that using franchise tonnage to calculate proportional liability is the simplest and most straightforward approach. She concluded that KNN recommends option one because it's a reasonable straightforward approach based on an established business practice. She then went over the 5 defeasance options proposed by Atherton's financial advisor's NHA. She noted that each of the options

were not recommended because it would increase the amount of the remaining Member Agencies debt obligations, because any amount less than the required liquidation payment would be apportioned back to the remaining member agencies.

George Rodericks, Atherton Town Manager, and TAC Member and former TAC Chair and Vice Chair, then gave a presentation on their potential withdrawal from the SBWMA. He noted that Atherton issued a letter to the SBWMA on June 30, 2020 notifying intent to withdraw. He added that withdraw requires liquidation of existing debts, obligations, liabilities incurred, earned, or expected to be earned by the date of withdrawal, including Revenue Bonds, as determined by the Board. He noted that the Revenue Bonds defined within the JPA Agreement are specifically noted as the 2009 Bonds. He also noted that there is a disagreement on the withdraw vote being 4/5 of the Member Agencies or the Board Members as he couldn't find a definition for equity member. He added that exhibit C defines what a member is but not what an equity member is.

George Rodericks continued his presentation noting that Atherton wants to exit the JPA because they joined the JPA to enjoy the benefits of economies of scale and reduce costs for waste services, but as it stands now, it costs Atherton residents more to provide refuse services through the SBWMA than if they contracted separately. He explained that Atherton is 99% residential, and has been 100% built out since before 2000, and is not going to grow. He noted that Atherton no longer fits the land-use and waste stream demographic of the large, and more diverse members of the SBWMA. He then went over the total SBWMA waste stream tonnages from 2019. He noted that commercial and multi-family make up 51% of the waste stream for the JPA and Atherton does not have any commercial or multi-family. And, compared to the overall JPA tonnage processed at Shoreway, Atherton is about half of a percent in every category. He then listed Atherton's issues and concerns. He noted that in 2019, the SBWMA sought to take on additional debt to make "capital investment improvements" to the Shoreway Facility. These improvements were largely to address the recycling of commercial and multi-family waste streams, which are significantly below the State-mandated goals, but Atherton is less than .2%. He also noted that the council supported the refinancing of existing debt but formally opposed the effort to take on additional debt. He reiterated that more than half of the SBWMA waste stream demographic is commercial and multi-family, and Atherton represents just over .2% of that entire waste stream. He also reiterated that of the more than 421,000 tons processed at the Shoreway Facility, Atherton represents less than 0.2%. He noted that Atherton's Waste stream is no longer representative of the primary waste stream processed by the SBWMA. As the SBWMA continues to address the service priorities of its larger and more diverse member agencies, Atherton residents end up subsidizing those costs and do so without benefit, and other Member Agencies may eventually find themselves in the same spot. He added that if Atherton continues as a member of the SBWMA, residents will be forced to continue underwrite programs, services, and capital investment for multi-family and commercial customers as part of their collection rates. This does not meet any of the Proposition 218 requirements or any other nexus test, so Atherton is put into a very hard spot. He added that the SBWMA staff is recommending that Atherton's cost to withdraw is in excess of the Town considers to be its fair share. The Town has offered expert opinion providing an equitable analysis of exit costs at \$903,623 based on its proportionate share of debt and liabilities when it joined the SBWMA. He added that the Town's diversion rate already far exceeds what's required, so the Town gains little, if anything, from any new MRF capabilities, and noted that the town is 100% built-out residential community and the benefits of capital investments to expand the Shoreway Facility will not provide benefit to their community.

George Rodericks continued his presentation by noting that Atherton clearly recognizes that the full participation and benefits of the initial bond funding, which developed the Shoreway Facility, is important. They also recognize that the SBWMA JPA Agreement articulates exit costs only related to repayment of the initial Series 2000 Revenue Bonds, as a defined term. He noted that the SBWMA stands alone in any future debt incurred as well as retains ownership of the assets and reserves built by the financial support of its

member agencies. He noted that the Town believes its offer of exit is fair and reasonable, even when looking at it as a straight-line percentage allocation of just recycling. He then gave percentages of Atherton's recycling over the years in the different recycling categories, and compared it to the total SBWMA recycling tons, noting that Atherton is on average 2.1% of the total recycling tonnage in the JPA. He concluded that the town's exit obligation would at the very least, be a maximum of 2.1% for the outstanding initial bonds, but the SBWMA analysis includes the 2019A and 2019B bonds. He added that if the focus remained on the initial bonds, this would lead to an exit cost of approximately \$670,000 for withdrawal. He noted that applying the percentage of recycling to the new 2019 bonds which he reiterated, are not being used to support Atherton today nor in the future, raises the cost to the Town to a maximum of \$1 million. He concluded that the Town believes the \$903,623 remains a reasonable offer of exit based on their analysis.

