



A Public Agency

CONSENT CALENDAR

DRAFT MINUTES

SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
STUDY SESSION OF THE BOARD OF DIRECTORS/TECHNICAL ADVISORY COMMITTEE
September 9, 2021– 2:00 p.m.
Via Zoom Tele or Video Conference Only

Call to Order: 2:02 PM

1. Call to Order/Roll Call

Board Members

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				

TAC Members

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. Executive Director's Report

Executive Director La Mariana welcomed everyone to the meeting and gave the following updates:

- Staff is facilitating SB 1383 study sessions with the Member Agency's elected bodies by request, and they expect to engage in this education with all the member agencies.
- Staff is currently working on two important and high-profile documents. One for the processing of C&D Material that is brought to Shoreway, and the contract as a result of that RFP will be on the September Board Meeting agenda.
- The second is the Operations Agreement RFP staff will be presenting the documents that will be a part of the RFP to the Board for approval at the September Board meeting, and if approved the RFP would be released into the marketplace in October. Responses to the RFP would be due in January, followed by a thorough and collaborative review of the proposals with a recommendation to the Board on the award of the contract in the fall of 2022
- Today's study session will be on the contractor's compensation applications for 2022. Overall, Recology's adjustment for the 2022 rate year is based on the fixed cost contract with CPI-based adjustments is 1.6%, and SBR's is 3.2%. Details will be discussed at agenda item 4.

4. STUDY SESSION: 2022 Contractor's Compensation Applications

- A. Review of the SBWMA Draft Report Reviewing the 2022 Recology San Mateo County Compensation Application.

Staff Mangini gave a PowerPoint presentation reviewing the compensation application and the total revenue requirement for each Member Agency for 2022. He noted the revenue requirement includes the Recology costs, disposal costs, Member Agency fees for administering the programs. He noted that overall, the increase for 2022 is 1.6% and includes the 4th bulky item collection/abandoned waste route but excludes Recology's request for COVID related expense reimbursements. He also noted that the cost for Belmont is a place holder because Belmont has a unique methodology for compensation directly with Recology and those numbers are not yet available. He also noted that these numbers exclude the costs for anticipated additional services by Recology for SB 1383 compliance, staff is still in discussion on that. He also noted that staff contracted with a 3rd party RRS Consulting this year to do the detailed work of the service level calculations to make sure the methodology set forth in the contract is followed.

Executive Director La Mariana explained why staff elected to use a 3rd party consultant this year. He noted that some board members expressed concern with the serious issues with Recology in San Francisco that caused staff to rethink how to approach this part of the review. Staff thought it was very important to engage an independent 3rd party industry expert to look at the calculations to independently corroborate and verify them. He introduced Michael Timpane of RRS consulting.

Michael Timpane gave an overview of the RRS process to complete reviewing and verifying that the calculations tied to the compensation application.

Executive Director La Mariana gave a more detailed overview of the Recology request for additional compensation amount due to additional COVID costs. He noted that while staff is sympathetic to this request, there were opportunities for reimbursement at the federal level, and staff is not going to recommend approval of those costs. He thanked both Recology and SBR for their service, noting that they performed seamlessly during a very challenging time.

Member Brownrigg commented that the total amount is \$220,000 worth of PPE, and that he was sympathetic to the request by Recology noting that these essential workers were required to work during an unknown pandemic, and he thought the SBWMA was obliged to provide that PPE to them, and he was in favor of reimbursing them for the PPE.

Member Froomin asked for further explanation of Table 8, so he could find the bottom line of what each community needed to raise rates to next year.

Staff Mangini noted that it's the F3 line on table 8, but that said it's tricky because if you did adjust to that number your city's revenue would most likely be higher than it needs to be. He gave a specific example for Foster City and offered to sit down with each Member Agency to discuss their rate setting process.

Member Froomin then asked for clarification on Recology's additional compensation request, noting that he understood the PPE cost, but wanting more clarification on the computers and equipment cost.

Mike Kelly of Recology noted the County required any employee who had the ability to work from home, to work from home, in order for our employees to work from home computer equipment internet etc. had to be purchased so they could continue to provide their customer service duties from home.

Member Bonilla commented that employers are required to provide PPE under normal conditions by state law but noted that these are extraordinary conditions.

Mike Kelly agreed that this was an extraordinary condition, and that Recology had significant challenges as a result of the pandemic including staffing shortages, and while other industries were able to offer alternative services or reduce staff during the pandemic Recology offers an essential service that was mandated to continue happening. All of the costs submitted are valid and related to the pandemic, and are above and beyond what is normal, and he thought their request is fair and should be considered based on the catastrophic event clause in the contract. He also noted that the additional cost is less than 2/10 of 1%.

Chair Aguirre asked if Recology solicited support from all of the other government agencies that were offering support to businesses during the pandemic.

Mike Kelly answered that Recology tried through their legal department and through local government, but because of the size of the company and the industry Recology didn't qualify for funding.

Chair Aguirre and Vice Chair Bonilla asked for Board feedback on this item.

