

MINUTES

**SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
MEETING OF THE BOARD OF DIRECTORS**

June 22, 2023– 2:00 p.m.

San Mateo County Transit District Office, 1250 San Carlos, CA 94070

Call to Order: 2:00 PM

1. Call to Order/Roll Call

Agency	Present	Absent	Agency	Present	Absent
Belmont	X		Redwood City	X	
Burlingame	X		San Carlos	X	
East Palo Alto	X		San Mateo	X (3:05PM)	
Foster City	X		County of San Mateo		X
Hillsborough	X		West Bay Sanitary District	X	
Menlo Park	X				

Member Brownrigg attended via zoom due to a just cause exemption.

Member Froomin attended via zoom from Santa Clara University Leavy Center at 500 El Camino Real, Santa Clara, CA

2. Public Comment (Closed Session)

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 some updates that were not in the written report.

- The annual contractor's 2024 compensation application was received on time from Recology, and SBI has submitted their Year One (2024) cost application on time as well, but the terms of their compensation for 2024, these costs were previously negotiated during the procurement process. Staff will be busy reviewing and analyzing these reports over the next few months, which will culminate in this Board approving the 2024 compensation at the September Board meeting.
- A six-year deal has been reached between the dock workers and the west coast Maritime Association, which is good news for the Agency, because when work shuts down at the docks the recycled material can't get shipped to far eastern export markets.
- Former Board Member and CARB member Davina Hurt will come talk to the Board this fall on the aggressive timelines for transitioning to an electric fleet to comply with CARB rules.

- This will be the last Board meeting until September; however, the Zero Waste Committee will meet on July 27 at 2PM, the TAC will meet on August 10, and the Legislative Committee will meet on August 28.

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.*

- Approval of the Minutes from the April 27, 2023, Board of Directors Meeting
- Resolution Accepting the Findings from the Annual Operational and Financial Systems Audit for 2022
- Resolution Approving Annual Contract with Aaronson, Dickerson, Cohn & Lanzone for Legal Counsel Services for a three-and one-half year period ending on December 31, 2026
- Resolution to Authorize SCS Engineers Contract Amendment No. 1 For \$14,913 for Additional Services to Define Prioritization of the Needs/ Requirements of the January 2023 Shoreway Environmental Center Site Optimization and Design Development Starting Point Findings / Recommendations Report
- Approval of Quarterly Investment Report for the Quarter Ended March 31, 2023

Motion/Second: Brownrigg/Royse

Roll Call Vote: All in favor 8-0-0-3

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. Administration and Finance

- Retreat Feedback and Approval of the Minutes from the May 25, 2023, Board/TAC Retreat

Executive Director La Mariana noted that this item was put on the agenda to solicit board feedback on the retreat. He noted that through internal conversations he's gotten feedback that people like the space, and not so favorable feedback on the facilitator, and welcomed comments from Board members.

Chair Aguirre noted that her goal with the retreat is to have outcomes that can be measured year over year, to stop and take a look at what the agency is doing and to measure progress. She asked Board Members to share feedback either at the meeting or privately after the meeting.

Executive Director La Mariana noted that he appreciated the opportunity to once a year look at the big picture and talk in high concepts and welcome new members. He also thanked all the presenters at the retreat.

Motion/Second: Romero/Rak

Roll Call Vote: All in favor 8-0-0-3

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					

- Resolution Approving Mid-Year 2023 Budget Adjustments and the FY2024 Budget Forecast

with 2024 Member Agency Tip Fee Projections

Staff Mangini gave an overview of the staff report and highlighted that the mid-year budget is on track with the projections. He highlighted two items in the mid-year budget. The Organics-to-Energy equipment has been paused so the processing cost for that is down, but conversely the disposal cost is up since that material isn't being diverted. He also highlighted that there is stronger investment income and weaker commodity revenue projected at mid-year, so the budget has been adjusted.

Staff Mangini then highlighted the 2024 budget forecast, with high escalating costs mostly due to the new operating agreement beginning in 2024 with SBI. There is a projected 25% increase in tip fees, that increase is needed to generate revenue to cover about \$11M in increased costs of facility operations. He projects this will translate in an 8-10% increase in rates.

Executive Director La Mariana reminded members at the time of the procurement decision (fall 2022) staff knew there was going to be a significant step up in costs, and at that time he had encouraged member agencies to add 4-5% percentage points to their 2023 rates to create a surplus to cushion that step up. Staff Mangini has reviewed the revenue reconciliation that was completed in March, and it does look like most of the member agencies do have a surplus.