George Rodericks concluded his presentation by noting that he acknowledges that there will be a cost to exit the SBWMA and that the Town should pay those costs reasonably related to the Town's exit. The Town asks that the SBWMA consider the magnitude of Atherton's waste stream in comparison to the overall JPA and acknowledge that the Town is not a typical member of the SBWMA as the SBWMA has outgrown the Town. He noted that as a non-typical member, a straight-line exit strategy harms the Town's good faith membership as a founding equity member of the SBWMA helping build what it is today. He concluded by noting that the Town asks that principles of equity, fairness and reasonableness dictate the decision of the Board regarding the Town's exit offer.

Member Widmer commented that even when he was on the Finance Committee and when they were meeting with the bond counsel, that he made it clear at that time that there was a good chance Atherton would exit, and at that time the bond counsel said that since Atherton was so small it wouldn't need to put that into disclosure. He noted that he has agreed and supported everything that the JPA is putting forward with regards to Shoreway improvements and programs to improve diversion especially in multi-family homes. He noted that the region needs these types of developments to meet diversion goals, but it is not a diversion goal the town needs to meet. He added that the majority of the programs put in place by the JPA are focused on the commercial sector. He noted that looking at a comparison of diversion rates to the total SBWMA for this year is very unfair, because of the shutdown. He asked his fellow board members to consider that Atherton's offer is a fair and reasonable offer. He believes that all of the residents across the JPA have been paying for the improvements at the Shoreway facility, and he believes that if the changes are to benefit commercial that there be a separate commercial rate to pay for the projects that will benefit that sector, but staff has refused to address a commercial rate. He noted that the majority of the costs of the facility are the MRF, the waste and organics are transferred out, so there is no cost associated with that process, all of the costs are associated with the improvements at the MRF which primarily benefits the commercial sector. He believed that a number in the \$1M range is a fair number. He concluded that a year ago when he discussed with the Executive Director the possibility of Atherton's exit, he was reminded that he would have to pay off Atherton's portion of the bond, and he was told at that time it would be about \$1M which is where they think they should be.

Atherton's Town Counsel Mona Ebrahimi spoke on the Town's position as to voting on the Town's exit. She noted the SBWMA's Counsel Savaree pointed out that the language in the JPA agreement section 15.1.c which governs one of the three prongs for the Town to be able to exit the JPA reads "the approval of such withdrawal by a 4/5 affirmative vote of equity members." She reiterated staff's position that individual Member Agencies must approve the withdrawal based on their individual actions. So, each Member Agencies governing board would be required to place the matter on its agenda for consideration, and if the individual Member Agencies approve the withdrawal the matter is presented to the JPA board, and then requires a further 4/5 vote. She noted that she thought that the SBWMA's interpretation was reading something into the agreement that doesn't exist, and goes against the canons of contract interpretation, especially because the plain language simply says "4/5 of Equity Members." She then looked to other

aspects of the JPA agreement to better understand what this section means and gave examples. Section 6.3.a states that only an equity member shall have the right to vote on any matter before the Board and on any matter to be voted on. Section 6.3.b states that non-equity members are expressly not allowed to vote on withdrawal. She used the examples as clarification that equity members are the body that votes on withdrawal. She added that in section 10.7 it says that "each member is entitled to cast one vote on any matter presented to the Board for a vote." She added that there is no language in the JPA agreement that has a separate requirement that each Member Agency's governing board reviews this and thought it would render having a separate legal entity futile. She added that each Member has a designated representative, the clerk calls out the various cities, and each one of you representing your agency speaks on behalf of that Agency. So, based on the language in the JPA and a common and practical interpretation it is the Town's position that the approval is done one time by a 4/5 vote of the equity members.