Member Hurt noted that she wanted to do more research and understand the numbers better before supporting the additional cost but wants to support safety in the workplace. She expressed concern about the rate payers paying for this cost if Recology was making profits.

Member Froomin asked if Recology was able to assess a reduction in costs at the work site with people working from home.

Mike Kelly answered no because while staff was reduced there were still people onsite every day, and most of the utility costs comes from the operations not administration.

Member Froomin commented that he could see some level of disposable items that were necessary for the pandemic being reimbursed, but less inclined to pay for the computer costs that can be maintained and used into the future unrelated to the pandemic.

Member Dehn commented she has mixed feelings about the issue.

Member Bonilla asked staff to look at the difference in the cost for the PPE versus the computers and include the

safety equipment in the final report that the board approves.

TAC Member Clark asked why this issue wasn't brought up until the compensation application process, and PPE is likely going to be an ongoing expense with everyone masking, if approved would this be an ongoing cost.

Mike Kelly answered that section 11.05 of the contract notes that Recology is supposed to include costs in the compensation application if a request is being made.

TAC Member Pegueros asked what the driver in the reduction in fuel costs was which somewhat negates the impact of increases in other line items.

Mike Kelly answered that is based on a 12-month average of the fuel index, and most of the year fuel costs were lower, it's just beginning to increase in the last part of the year, but fuel is very volatile so not predictable.

TAC Member Pegueros asked to what extent have the costs been impacted by the decrease in commercial disposal due to the pandemic.

Mike Kelly commented through the service level adjustment process Recology's compensation will be reduced as a result of less services provided based on a three-year rolling average.

Executive Director La Mariana concluded that staff will very likely come to the September 30 board meeting with a recommendation to split the pandemic costs and recommend including the disposable items but not the reusable computer items. He then gave a brief update on SB 1383, noting that staff has been working diligently with Recology and they do not have full agreement on all the negotiation issues. There might be a scenario that they aren't able to come to an agreement, and if that is the case staff will need to look to the outside marketplace for similar support services. The member agencies are responsible for complying with the mandate, therefore the SBWMA has to provide those technical services for the Member Agencies one way or the other.

B. Review of the SBWMA DRAFT Report Reviewing the 2022 South Bay Recycling Compensation Application

Staff Mangini talked through the key points of the operations agreement compensation application. He noted that this is a straightforward 100% indexed adjustment that overall means a 3.2% increase in 2022. He noted that there is one area of the agreement that is not indexed based and that is the reimbursement for the cost of the vocational rehabilitative services (VRS) staffing who provide sorting services at the facility. That portion of the contract is more of a cost-plus model, and with the new contract with VRS SBR will be increasing the pay to the staff to \$18/hour from \$17.52 starting July 1, 2021, as well as an increase in the VRS administrative fees which is based off of the hourly rate.

Executive Director La Mariana acknowledged SBR's efforts, the SBWMA relies on them to operate the facility just as much as the SBWMA relies on Recology for the collection. The SBR agreement is more straightforward because the Recology Franchise agreements are 11 separate agreements between the member agencies and Recology. But the operations agreement is an agreement with the SBWMA directly.

5. Board Member/TAC Member Comments

6. Adjourn 3:13PM

DRAFT 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

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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 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

DRAFT MINUTES

SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
MEETING OF THE BOARD OF DIRECTORS
October 21, 2021– 2:00 p.m.
Via Zoom Tele or Video Conference Only

Call to Order: 2:00 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				

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None

3. Executive Director's Report

Executive Director La Mariana welcomed all to the meeting and gave the following updates:

- The two main topics of this study session are the presentation of the draft 2022 operating budget and with that, a highly related, but separate conversation on the proposed capital improvement plan. He also noted that the Finance Committee reviewed both in depth at their October 12 meeting.
- Regarding the budget he noted that this is the first year since the switch to a full year calendar budget, what that means for staff is that the budget development work that used to occur in March and April now occurs at the same time as the compensation application work in the summer and fall, which is quite an epic lift and he showed appreciation for Staff Mangini, Staff Ligon, the entire management team and Counsel Savaree for their work these last few months.
- The Operations Agreement RFQ was posted on our website on October 1 and distributed to about 250 members of the industry throughout California. Staff has received a lot of responses to the site facility tour on October 27, which is the first step in receiving qualified bids.

- The RFP for the MRF and transfer station tip floor resurfacing is out as well.
- Staff didn't receive any responses to the MRF wall repair project, so that RFP is being rebooted in a different way to hopefully solicit some responses.
- The RFP for the SB 1383 additional services will be posted soon, and staff will have this item for consideration at the January 2022 Board meeting.
- Staff Carter has been working alongside CalRecycle to present SB 1383 study sessions to the staff, board and elected officials of the Member Agencies, so far they have done seven of the eleven member agencies.
- Staff is anticipating a Board decision item on how to deal with transitioning the SBR fleet of 23 big rig trucks to meet the California Air Resources Board (CARB) regulation that will require that fleet to be transitioned a year before the current contract is done. More to report on this soon.