Staff Mangini noted that there is an overall surplus in the revenue of almost \$6M which will soften the rate increases in most member agencies.

Executive Director La Mariana reminded board members that he and Sr. Finance Manager Mangini are readily available to attend city council meetings or study sessions when this topic comes up to answer questions and provide technical analysis.

Member Froomin asked if the City of San Carlos franchise fee that is calculated on tip fees could be calculated a different way, since tip fees are going way up which will increase the host fee, but the impacts to San Carlos aren't going to change.

Executive Director La Mariana noted that the contract with San Carlos outlines how the host fee is calculated is evergreen, and there is not an opportunity to renegotiate it. He also noted that it is based on 5% of the gross revenue that comes onto the site. It would take an action by the board to meet with the City of San Carlos, and reconsider terms.

Member Froomin asked that the Finance Committee have this discussion, because a 25% increase in one year seems excessive.

Member Rak commented that it would be highly unlikely that the City of San Carlos would be willing to renegotiate terms or make any changes to the agreement.

Member Froomin noted that he didn't have a concern about increasing it annually, but this particular year a 25% increase seems significant, so he thought it was worth having the Finance Committee look at it and if it's reasonable to have the host fee go up that much in one year.

Chair Aguirre officially recommended the Finance Committee take a look at the host fee, and report back to the board. She also asked when the 8-10% rate impact would be coming to the member agencies.

Staff Mangini answered that it depends on how the cities have managed their rates in the past, and how they plan to manage them going forward to generate the required amount of revenue based on a member

agency's surplus or shortfall. This will be studied in September with the TAC, and at that point there will be a firm idea of what the increase will be for each member agency. Then at the September board meeting a 2024 compensation amount will be approved by this Board, at which time, the member agencies' individual councils will set 2024 rates through the Prop 218 process. He added that the 2024 calculated revenue requirement for each member agency will be out by August 11.

Member Brownrigg commented that the finance committee asked staff to create talking points for elected officials to help explain the large rate increases this year. He hopes the analysis will show that the agency has been very cost-effective overtime with small increases, and this is a stair step, but they will smooth out after this increase. He also noted that staff was asked for a comparison of the RethinkWaste area rates to other rates around the region. So, there is some collateral being created to help elected officials explain this to constituents.

Member Rak asked the board to look at the drop off tip fees. Especially when promoting green waste and food waste as a better way to manage waste, the drop off tip fees are making it more challenging for consumers to accomplish that goal.

Staff Mangini commented that staff has been trying to structure it in a way where green waste is cheaper than solid waste or even collection and demolition debris (CND) to incentivize diversion. He also noted that this 2024 budget forecast is not final, so in the fall when the final budget is being looked at the board may want to consider some of these kinds of things and massage the numbers to benefit diversion.

Staff Mangini noted that the next item on the agenda is the property insurance decision, but because staff received the property insurance quotes so late, those numbers are not fully built into this budget. It will add \$350,000 to this year's mid-year budget.

Member Froomin asked what it would take to get the Organics-to-Energy (O2E) equipment back up and running and what is being done in the way of public outreach on this project.

Executive Director La Mariana answered more that food waste material is needed to make the operation more economically viable to run. Staff is working with Recology to increase participation with multi-family and commercial accounts to increase the amount of food waste coming into the facility. Secondly, the cost for dropping of material for O2E processing needs to come down by about 20% to be cost competitive, which should drive an increase in third party tons coming to the facility as feedstock for O2E. He noted that staff is planning to start the program up again by January 1, 2024.

Member Romero asked for clarification on the bullet point regarding profitably in the operations agreement listed in the staff report.

Executive Director La Mariana answered that with the procurement process last year we learned that the market had significantly changed since the last procurement process 13 years ago. Both proposals that were received included a significant step up in costs. During negotiations with both proposers both were firm on the level of profitability expected so there was not much give and take, and the profit levels that are in the agreement are still lower than the overall industry, so this number represents a correction in the marketplace.

Member Romero asked if SBI was being guaranteed a minimum rate of return.

Executive Director La Mariana answered yes, and that he didn't have it in front of him but would need to fact check. He noted that in the last contract the contractor's profit was set at was about 8.5% and now it's in the

14-15% range.

Member Brownrigg noted that the bid process only solicited two bids which is better than just one, but only two. He noted that the service provider is taking on risk in managing some of the cost components without additional compensation, so it's only a guaranteed rate of return if they are managing their costs appropriately.

Staff Mangini explained that compensation for SBI is based on a dollar amount per ton of tons coming through the gate, and they get a CPI increase on that each year. The risk for them is if their costs go up for labor beyond that increase that cost is on them.