Chair Benton asked Counsel Savaree to re-state staff's position

Counsel Savaree noted that Staff's recommendation is reflected in Attachment 6 to the staff report, a proposed resolution for the Board's consideration. She added that resolution, if approved, would do 3 things. First, it would call for Atherton to fully defease its proportionate share of the 2019A and 2019B Bonds and to pay the costs associated with that defeasance which is estimated to be \$2.2 million. She noted that the actual amount would be subject to adjustment depending on market conditions. Second, the resolution directs staff to work with Atherton to ensure the defeasance occurs before December 31, 2020. Third, the resolution recommends to the Member Agencies that they review and approve Atherton's withdrawal, effective December 31, 2020, provided Atherton satisfies its obligations to liquidate its debt as determined by the Board and 10 Member Agencies approve its withdrawal. Lastly, she reiterated that staff is confident that their interpretation of section 15.1.c of the JPA agreement is correct. As written, it tasks the Board with making this determination, and it makes a distinction as to the withdrawal itself indicating that must be approved by a 4/5 affirmative vote of the equity members. And the equity members are the Member Agencies. She added that if in drafting this JPA if the intention had been for this board to make both of those decisions that would have been the way the JPA was written, and it is not. She reiterated that staff's recommendation is to approve the resolution shown at attachment 6.

Chair Benton commented that it's clear the Board needs to determine the defeasance amount and asked if they needed to discuss whether it is the Board or the individual member agencies councils that make the final determination on the exit.

Counsel Savaree answered that it is staff's interpretation of the JPA agreement that the equity members make the determination on withdrawal, that is the way staff reads the JPA agreement, and therefore their recommendation is that the Board's only function today is to set the cost formulation, and to recommend to the member agencies that they approve the withdrawal should Atherton pay that defeasance cost.

Member Hurt noted that she has a concern around the other costs box and asked if the TAC or any of the Member Agency Finance directors have weighed in on the staff recommendation.

Counsel Savaree noted that it has not been shared with the TAC but was shared with the SBWMA Board Chair and Vice Chair who reviewed all the information during preparation of the staff report. She also noted that this was presented to the SBWMA's Finance Committee earlier in the spring.

Member Hurt asked for clarification on the term's simple and straightforward approach used in the presentation, noting that she had concerns about that explanation for such a complex contract, and asked for background the help ensure that rate payers would not be penalized for this withdrawal.

Melissa Schick of KNN answered that the statement they made was by no means trying to obfuscate the importance and complexity of the agreement, but the words in the agreement are relatively straightforward with regard to a proportionate share of a liability, and it's standard within the industry to utilize a tonnage percentage as a proportionate share. She added that the proposal as presented by Atherton that we reviewed, had a series of five different scenarios, each of which had a different methodology and approach that KNN didn't find was particularly outlined within the JPA Agreement.

David Brodsley of KNN added that they did not try to re-engineer the business relationship, and therefore relied on the current business practices.

Member Hurt asked if individual Member Agencies will have costs associated with the withdrawal, and how much those costs would be.

Executive Director La Mariana answered that this discussion is focused on the debt service allocation, but staff has estimated the ongoing fixed operating costs, and estimated a proportional share amongst the eleven remaining member agencies on page 8 of the staff report. He also noted that the variable costs will go away because there will not be Atherton tonnage to be picked up or disposed of.

Member Hurt noted that there is \$100,000 in additional costs for attorney and consultant fees included in the withdrawal amount, and she asked if the individual Member Agencies will need to do something similar.

Counsel Savaree commented that the only cost would be the cost to prepare the staff report/resolution and staff will be doing that as a model staff report/resolution for all of the Member Agencies, and to be available to work with each Agency's Attorney so it should be minimal.

Member Widmer commented that the staff's analysis of the allocation is just a straight allocation looking at total tonnage there was no allocation of what money would be needed to try and support that tonnage, which is something Atherton has tried to do. He added that the GreenWaste contract that Atherton has says that if Recology wishes, and if any of their employees are displaced, GreenWaste would pick them up, so there shouldn't be any personnel costs associated with the exit. He added that since the SBWMA is in the process of buying new trucks there is likely one to three trucks that Recology would not have to buy. So, he didn't think there would be any labor or truck costs associated with the Atherton exit.

Member Brownrigg asked about the Town of Atherton's presentation noting that it stated costs would be cheaper somewhere else but was curious because when he read the town's report costs go up in the year 2022, and he asked for clarification.

George Roderick's answered that they do go up, just like they go up with the current Recology contract, but over the course of the anticipated new franchise term the Town actually saves \$4.2-\$4.3 million.

Member Brownrigg commented that Mr. Roderick's comments conflicted with how he read the report. He added that these conversations are in good faith, and that he respected Member Widmer for being a fiduciary to his residents. Adding that each Council Member on this board is in that same position. So, he bears no ill will to the Town of Atherton for examining its options for leaving the SBWMA, as long as it's fair to everyone else because each of the board members are fiduciaries. He commented that he was surprised Atherton's presentation said that they voted for refinancing of the existing debt but not for investment and asked if the Town of Atherton voted against the bonds when they were considered.