4. Resolution finding that Meetings of the Board of Directors, Technical Advisory Committee and Board Appointed Sub-Committees via tele conference to protect against the ongoing and imminent health and Safety Risks posed by COVID 19 and determining that all Such Meetings will Continue to be by Teleconference Pursuant to California Government Code Section 54953(e)

Executive Director La Mariana gave an overview of the staff report and decision to be made. There was no discussion.

Motion/Second: Hurt/Froomin

Roll Call Vote: 9-0-0-2

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								

5. STUDY SESSION: Administration and Finance

A. Review of the Draft FY 2022 Operating Budget and Capital Expenditures

- Discussion on Revenue and Operating Expense Projections

Executive Director La Mariana gave opening remarks, thanked Staff Mangini for his work on the budget, and the finance committee for the very thorough review and technical feedback. He noted that there were three main drivers to this year's budget that are still wildcards and staff has a conservative approach to, on these kinds of estimations. One is COVID economic recovery; two is SB1383 which is becoming clearer, but there are still some unknowns; and three, the unknown components of the organics the energy (O2E) pilot project.

Staff Mangini then gave a PowerPoint presentation on the FY2022 budget, giving a high-level overview, noting that the detail was in the staff report. He added that based on the Board's feedback today, the budget will come back to the board with adjustments at the November 18 Board meeting. Highlights of the presentation included:

- on the expense side:
 - This budget recommends a tip fee increase on the franchise portion between 2.1 and 2.9% with a small increase on third party tons, and public yardage as well.
 - The proposed budget is \$1.2 million net income to revenue to reserve.
 - He has added about \$660,000 to the operating expense line item for O2E processing
 - There is a 16% increase in property insurance which renews on July 1 each year, and staff expects it to continue to go up next year.

- There is an 833k increase over last year overall mostly related to SB 1383 expenses starting in January 2022.
- But the non SB1383 related expenses proposed are going up \$158,000 or 4%.
- As far as staffing there is 3% COLA, and the restoration of the fellowship positions and hours which were reduced at the mid-year budget.
- He called out the continued temp labor share with SBR, where the SBWMA is sharing a portion of additional temp labor for sorting.
- There is an increase in education center expenses as we expect in person tours and bussing to return to pre-pandemic levels.
- On the revenue side:
 - Commodity revenues were strong at the mid-year budget because the commodity markets are strong currently, but staff is bringing that number down next year to be conservative because the expectation is that the markets won't be able to maintain at the levels they are currently.
 - This budget projects a 13% decrease in public yardage because that material has been down recently.
 - Operating expenses are based on tonnage and disposal processing, so with tonnage projected down the SBR operating expense is also projected to be down 4%.

Staff Mangini thanked Board Member Groom for her foresight in requesting that the SB 1383 expenses be kept separate. He thought that was a wise move because if that wasn't done and the budget was commingled it would be a much different impression on what's going on.

Member Froomin made two comments. One there is \$1.27M coming out of reserves in this budget to pay for Capital Improvements (CIP). And he thought it was important to note that the budget presented results in a reduction in reserves. Two, to avoid the appearance of budgeting to a deficit, he thought in the future presenting a CIP fund separate from the reserve fund as part of the operating budget and managing it separately would be a better tool for planning ahead.

Staff Mangini answered that he had spoken with Member Froomin about this already, and that he plans to reach out to Member Agencies and Members of the Finance Committee to see how they structure it in local government to see if there is a way to present the information in a way that is cleaner. The way it is presented was at the recommendation of the Finance Committee to show what the reserve balances are, how they're broken up into the different reserves and also how those numbers were calculated which is adding operating income less spending from the capital reserve, and also payments made for principal on the debt on the bonds.

The Board then discussed the capital budget.

Executive Director La Mariana gave an overview of the drivers of the capital budget which is separate from the operating budget. The JPA owns the Shoreway facility and staff manages it on behalf of the member agencies and rate payers. Each year staff identifies projects at Shoreway of items that need to be repaired or upgraded to maintain safe facilities that are highly functioning to handle the amount of material coming through the facility, as well as to stay in compliance with the many different regulatory agencies that the JPA is accountable to. Also included in this capital budget is a 5-year projection. Year one of those 5 years is part of the budget that will presumably be approved in November, but each project over the Executive Director's authorized spending level (\$50K) would be required to come back to the board throughout the year for individual project and budget approval by the Board.

Member Froomin commented that the capital budget presented on page 33 of the packet emphasized the point he was making earlier about reserves paying for capital. \$1.19M is taken out of reserves to pay for capital

expenses. Next year, that number goes down to \$775,000, year three is \$7.8 million. He commented that if he was understanding it correctly, when the budget for year 3 is presented, it would require the agency to dip into reserves by \$7.8 million. He commented that if staff can project these projects out further, there should be a way to amortize those costs over a longer period and the swings would be much smoother.

Executive Director La Mariana commented that staff is open to seeing how member agencies prioritize and plan for capital spending and revise how this is presented before the November Board meeting. He also added that as the Agency plans for a Masterplan development, Shoreway could see significant changes that have significant costs associated with them, which would really amplify Member Froomin's point, so staff would come back with the results of the investigation on this topic at the next Board meeting.