Member Royse added that in the current operating agreement the contractor is absorbing all the risk. And with increasing costs overall the costs of doing business have gone up faster than what they are reimbursed for. So, this new contract gives them a guaranteed rate of return while making sure they control costs, and asked for clarification that this is not a cost-plus contract.

Staff Mangini answered that it is not a cost-plus contract but noted that in year four of the agreement the cost structure is reevaluated, which can either benefit or hurt the agency financially, but otherwise the risk is on the contractor.

Motion/Second: Royse/Romero

Roll Call Vote: 8-0-0-3

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 the Facility Property Insurance Coverage/Premium for Policy Year 2023/2024.

Staff Mangini gave an overview of the staff report noting that premium quotes were not received until very late right before the staff report needed to be released. The current policy expires at the end of June. He noted that obviously the staff report calls out the large increase in insurance premiums and continued multiple layers of coverage. But also called attention to the over 60 insurance carriers that declined coverage this year. He then explained the potential in the future to take advantage of an insurance market that the agency currently doesn't have access to when SBI becomes the facility operator. This option, through SBI's broker, could give us a significant reduction in insurance premium rates. Staff continues to work on hardening the facility as well to show insurance companies that the facility is a good risk but haven't been successful at that approach yet.

Chair Aguirre asked for an update on the other insurance options that were discussed at previous board meetings.

Staff Mangini noted that Chair Aguirre was referring to the creation of a Captive Insurance plan which is a form of self-insurance. He noted that this is a long-term plan, so, on the advice of brokers staff recommends waiting on setting up a captive which requires a capital outlay until 2024. Then when the new contractor comes on site see if there is an opportunity to take advantage of those new insurance markets not currently accessible to us. He also noted that he has reached out to some risk groups like California Joint Powers Insurance Authority and Agilent that offer coverage to municipalities, but they aren't willing to offer coverage.

Member Froomin asked if any of the insurance companies or brokers have given any feedback on actions that could be taken to make the Agency more marketable to the insurance industry.

Staff Mangini answered yes, we have gotten some feedback on adding things like fire and thermal detection to the facility which staff is currently evaluating to be favorably viewed by insurance companies.

Member Froomin commented that as we look at these fire detection systems, he reminded staff about looking at the return on investment with a significant impact on insurance rates. He also asked if there was an opportunity to switch policies mid-year should the opportunity with SBI be in our favor.

John O'Neill of Risk Strategies insurance noted that policies can be cancelled at any time, and it would be a prorated cancellation.

Member Royse commented that these numbers didn't come in on time for the Finance Committee to review them and the premium increase is shocking. He asked if there was an opportunity to look at how a higher deductible would impact premiums. Since we are doing so much work to harden the facility, maybe the agency just takes on greater risk and gives us the benefit that the insurance companies are not recognizing.

John Mangini answered that the current deductible is \$1.5M, the next step is \$2M or \$2.5M however you would like to look into it.

Member Royse commented that he'd like to see what the savings would be if the Agency assumed another \$1M in risk.

Chair Aguirre asked the Finance Committee to look at those options and report back to the Board.

Executive Director La Mariana noted that it makes sense to have the finance committee look at this, but some action needs to be taken today as the current policy expires in 8 days. He added that when staff received this information so late so close to the current policy expiration date, he was not happy. He suggested that the board approve a not to exceed number so that there can be a policy in place before the current one expires. Then we can convene the finance committee to weigh the larger deductible and come back to the board.

John O'Neill commented that they could order the renewal as quoted and then solicit options at a larger deductible for the finance committee to review, and if they can do that and then make the decision before the expiration date.

Chair Aguirre asked why the numbers weren't received in time for the finance committee to review them.

Executive Director La Mariana noted that he shares Chair Aguirre's frustration, and asked John O'Neill to comment.

John O'Neill commented that it's frustrating for them too as the reinsurance market is driving the process. But sometimes the time it takes to get the quotes can work in your favor.

Member McCune commented that if the policy could be terminated without penalty, then he suggested to go ahead and approve the renewal and pay the higher premiums for a quarter while investigating a higher deductible policy, then come back to the Board with options.

Member Royse thought this was a feasible compromise to approve it for a quarter.

John O'Neill answered that at this point have to order the 12-month renewal, if higher deductible yields a lower premium and you want to change the policy it would just be a credited against it, so this is a feasible approach.

Member Dehn noted that if this is approved for a quarter, then the Finance Committee could still meet in September and the Board could decide at the September meeting.

Chair Aguirre asked that the Finance Committee meet as soon as possible.