Executive Director La Mariana confirmed that Atherton voted yes to proceed with the bonds in April of 2019, and yes to the final issuance of the bonds in June 2019.

Member Brownrigg noted that he remembered Member Widmer flagging this as a potential issue in the Finance Committee meetings, but he also remembered the positive vote.

Member Widmer noted that he commented at the time that he supported from a regional standpoint but not from the town's standpoint, and at Atherton's Council meeting the Town Council voted not to support the refinancing.

Member Brownrigg commented that there was a vote, and Atherton voted for the bonds. He asked for clarification on Atherton's presentation about subsidies. He noted that his understanding of the process is that costs are assigned based on trucks traveled as a metric for how much time Recology is spending in each of the cities, and asked staff to address the issue of cross subsidy that Atherton has.

Staff Mangini answered that Recology has traditionally allocated costs based on time and manpower, so that is how cost allocation has worked for the first 10 years of the agreement. Further to that additional costs are disposal fees, which is the standardized tip fee across all material types at the Shoreway facility, so that is proportionate based on the tonnage that is brought to the facility. He further explained that in the slides Atherton shows lower levels of commercial material so they would not be paying a tip fee more than what their proportionate share of tonnage is into the system.

Member Brownrigg asked if the 4/5 vote was positive votes or what happened if some Member Agencies abstain.

Counsel Savaree answered that the withdrawal requires a 4/5 affirmative vote of its equity members.

Member Brownrigg commented that he would not take a vote on this Board without having formal approval from his Council, because there is no way he would encumber the City of Burlingame in one of the worst economic downturns ever with adding one nickel to Burlingame's ledger to make this possible. So, he would not vote without a majority of his council members directing him to so vote whether or not it is legally required.

Member Widmer commented on the cost allocation methods explained by Staff Mangini, he noted that it's not the Recology costs that are driving costs it's the processing costs. And one of the things that is driving up the tip fees for all member agencies but especially for Atherton where they believe they are paying an unproportionable share, is the cost of the capital improvements that are being put in to address the high density housing disposal and the organics-to-energy which is targeted for commercial.

Member Rak asked Member Brownrigg if he was not supportive of having the Board vote today to approve the cost and move forward to individual council votes, or if he wanted to go through the process in reverse.

Member Brownrigg clarified that if the SBWMA Board believes that the exit fee leaves the SBWMA at cost neutral for each of our cities, then I will brief my Council and get them to do a positive vote to move forward, and he believed he could take that vote today. However, if there was anything less than full cost recovery, and therefore each member agency subsidizes the exit, he didn't feel comfortable taking a vote without the support of his Burlingame Council.

Chair Benton noted that the Board's responsibility today is only to determine the defeasance amount, once our Board recommends exit to the member agencies it will not come back to the SBWMA Board and there will be no further action at the Board level.

Member Hurt asked what happens if this Board moves forward with one of the options presented and then we go forward to our individual councils and they disagree with the amount that the Board has set, she asked if there was any ability for editing.

Counsel Savaree answered that the Board makes the cost of withdrawal determination, and the determination is final.

Member Hurt thanked staff and Atherton for the work that has been done on both sides. She commented that the SBWMA is a really important regional body that has always had a one for all, all for one mentality, and some of the members are small cities and some of the members are large cities, but it's the greater good that's important. At the end of the day she didn't want rate payers penalized, and while she was appreciative of all the work Atherton has done as one of the first members of the group and building the SBWMA, it's really an economic decision. She noted that she follows the course with the recommendation of the SBWMA attorney and advisors and has not heard anything from Atherton at this point that would make her look further into the options they suggested. She also noted that given these dramatic fiscal times, it is unfortunate that this is another layer, and who knows how much this will affect rate payers, so she tends to land on option one. She noted that she was concerned about the other costs and will \$100,000 be enough to cover those costs. She added that she hasn't been able to go through the staff report with her Public Works or Finance Director with the numbers presented, so she felt apprehensive and cautious that everything was covered in the exit cost number recommended. So, she was still on the fence.

George Rodericks commented on Member Hurt's question about what happens if the individual city councils disagree, and Counsel Savaree's answer that the SBWMA Board's determination of the withdrawal costs, and the individual Member Agency's Council determination on withdrawal are both final. He noted that if there was a disagreement, the Town of Atherton would be held hostage to membership in the JPA.