Member Hurt asked staff to better lay out which of the capital projects are related to SB 1383, like methane capture, and fleet turnover to zero emissions.

Staff Gans noted that this is something he can't get right now, there is a long list of regulations, and a lot of capital improvements needed to meet them, but he wasn't there yet.

Vice Chair Bonilla commented that he liked Member Froomin's idea of taking a look at a different way to present the capital items, and that long term projections could be better laid out. He added that the Finance Committee should have a chance to review these possible changes.

6. STUDY SESSION: Shoreway Operations and Contract Management

A. Capital Improvement Plan for 2022 and Planning Level projections through 2026

- Organics-to-Energy-next phase recommendations
- MRF Phase II
- Facility/site needs assessment project
- Airport Project update

Staff Gans went over the capital budget spreadsheet presented as part of the 2022 budget. He noted that the basic way to look at the spreadsheet is that the current year, approved with the budget (year one), which is what is proposed for next year. And then the years two, three, and four projections are the estimates of those capital projects, capital expenses and the period at which those projects will land. They're obviously subject to change but are important for financial planning, and obviously if the reserves don't exist, then the projects can't be done. In looking at the list of projects, projects in line 1 to 7 are recurring projects that reoccur year after year. These include fixing pipes, repaving certain areas, fire suppression, storm water etc. the money is there for projects that come up during the year, but may not get spent. Looking at the projects in line 8 to 11 are one-time projects set to be expensed in 2022. He added that there are some projects in this category that were in last year's budget, but staff didn't get to them, so they are now in next year's projects. Line 13 to 17 are the really large capital projects.

Staff Gans then explained the large capital project plans. \$2.5M in paving has been projected because the site really needs to be repaved. But before the site paving can be done the underground storage tanks need to be removed and replaced. These are the fuel storage tanks that are really regulatorily obsolete, and they've got to be replaced by the end of year 2024. \$100,000 has been budgeted this year for engineering and planning work. Then the tank removal project will take place over years two and three, for a total of \$1.5 million. Once the site has been ripped up to replace the underground storage containers the repaving of the site can be done. He noted that he wanted to explain that staff is considering the sequencing of all the proposed projects.

Executive Director La Mariana then explained line 14, (\$5M in 2024 and 2025) the transfer station odor mitigation system. He noted that is the BAAQMD 13-2 Rule, that the Board has talked about in the past. The Air Board has been slow to issue this regulation, but this estimated money is set aside as place holder as staff anticipates this regulation coming. He noted that this is not a methane reduction regulation it is an odor mitigation regulation. He then explained line 16 the Shoreway Power Supply system upgrade. He noted this could be both a climate and a methane related issue because it's about trying to electrify or build the infrastructure to electrify our fleet, and fleet fueling. The conversation about what vehicles (collection and long-haul) become electric vehicles is still fluid, but there are a lot of collection and long-haul vehicles so that is why there are some big numbers there.

Member Hurt commented that she sits on the BAAQMD Board along with Board Member Groom, they did put rule 13-2 on hold but are planning to bring it back forward now because of climate talks and reduction needs in every sector. She noted that she is doing her best to uplift the regional and local impact and carve out more time so that local Agencies like the SBWMA can achieve this and not be impacted by "death by 1000 cuts" because of all the regulations, which is what she is worried about. But agreed that the CIP needs to include the idea of electric infrastructure, the idea of changing our facility and its makeup. There are a lot of moving parts, lots of new ideas lots of new policies and she is doing her best to stay on top of it.

Staff Gans respond to Member Hurt's comments noting that the only item on this capital budget list that are directly responding to climate change and 1383 is the organics-to-energy (O2E) project. Staff anticipates there to be additional 1383 goals, which will likely have a capital impact. Staff doesn't see that \$5 million on line 14 for transfer station odor mitigation will have climate related impacts.

Staff Gans then discussed the MRF upgraded phases. MRF phase one is complete and was \$6.3M. It was the first major source system upgrade since the original installation of the MRF equipment. The industry is really moving towards robotics to efficiently sort, so money to install more equipment will be needed, and hopefully there will be offsets through better product and better commodity product sales, as well as reduction in labor costs. With the new equipment added in MRF phase I, overtime expense has almost been eliminated through this more productive sorting system. Now, staff is planning for MRF Phase II upgrades to drill down and find other gaps in the equipment and opportunities to save money and make a better commodity product. MRF Phase II includes \$200,000 next year for planning and design, and then \$3M of equipment. Staff is now recommending a MRF Phase III. It is expected that if there's a new operator at the facility as a result of the current operations agreement RFP, that new operator is going to have their own ideas about how to run the equipment differently, and potentially what equipment should be used. And the Agency wants to be in a place to be responsive to that, so MRF phase III is a placeholder number.