Vice Chair Rak commented that if there are significant enough savings, it might make sense to have a special meeting to adopt a revised policy.

Motion/Second: McCune/Froomin

Roll Call Vote: 8-0-1-2

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					

6. Collection and Recycling Program Support and Compliance

No Items

7. Shoreway Operations and Contract Management

A. Resolution Approving Contract for Underground Fuel Storage Tank Removal and Replacement Project with CIC For a Not to Exceed (NTE) Amount of \$2,423,964

Staff Gans gave an overview of the staff report and the proposal for the underground storage tank removal project. He noted that the proposal came in at the engineer's estimate, but there is a 15% contingency for standard items, and a 50% contingency for the unknown items of soil and water. Staff will be engaging a Geotech engineer to try and get a clearer picture of how much water needs to be moved, because that is the most concerning unknown for staff and the contractor. There will be additional costs outside of the tank removal for interim fueling which will come to the board through another RFP.

Member Royse asked if any preliminary work had been done with regards to contaminated soil.

Staff Gans answered that only the drilling for sampling has been done so far, and both samples came back clean. He also noted that CIC is the construction arm of a company that has been monitoring the tanks and managing compliance reporting for the last ten years.

Motion/Second: Romero/McCune

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					

8. Public Education Outreach and Legislation

- A. Mid-Session Legislative Update Presentation by Reed Addis, Principal Environmental and Energy Consultants (EEC). Staff Au gave an overview and highlights of the 2022 RethinkWaste Annual Report.

Staff Au introduced Reed Addis who presented the mid-year legislative session review and regulatory updates.

Reed presented on EEC's legislative work thus far this year. He noted that the EEC work with RethinkWaste this year is more implementation focused. He gave these updates:

- The CA legislature passed a 2023-2024 Budget, but the Governor is not necessarily on board at this point, but it's looking like next week there will be a budget package with the Governor's sign off.
- SB 1383 funding for infrastructure looked like it might be at risk with the souring of the economy, but that money has been protected as long as this budget gets passed.
- CalRecycle has held their first implementation of SB1215 and SB 244 meeting, EEC will remain engaged in the implementation process which will last many months and will continue to update the Legislative Committee.
- CalRecycle is very early in the process of creating the rule making around SB54, which will be a process that will take several years and likely won't be approved until 2025.
- There are four measures in particular that RethinkWaste has taken a position of support on that he gave an update on: AB 1347 (Ting) – Skip the Slip; SB 244 (Eggman) – Right to Repair; and SB 707 (Newman) – Textile Recycling have all moved from the first house to the second house, which is an especially big win for SB 244 because this policy has been attempted several times in the past and this is the first time it's made it this far. There is still a lot of work to do to get these bills all the way through to the finish line. Lastly, SB 615 (Allen) EV Battery Recycling - the author has stopped moving this year and will do some work on the bill and start moving it again next year.
- The Little Hoover Commission held hearings around 1383, and issued a report, but it doesn't automatically lead to any action. But the actual report does suggest pausing 1383, which is a problem policy wise for RethinkWaste. So, we are working with agency staff and legislators to figure out what it means for RethinkWaste if the Little Hoover Commission report gets any traction.
- EEC is working with RethinkWaste staff on Brown Act rules regarding meeting participation. There will likely need to be multiple changes and changes at the state level over the next few years regarding the Brown Act.
- There has been a robust discussion in the legislature towards a natural resources or climate bond that would raise money for projects. If the legislature passes this bond it would go to the voters on the 2024 ballot. EEC's priority with this bond is to work on funding for SB 1383 infrastructure being included in the bond.

9. Informational Items Only (no action required)

- A. Update on the Status of SB 1383 Implementation and Compliance
- B. 2022/23 Finance and Rate Setting Calendar
- C. Check Register Detail April and May 2023
- D. 2023 Meeting Planning Guide

No Questions

10. Board Member Comments

Member Froomin commented regarding the SCS contract amendment passed on consent. He was really hoping that they would come up with more creative options and not justifying the prior recommendations, as the contract didn't mention anything about new ideas.

Member Romero thanked Executive Director La Mariana for the tour of the facility.

11. Adjourn to Closed Session 3:34PM

- A. Pursuant Government Code (§ 54956.8): Real Property Negotiations - Under Negotiation-Term and price for potential purchase of property 1245 San Carlos Ave. Suite E, San Carlos, CA 94070 Agency Representatives Executive Director Joe La Mariana, Sr. Finance Manager John Mangini and Legal Counsel Kai Ruess. Negotiator Steve Divney

12. Adjourn 4:09PM