Member Mahanpour commented that she agreed with Member Hurt's comments we're all in this together, and she hated to put the burden on her rate payers because one member wants to withdraw, and especially in these times of economic challenges. She noted that she is leaning towards option one and thinks it is a fair and equitable option. She also noted that board members need to keep in mind that this process was setting a precedent, and whatever is decided, if another member wants to withdrawal the process will be guided by what today's determination is.

Member Bonilla commented that he is in favor of option one, and noted that it was an economic decision, if one member drops away, we all have to share the operating costs, and the numbers don't lie, and he believed the math was correct in option one. The SBWMA has to continue with its mission and he supports all the programs the Agency is doing including looking to be better in the future, so he proposed moving forward with option one, and he didn't think the Board could stop Atherton from leaving, because they want to leave.

Member Groom commented that if Atherton wants to leave, what kind of partner would they be if they stayed, so let them go, but let's take option one so we can get reimbursed as fully as possible as we can, and after they exit take a hard look at the budget and revisit expenses and revenues and reevaluate. The SBWMA has a great staff and we can reevaluate together.

Member Rak noted that he was also inclined to support option one, and he thought if Atherton wants to leave they are going to leave and the SBWMA has to figure out what the next steps are without impacting the rate payers.

Chair Benton commented that Hillsborough and Atherton are similar agencies with similar demographics. He noted that Member Widmer and he have talked for a number of years about some of the inequities that creep into the system because they are residential, and yes some of the expenses that are approved perhaps but not necessarily are aimed at improving commercial diversion. But when he looks at the percentage Hillsborough is paying because it is also a small town like Atherton, he concluded that Hillsborough's costs might even go up if they had to find an independent hauler. He also noted as members of the San Mateo County community at large, in a small way just picking up 2-4% in costs for Organics-to-Energy as an example, which is aimed at the restaurant sector, was minor because it was aimed at bettering the environment, and bettering the lifestyle of all of the residents of the County. He noted that as a fiduciary for Hillsborough he thought it was a rather de minimis amount that Hillsborough might be paying that we might be paying for the overall benefit of our community. He noted that he supported option one as well.

Chair Benton read the recommended resolution: Now therefore be it resolved that the Board of the South Bayside Waste Management Authority hereby determines that in order to satisfy its requirement under Article 15.1.a., Atherton must fully defease its proportionate share of the 2019A and 2019B bonds, and pay for the costs associated with the defeasance. The Board determines that Atherton's proportionate share of the 2019A and 2019B bonds is 3.24 percent, based on Atherton's share of the SBWMA's overall franchise tonnage in 2019. The cost to defease Atherton's bond share is estimated to be \$2,203,016 (\$2,103,016 to defease + \$100,000 costs). The actual amount is subject to adjustment depending on market conditions at the time of defeasance. Staff is directed to work with SBWMA's financial consultants and Atherton staff to ensure the defeasance of the bonds occurs prior to December 31, 2020. Be it further resolved that the Board recommends that its Member Agencies now review and approve Atherton's withdrawal from the SBWMA, effective December 31, 2020, provided that on or before December 31, 2020, Atherton satisfies its obligation to liquidate its proportionate share of debt, as determined by the Board. Pursuant to the JPA, a minimum of ten (10) Member Agencies must approve the withdrawal for it to take effect.

Motion/Second: Bonilla/Groom

Roll Call Vote; 9-2-0-1 Motion Approved

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			

Chair Benton noted that this is a final determination by the Board, and it is not subject to further appeal. Staff will prepare and send a letter to each Member Agency's manager and attorney, transmitting the approved resolution and asking that each Member Agency place this on an upcoming agenda so that Atherton can obtain approval from 4/5 of the Member Agencies to withdraw. This must occur before December 31, 2020. Staff will also provide the Member Agencies with a model staff report and resolution to assist the Member Agencies in this process.

6.

**7. Collection and Recycling Program Support and Compliance**

No Items

**8. Shoreway Operations and Contract Management**

No Items

**9. Public Education and Outreach**

No Items

**10. Informational Items Only (no action required)**

- A. Finance and Rate Setting Calendar for August 2020
- B. Check Register Detail for June 2020
- C. Potential Future Board Agenda Items

**11. Board Member Comments**

Chair Benton thanked George Rodericks, and Member Benton and the others from the Town of Atherton for their presentations, if you chose to advance to the Council agendas, we will miss you, and we will miss Member Widmer because he's always been a proactive and thoughtful board member. He thanked the SBWMA Board for their thoughtful comments and preparation.

Member Hurt also thanked Atherton for being a great partner all these years and helping to build the Agency, and she looks forward to great things that the SBWMA does in the future.

**12. Adjourn 3:33PM**