Staff Gans then discussed line 21: the O2E full project. The O2E project was conceived as two phases. Phase I was really going to handle source separate organics, which it is doing now. Phase II was looking at expanding that project and processing the garbage as a way of avoiding the collection costs associated with 1383. It's likely going to be in the \$5 million per year range on collection costs for SB 1383 compliance. So, the idea was to spend \$5M to \$10M on an O2E sorting system, and have a one-time capital cost of \$10 million, that would be better than a \$5 million cost every year. That project is still evolving, but at this point that looks like it's going to be hard to make it work, primarily because CalRecycle's rules on diversion of organics include materials, like paper textiles and wood, and this system just isn't capable of processing that material. He noted it's a continual discussion with CalRecycle and staff would continue to report back.

Executive Director La Mariana commented that this is the first time staff is publicly talking about a MRF Phase III project. In terms of a net budget impact there is none. Planning estimates for MRF Phase II was always about \$6M. This includes some planning concepts involving robotics and either our continued partnership with SBR or if

the process dictates, a new partner there. If it is a new operating partner there might be a new way to look at modernizing and bringing the technology and the MRF forward even more. So, that same \$6M is there but \$3M million is earmarked for phase II, and \$3M is earmarked for phase III.

Executive Director La Mariana continued that line 24 has \$11M remaining for projects (a year-end estimate), these are the funds that were netted from the bond refinancing two and a half years ago. The ended up with \$20 million net of the transaction, and still lowered the debt service to our ratepayers by \$500,000 a year. Some that that money has already been invested in several projects. The remaining \$11M allows staff to invest in other projects (line 24) along the way without costing the ratepayers anything, which was an extradentary lift by Staff Mangini, the Finance Committee and the Board.

Executive Director La Mariana then noted at line 15 there is no dollar amount in there currently. In Spring of 2022 staff will be working on a Masterplan document, he is anticipating several big ticket projects to emerge from this process, but the masterplan won't be ready for review until late spring or summer 2022 then those numbers should become clearer.

Vice Chair Bonilla thanked staff for the technical work to frame where the Agency is now, and where the SBWMA hopes to be and the plan for how to get there. Regarding SB 1383, long term environmental benefits from SB1383 work will far outweigh any of the pain from costs in the short term, so he strongly supported the work and the struggles to be compliant with that work.

7. Board Member Comments

8. Adjourn 3:05PM

STAFF REPORT

To: SBWMA Board Members
From: Cyndi Urman, Clerk of the Board
Date: November 18, 2021 Board of Directors Meeting
Subject: Approval of the 2022 SBWMA Board of Directors Meeting Calendar

Recommendation

It is recommended that the SBWMA Board of Directors approve a 2022 Board of Directors meeting calendar and continue to hold these monthly meetings via video/tele conference or at the San Carlos Library where office space is rented for SBWMA staff as public health orders and return-to-work conditions allow in 2022.

Summary

Staff recommends continuing with a 4th Thursday of the month meeting date as there are not any Member Agency governing body meetings on this day of the week. Historically the November Board meeting has been moved to the third Thursday due to Thanksgiving falling on the 4th Thursday, and staff recommends continuing with that practice in 2022. Additionally, staff recommends that the 4th Thursday in February be ½ day Board Retreat instead of a regular board meeting, and the 4th Thursday in October serve as a budget and CIP review study session instead of a regular board meeting.

Analysis

The 2PM time frame on the 4th Thursday of the month was chosen to avoid as many regional conflicts as possible. Staff has analyzed the action items that take place at the Board level on a monthly basis, and recommends 8 monthly meetings, 1 retreat, and 1 study session meeting schedule for 2022. Meeting monthly with the exception of August and December, and canceling meetings if there are not any action or discussion items in a given month.

Background

The SBWMA monthly Board meetings have historically been held the on the fourth Thursday of the month starting at 2 pm. This day of the week and time was selected to minimize any overlap with Member Agency governing body meetings on Mondays Tuesdays and Wednesdays and other regional government meetings. As requested by the Board of Directors, staff has also checked the national holiday calendar and found no conflicting dates with any major national or religious holidays 2022. Staff usually sends out the agenda and Board packet one-week prior to the Board meeting.

Fiscal Impact

The City of San Carlos currently charges a small fee of \$65 per meeting for the use of the Conference room. This The total cost for 2022 Board meetings will be approximately \$715 as currently scheduled if meetings are to resume in person in 2022. There is no per meeting charge for video/teleconference meetings.

