

MINUTES

**SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
MEETING OF THE BOARD OF DIRECTORS
September 30, 2021– 2:00 p.m.
Via Zoom Tele or Video Conference Only**

Call to Order: 2:03 PM

1. Call to Order/Roll Call (Closed Session)

Agency	Present	Absent	Agency	Present	Absent
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	
Menlo Park	X				

All Members and public participated by Zoom Video or Conference Call

2. Public Comment

Persons wishing to address the Board on matters NOT on the posted agenda may do so. Each speaker is limited to three 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. **Speakers may also submit comments via email prior to the meeting by sending those comments to rethinker@rethinkwaste.org.**

None

3. Adjourn to Closed Session:

Pursuant to Government Code Section § 54957– Public Employee performance evaluation – Executive Director.

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

Call to Order: 2:18PM

Agency	Present	Absent	Agency	Present	Absent
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	
Menlo Park	X				

5. Public Comment (Public Meeting)

None

6. Executive Director's Report

Chair Aguirre opened the meeting by noting that she and Executive Director La Mariana participated in a regional Joint Venture Silicon Valley SB1383 workshop yesterday where Executive Director La Mariana was a speaker, and she introduced him. She thanked Executive Director La Mariana, the Board Members, and staff for their leadership because it was an eye opener for her how far along this agency is in preparing for SB 1383 compared to other jurisdictions in the state.

Executive Director La Mariana thanked Chair Aguirre and stated that this is a team sport, and he also thanked the Board, TAC, Staff, and stakeholder partners SBR and Recology for their leadership. He explained that the SBWMA's estimates for SB1383 implementation are between 3-7% increase to rate payers, and he's been in talks with other jurisdictions that don't yet have the three-cart system that could see as much as a 90% impact to their rate payers, so even with the challenges he thought the SBWMA was in really good shape.

He then gave the following updates:

- He has been invited to speak at the National Recycling Congress on November 11 on batteries, as staff continues to try and move the needle on batteries for safety for our workers and contractors.
- He reminded Board members of the remaining dates they should have on their calendars for 2021: 10/12, Finance Committee Meeting, 10/21 Board Study Session on the budget, 11/18 Board Meeting, and 12/16 Zero Waste Committee Meeting.
- The Zero Waste Committee will have an Organics-to-Energy Pilot program recap.
- He complimented Staff Carter and Staff Au who have giving presentations at the Member Agency city council meetings to educate all of the elected officials on SB 1383. And noted that staff expects that all the SB 1383 MOUs will be signed by year end.

He then gave an update on the recent Recology San Francisco settlement. The SBWMA has fixed costs contracts with both Recology and SBR, and even though the SBWMA has those contracts, he wanted to state on record he wants to ensure that the Agency doesn't see any of those San Francisco costs trickle down to the SBWMA rate payers, that must be kept completely separate and have zero impact to the SBWMA.

Chair Aguirre commented that even though we know that the contracts in the two jurisdictions are different public perception can be similar, so she asked staff and Board Members to work on differentiating the SBWMA region from the San Francisco region.

He then closed his report by noting the 4 major items that will be considered today:

- Recology's 2022 Compensation Application
- SBR's 2022 Compensation Application
- Construction and Demolition processing agreement with Zanker Resource Management through 2026 with options into the early 2030s.
- The Operations Agreement RFP package that will go out to the marketplace on October 1 and come back to the Board this time next year for a contractor.

Lastly, he thanked Recology and SBR for their efforts on the compensation applications. He also thanked the SBWMA staff and legal team for their work on all the projects. And he welcomed five new fellows to the SBWMA.

7. 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 July 22, 2021, Board of Directors Meeting
- B. Approval of Quarterly Investment Report for the Quarter Ended June 30, 2021

Motion/Second: Bonilla/Froomin

Roll Call Vote: 11-0-0-0

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
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			
Menlo Park	X								

8. Administration and Finance

No Items

9. Collection and Recycling Program Support and Compliance

- A. Resolution Approving the SBWMA Final Report Reviewing the 2022 Recology San Mateo County Compensation Application

Executive Director La Mariana introduced the item and Staff Mangini gave the detail. He noted that the final report includes both Recology’s 2022 compensation application and the Member Agency revenue requirement for 2022. He gave a recap of the process noting that staff and RRS Consulting performed a thorough review of the methodology prescribed in the contract for the increases, verified the indices, calculations, and mathematical accuracy of the compensation application. He noted that there was one item discussed at the study session that was still in process. RRS had recommended yearly auditing of the lifts data, which drives the service level adjustment portion of the compensation, and in that process, staff discovered some minor discrepancies in the lifts data. Recology did their review of this discrepancy and discovered that accounts put on vacation hold were still being accounted for in the data, resulting in a roughly \$50,000 overstatement. He added that staff recommends including this \$50,000 in the 2023 compensation application due to timing and amount resulting in a \$2,000 to \$8,000 adjustment per member agency in 2023.