Attachments

Attachment A – Proposed 2022 Board Meeting Dates

**SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
2022 BOARD MEETING SCHEDULE**

Meetings of the South Bayside Waste Management Authority Board of Directors are held
on the fourth Thursday of the month from 2PM to 4PM unless otherwise noted*

Location: Via Tele or Video Conference or if allowed

City of San Carlos Library, 2nd Floor, Conference Room A/B, 610 Elm St., San Carlos, CA 94070

January	27	2022
February	24 (RETREAT 12N to 4PM)	2022
March	24	2022
April	28	2022
May	26	2022
June	23	2022
July	28	2022
August	NO MEETING IN AUGUST	
September	22	2022
October	27 Board Study Session: FY 2023 Budget/CIP Review	2022
November	17 (Third Thursday)	2022
December	NO MEETING IN DECEMBER	

STAFF REPORT

To: SBWMA Board Members
From: Joe La Mariana, Executive Director
Date: November 18, 2021 Board of Directors Meeting
Subject: Resolution Consenting to Change of Control from Zanker Road Resources Management LTD to MIP V Waste. LLC, As Related to the Agreement for Construction and Demolition Debris Processing Services Between Zanker Road Resource Management LTD and SBWMA

Recommendation

It is recommended that the SBWMA Board of Directors adopt Resolution No 2021-36, attached hereto, consenting to a change of control from Zanker Road Resource Management Ltd. to MIP V Waste, LLC, related to the Agreement for Construction and Demolition Processing Services between the SBWMA and Zanker.

Background

The SBWMA currently has an agreement with Zanker Road Resource Management, Ltd. (“Zanker”) in San Jose for Construction and Demolition (C&D) Debris processing services that expires January 31, 2022. On September 30, 2021, the Board authorized a successor agreement with Zanker for C&D Debris processing services (the “Agreement”), which will commence February 1, 2022, and continue through December 31, 2026 (Resolution No. 2021-33). Zanker has informed SBWMA that it has entered an agreement, dated August 28, 2021, pursuant to which the general partners and the limited partners of Zanker have agreed to sell all of their respective general partner and limited partner interests in Zanker to MIP V Waste, LLC (together with its subsidiary, “MIP V”), which would result in a change of control from Zanker to MIP V. Under the Agreement, no assignment or other transfer, including a change in control within Zanker, is permitted without the consent of the SBWMA. Zanker has requested, and staff recommends, the Board consent to the change in control and adopt Resolution No. 2021-36.

Discussion

Zanker owns and operates a construction and demolition (C&D) debris processing facility located in San Jose, California. SBWMA has been under contract with Zanker for C&D debris processing services since 2017. The current agreement with Zanker expires on January 31, 2022, and a successor agreement (“Agreement”) with Zanker to continue services, recently approved by the Board and executed by the parties, will commence February 1, 2022. Pursuant to Article X of the Agreement, no assignment or other transfer, including a change of control of contractor (Zanker), is permitted without the consent of the SBWMA.

In October, Zanker informed the SBWMA that it has entered into an agreement through which its outstanding general partner and limited partner interests would be acquired by MIP V, a subsidiary of a fund managed by Macquarie Infrastructure Partners Inc., part of the Macquarie Infrastructure and Real Assets division of Macquarie Group (“MIRA”). MIRA has over 15 years of experience investing in the waste sector, and plans to support the continued growth of Zanker. For the Board’s information, MIP V is also under contract to acquire the capital stock

of GreenWaste Recovery, Inc. Under the terms of the proposed sale, Zanker will retain its name and remain a San Jose-based locally managed privately owned company. The existing management team and staff will remain in place. For purposes of the Agreement, this transaction is not considered an “assignment” of Zanker’s contractual obligations; it does however constitute a change of control which requires Board consent.

It is anticipated that after the sale transaction is completed, the company and its affiliates may undergo a reorganization for efficiency purposes, which might necessitate an “assignment” of contractual obligations to an affiliate entity. If such were to occur, it will require additional authorization from the Board.

Fiscal Impact

There is no fiscal impact associated with this action.

Attachments:

Resolution 2021-36



RESOLUTION NO. 2021-36

RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS RELATED TO THE AGREEMENT FOR CONSTRUCTION AND DEMOLITION DEBRIS PROCESSING SERVICES BETWEEN ZANKER ROAD RESOURCE MANAGEMENT LTD. AND SBWMA, CONSENTING TO A CHANGE OF CONTROL FROM ZANKER ROAD RESOURCE MANAGEMENT LTD. TO MIP V WASTE, LLC.

WHEREAS, Zanker Road Resource Management Ltd. currently provides construction and demolition debris processing services to SBWMA under an agreement which will expire January 31, 2022; and

WHEREAS, Zanker Road Resource Management Ltd. (“Contractor”) and SBWMA have entered into a successor Agreement for Construction & Demolition Debris Processing Services (“Agreement”) which will commence February 1, 2022; and

WHEREAS, in October 2021 Contractor notified SBWMA that it had entered into an agreement dated as of August 28, 2021 to sell all of its outstanding general and limited partner interests to MIP V Waste, LLC (together with its subsidiary, “MIP V”), which would result in a change of control of Contractor; and

WHEREAS, pursuant to Article X of the Agreement, no assignment or other transfer, including a change of control of Contractor, is permitted under the Agreement without the consent of SBWMA; and

WHEREAS, Contractor has requested that the SBWMA approve the change of control of Contractor to MIP V; and

WHEREAS, the SBWMA has considered the proposed change of control, including but not limited to the qualifications of MIP V, and is willing to approve the change of control of Contractor.

NOW, THEREFORE BE IT RESOLVED that the South Bayside Waste Management Authority hereby consents, pursuant to Article X of the Agreement, to the proposed change of control from Zanker Road Resource Management, Ltd. to MIP V. This Resolution shall constitute evidence of such consent.

PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the 18th day of November, 2021, by the following vote:

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
Belmont					Redwood City				
Burlingame					San Carlos				
East Palo Alto					San Mateo				
Foster City					County of San Mateo				
Hillsborough					West Bay Sanitary Dist				
Menlo Park									

I HEREBY CERTIFY that the foregoing Resolution No. 2021-36 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on November 18, 2021.

ATTEST:

Alicia Aguirre, Chairperson of SBWMA

Cyndi Urman, Clerk of the Board

STAFF REPORT

To: SBWMA Board of Directors
From: Jean Savaree, General Counsel
Date: November 18, 2021 Board of Directors Meeting
Subject: RESOLUTION DIRECTING THAT ALL MEETINGS OF THE SBWMA BOARD OF DIRECTORS, TECHNICAL ADVISORY COMMITTEE, AND ALL BOARD-APPOINTED SUBCOMMITTEES WILL CONTINUE TO BE HELD VIA TELECONFERENCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54953(e)

Recommendation

It is recommended that the SBWMA Board of Directors adopt the attached resolution, making the findings required under AB 361 (California Government Code Section 54953) to continue holding public meetings of the Board, Technical Advisory Committee (TAC) and all subcommittees of the Board via teleconference/Zoom videoconference to allow members of those bodies, staff, and the public to attend meetings remotely.

Background and Discussion

On October 21, 2021, the SBWMA Board of Directors approved the “Resolution of the South Bayside Waste Management Authority Board of Directors Finding that Meetings of the Board of Directors, Technical Advisory Committee, and Board-Appointed Subcommittees Via Teleconference Protect Against the Ongoing and Imminent Health and Safety Risks Posed by COVID-19 and Determining that All Such Meetings Will Continue to be by Teleconference Pursuant to California Government Code Section 54953(e).” That resolution made the findings required to continue SBWMA’s practice of holding public meetings by videoconference. The Board of Directors is required to reconsider those findings and decision to continue meeting by videoconference no less than every thirty (30) days.

By approving the attached resolution, the Board of Directors will make the findings required under Government Code section 54953 to continue meetings by videoconference. Specifically, the attached resolution finds that the Board has reconsidered its decision on remote meetings and finds that:

- 1) the state of emergency continues to directly impact the ability of the members to meet safely in person; or
- 2) State or local officials continue to impose or recommend measures to promote social distancing.

Staff believes that these findings can be made. As discussed in the San Mateo County Health Officer’s most recent distancing order requiring face coverings in all indoor public settings (Order No. c19-12, dated August 2, 2021), the threat of COVID-19 transmission is still prevalent, particularly due to the B.1.617.2 (Delta) variant. The face covering mandate issued through Order No. c19-12 attempts to balance that threat of transmission with the “strategy to support the continued operations of businesses, activities, and schools.” The Order finds that “Universal indoor use of face coverings, also known as masking, is the least disruptive and most immediately impactful additional measure to take.”

On October 7, 2021, the Bay Area Counties – including Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, and Sonoma – announced that their respective Health Officers had reached consensus on the criteria for lifting indoor mask mandates. Specifically, indoor masking requirements will be rescinded when:

- 1) The jurisdiction reaches the moderate (yellow) COVID-19 transmission tier, as defined by the Centers for Disease Control & Prevention (CDC), and remains there for at least three weeks; and
- 2) COVID-19 hospitalizations in the jurisdiction are low and stable, in the judgment of the health officer; and
- 3) Either:
 - a. 80% of the jurisdiction's total population is fully vaccinated with two doses of Pfizer or Moderna or one dose of Johnson & Johnson (booster doses not considered); or
 - b. Eight weeks have passed since a COVID-19 vaccine has been authorized for emergency use by federal and state authorities for 5- to 11-year-olds.

While agreement on these criteria signals that San Mateo County may soon lift indoor masking requirements for fully vaccinated people, the masking requirement remains in place and will likely remain in place until younger children (5- to 11-year-olds) are able to be vaccinated. The Counties have also indicated that businesses, nonprofits, churches, and other entities that operate indoor public spaces will be permitted to impose their own masking and distancing requirements after the mandates are lifted. Further, all State mask requirements will remain in effect, meaning that unvaccinated people will be required to wear masks in indoor public spaces, and that everyone – regardless of vaccination status – will be required to wear a mask while in healthcare facilities, on public transit, and in adult and senior care facilities.

Much like the justification for implementing the face covering requirement articulated by the San Mateo County Health Officer, continuing to meet remotely is one of the least disruptive methods the Board can utilize to protect against the ongoing threat of COVID-19 transmission. COVID-19 spreads easily and quickly through airborne droplets, particularly when indoors. While masks can suppress transmission, they cannot eliminate the threat. Conducting meetings remotely allows attendees to fully participate in each meeting without requiring that they gather in the same indoor space. Further, it allows members of the Board, staff, and members of the public to participate in meetings even if they have been exposed to COVID-19 or are experiencing symptoms of COVID-19.