Executive Director La Mariana then gave an overview of staff’s recommendation on Recology’s request for \$230,000 for compensation of COVID related costs. There were two categories in the request, about \$46,000 of the request was for computer equipment, and at the study session staff received board feedback that there was not support to cover those costs. Staff then focused on the remaining \$184,000 costs for PPE and cleaning and other costs spelled out in the staff report. He noted that at Board direction staff investigated these costs and based on industry feedback(s) that other collection service providers are not asking for cost recovery on these items, staff is recommending splitting these remaining costs for a total compensation to Recology of approximately \$92,000.

Vice Chair Bonilla and Member Brownrigg agreed with staff recommendation and think this a fair resolution.

Member Hurt added that this is a reasonable way to move forward but would be abstaining from the full vote as her Agency is still working through amendments on their franchise agreement.

Executive Director La Mariana added that there is a second recommendation included in the compensation application process related to SB1383. There are two parts to the SB1383 services, one, the SBWMA and Recology are in very strong agreement that will be additional organics collection costs incurred by the company,

and they will be fairly compensated for those costs through the existing compensation application process, and the service level adjustment. The second item staff and Recology were not able to come to agreement on and staff is recommending going out to the marketplace for additional services related to SB 1383 compliance that are not in the franchise agreement.

Motion/Second: Froomin/Brownrigg

Roll Call Vote: 10-0-1-0

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
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			
Menlo Park	X								

B. Resolution Authorizing SBWMA Staff to Solicit Proposals for SB 1383-mandated, Non-Franchised Services

Executive Director La Mariana noted that SB1383 mandates certain services outlined in the staff report, staff is not in alignment with Recology on these services, so if this approved today, staff would go out into the marketplace on these services to find a partner to support the agency for these services in the timeline that is required by SB1383. He noted that staff remains open to Recology bidding on these services and working with Recology if it works for them.

Member Froomin clarified that if Recology bids on the RFP the discussions also have to go through the RFP process, not through the normal course of business. Executive Director La Mariana noted that that was correct.

Vice Chair Bonilla asked how the service level adjustment works regarding these services.

Staff Mangini answered that the first adjustment in the compensation application is the indices-based adjustment. The second is based on the number of accounts for residential, and the number of lifts for commercial and it runs on a three-year rolling average, and the difference in that three-year average will increase or decrease the services which will in turn increase or decrease Recology's costs. Only 75% of the service level adjustment is applied to the indirect costs portion of the compensation application. So as the mandated rollout of the third green can to multi-family and commercial accounts per SB1383 takes place this is the methodology for Recology getting increased compensation for increased services.

Executive Director La Mariana added that the three-year rolling average was expressly negotiated in the amended and restated franchise agreements to smooth out extreme shifts in expenses.

Member Royce commented that he was surprised in reading the staff report, that staff and Recology are so far apart on the costs of providing the services, so the proposal to go the market and see what the actual costs are is a proper one. He asked for some background on why the difference, and if there was a difference of opinion in what the law was requiring, or a difference of opinion on the costs for providing that service.

Executive Director La Mariana added that the discussions have been around what kind of resources are needed to provide these additional services, and then the cost structure for Recology to be compensated for those resources. He noted that there is a scenario that the RFP could underscore the Recology model, but on the advice of HF&H Consultants who felt these services exist in the marketplace staff recommends this approach.

Member Royce wanted to make sure that when proposals are received staff is looking at apples to apples comparison for these services.

Member Hurt commented that the SBWMA is going to need outside support for these required services, and she noted that SB1383 mandates that CARB approves implementation strategies, and she is the representative BAAQMD, and was recently appointed to the CARB Board, so everything that this Board discusses is going to be very important for her to know and understand, and she looks forward to representing the SBWMA's interests. She added that this is a big deal and there are a lot of entities vying for these services so the sooner staff can get out the better.

Motion/Second: Royce/Froomin

Roll Call Vote: 11-0-0-0

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
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			
Menlo Park	X								

10. Shoreway Operations and Contract Management

- A. Resolution Approving the South Bay Recycling 2022 Compensation Application and 2021 Compensation Adjustment for VRS Hourly Rate Increase

Staff Mangini gave an overview of the staff report the increases are mainly indices based which will increase the contract by 3.1% and includes an increase in the VRS hourly rate to \$18.00 per hour.

There was no discussion.

Motion/Second: Froomin/Hurt

Roll Call Vote: 11-0-0-0

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
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			
Menlo Park	X								

- B. Resolution Approving Operating Agreement RFP Documents

Staff Ligon gave a PowerPoint presentation outlining the RFP documents, timeline, and process.

Vice Chair Bonilla thanked Staff Ligon for the very detailed and in-depth work that was explained in a short amount of time. He asked for further clarification on the ex parte communication, but after revising slide 14 the question was answered.

Member Brownrigg thanked Staff Ligon for his work on this and noted it's a very impressive piece of work.

Motion/Second: Brownrigg/Rak

Roll Call Vote: 11-0-0-0

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
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			
Menlo Park	X								

C. Resolution Approving Code of Conduct for Shoreway Environmental Center Operations Contractor Selection Process

Counsel Savaree noted that to ensure an open and fair process during the contractor selection process, it is recommended that the Board adopt a Code of Conduct. The proposed Code of Conduct in the packet prohibits ex parte contacts between potential contractors and SBWMA Board Members, Technical Advisory Committee Members, SBWMA staff, and consultants. The Code of Conduct also prohibits Board Members and the other parties from accepting gifts or compensation of any kind from potential proposers.

Motion/Second: Froomin/Rak

Roll Call Vote: 11-0-0-0

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
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			
Menlo Park	X								

D. Resolution Authorizing the Executive Director to Enter into a Contract with Zanker Road Resource Recovery for Construction and Demolition Materials Processing Services

Staff Ligon gave an overview of the RFP process and summarized that the staff report approval would extend the contract for 4.9 years to sync it up with the calendar year, and 5 potential one-year option years.

There was no discussion.

Motion/Second: Hurt/Rak

Roll Call Vote: 11-0-0-0

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
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			
Menlo Park	X								

E. Resolution Authorizing the Executive Director to enter a contract for MRF and Transfer station Tip Floor Repairs if RFP responses do not exceed \$300,000

Staff Ligon gave an overview of the procurement process which typically needs to be done every year but needs to be expedited due to the local enforcement agency giving notice.

Staff Gans gave an overview on the technical side of the process to replace the floor surface with a special material that lasts longer than concrete but still needs to be replaced every few years. He noted that this project was budgeted in next year's budget, but the condition of the floor requires this work to be done sooner. So, \$200,000 of the \$300,000 will come from projects that haven't been completed yet this year, the other \$100,000

was budgeted for this year, so there will be no budget impact, and it will be 2 years before the need to do this again.

Member Froomin asked if the specialized material was a new development since the building was built, and if in the long run it would be more economical to replace the entire floor surface as one project.

Staff Gans answered that there is differential wearing on the floor surface because the trucks and loaders move in regular patterns on the floor surface, and because of that it makes more sense to take this pothole repair approach. He added that instead of an aggregate like concrete the material has metal shavings with a binder agent it isn't new technology, but it is evolving, and we're constantly evaluating the cost against the wear rate and determining the best value.

Vice Chair Bonilla commented that how the loader is used could make a difference on the amount of wear, and he asked if the loader operators have any training to reduce the wear on the floor by their activity.

Staff Gans answered that a number of years ago they switched from a steel-edged loader to a rubber edge loader, and most of the wear is caused by the tires spinning on the surface, the floor is slick, which can make the problem worse. He added that the latest technology he is looking at is a pedestal crane that would stand on top of a metal plate and work similarly to an excavator. The problem with that is once you put it there it doesn't move, so it's not as flexible as a loader.

Motion/Second: Bonilla/Froomin

Roll Call Vote: 11-0-0-0

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
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			
Menlo Park	X								

11. Public Education and Outreach

No Items

12. Informational Items Only (no action required)

- A. 2021 Legislative Session Update
- B. 2021 Finance and Rate Setting Calendar
- C. Check Register Detail for July & August 2021
- D. 2021 Meeting Planning Guide

13. Board Member Comments

Executive Director La Mariana closed the meeting by thanking the Board, TAC, stakeholders, Staff Ligon, Staff Mangini, Staff Gans, Staff Southworth, Counsel Savaree and Deputy Counsel Borger for the financially significant and consequential work on the items that were approved today.

14. Adjourn 3:35PM