Conclusion

As the California state of emergency in response to COVID-19 remains effective and because the California Department of Public Health recommends – and the San Mateo County Health Officer requires – face coverings for certain people and for everyone in indoor public locations, staff believes that the Board can make the findings required under AB 361 to continue meeting remotely by videoconference.

If the Board approves the attached resolution, the Board, TAC, and all Board subcommittees will continue to hold meetings by videoconference. Because the Board must reconsider and reaffirm this action at least every 30 days, similar resolutions will appear on each of the Board's agendas until the Board can no longer make the findings required to continue meeting remotely.

Attachments:

Resolution 2021-37



RESOLUTION NO. 2021-37

RESOLUTION DIRECTING THAT ALL MEETINGS OF THE SBWMA BOARD OF DIRECTORS, TECHNICAL ADVISORY COMMITTEE, AND ALL BOARD-APPOINTED SUBCOMMITTEES WILL CONTINUE TO BE HELD VIA TELECONFERENCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54953(E)

WHEREAS, on March 4, 2020, the Governor declared a state of emergency in response to the COVID-19 pandemic and California remains in a declared state of emergency; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, temporarily suspending certain provisions of the Ralph M. Brown Act to allow local agencies to hold public meetings teleconference; and

WHEREAS, through subsequent Executive Orders, local agencies were able to continue holding public meetings by teleconference through September 30, 2021; and

WHEREAS, on an emergency basis, on September 16, 2021, the State adopted AB 361, codified at California Government Code Section 54953, which allows local agencies to continue meeting by teleconference under certain circumstances and after making certain findings; and

WHEREAS, the South Bayside Waste Management Authority (SBWMA) Board of Directors, Technical Advisory Committee (TAC), and all Board-Appointed subcommittees have met by videoconference since March 2020 and found it to be an effective method of receiving public input, holding deliberations, and conducting the general business of the SBWMA; and

WHEREAS, remote meetings held by videoconference, which also allow attendees to participate by telephone, allow attendees of the meetings to avoid the risk of potential COVID-19 exposure and allows those that may have been exposed or experiencing symptoms of COVID-19 to participate in meetings without posing a threat to other attendees; and

WHEREAS, Order No. c19-12 of the San Mateo County Health Officer, which was issued August 2, 2021, remains in effect and "directs that face coverings shall be worn, regardless of vaccination status, over the mouth and nose, in all indoor public settings..."; and

WHEREAS, the San Mateo County Health Officer's Order No. c19-12 was based on new evidence on the B.1.617.2 (Delta) variant of the COVID-19 virus which led the Center for Disease Control (CDC) to recommend face coverings for fully-vaccinated persons in indoor public settings and the California Department of Public Health to recommend universal masking in indoor public settings; and

WHEREAS, on October 21, 2021, the Board of Directors considered the imminent risk to the health and safety of attendees at in-person meetings and the distancing measures required and recommended by Federal, State, and local health officials; and

WHEREAS, after such consideration, the Board directed by resolution adopted on October 21, 2021 that all meetings of the Board of Directors, TAC, and all Board-appointed subcommittees would continue to be held by videoconference; and

WHEREAS, the Board of Directors has reconsidered its direction to continue meeting by videoconference and finds that meeting by videoconference continues to be necessary due to the ongoing threat of COVID-19.

NOW, THEREFORE, BE IT RESOLVED, that the SBWMA Board of Directors does find and declare as follows:

1. The Board of Directors has reconsidered its determination by resolution dated October 21, 2021 that meetings of the Board of Directors, TAC, and all Board-appointed subcommittees should continue to be held by videoconference to allow participation remotely; and
2. The state of emergency related to the COVID-19 pandemic continues to directly impact the ability of the members to meet safely in person; and
3. State or local officials continue to impose face coverings in indoor public areas and recommend additional measures to promote social distancing.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the SBWMA Board of Directors directs that, for at least the next thirty days, at which time the Board will review whether this action remains necessary to protect the health and safety of meeting attendees, the Board, TAC, and all Board-appointed subcommittees shall hold meetings remotely by videoconference/teleconference. Any public comment period at any such meeting shall allow comments from members of the public attending remotely in the same form and fashion as would be taken during an in-person meeting. If at any time during any such meeting the ability to broadcast the meeting and accept public comments from remote attendees is disrupted, the body holding the meeting shall recess until the disruption is resolved or continue the meeting to a later date when videoconference/teleconference participation can be restored.

PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the **18th** day of **November, 2021**, by the following vote:

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
Atherton					Menlo Park				
Belmont					Redwood City				
Burlingame					San Carlos				
East Palo Alto					San Mateo				
Foster City					County of San Mateo				
Hillsborough					West Bay Sanitary Dist.				

I HEREBY CERTIFY that the foregoing Resolution No. 2021-37 was duly and regularly adopted at a meeting of the South Bayside Waste Management Authority on November 18, 2021.

Alicia Aguirre, Chairperson of SBWMA

ATTEST:

Cyndi Urman, Board Secretary