

WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS MEETING MINUTES – APRIL 22, 2021

Meeting Date | Time 4/22/2021 6:15 PM | Meeting Location *The meeting was held exclusively via teleconference participation of a quorum of Board members in locations not open to the public in compliance with the Governor's Executive Order N-25-20 (March 12, 2020) as superseded by Order N-29-20 (March 17, 2020), allowing for deviation of teleconference and physical location meeting rules otherwise required by the Ralph M. Brown Act. The purpose of the orders is to provide the safest environment for staff and the public consistent with Contra Costa County Health Services' current public health recommendations, while allowing the public to observe and address the Board. All votes of the Board to be Roll Call votes.*

Meeting called by Board of Directors
Type of meeting Special
Authority Staff Present Peter Holtzclaw, Christina Leard, Andy Schneider, Donald Sturman
Legal Counsel John Bakker

Board Members Present:
Directors: R. Xavier, Alternate, San Pablo; T. Rudnick, El Cerrito; A. Tave, Pinole; D. Romero, Hercules (Vice-Chair); and N. Bates (Chair)
Absent: G. McLaughlin and M. Willis. Richmond) (Both just appointed), and F. Glover (Ex-Officio) Contra Costa County

CALL TO ORDER/ROLL CALL

Chair Bates called the meeting to order at 6:15 P.M. The Roll Call established the existence of a quorum (Bates, Romero, Rudnick, Tave, and Xavier).

CLOSED SESSION

Executive Director Peter Holtzclaw advised that the following closed session had been postponed to the May meeting of the Board of Directors.

1. Public Employee Performance Evaluation – Title: Executive Director

Closed session with respect to every item of business to be discussed in closed session pursuant to Section 54957: PUBLIC EMPLOYEE PERFORMANCE EVALUATION.

Title: Executive Director

PLEDGE OF ALLEGIANCE

Vice Chair Romero led the Pledge of Allegiance.

EX-PARTE COMMUNICATIONS & DISCLOSURE

There were no ex-parte communications or disclosures.

PUBLIC COMMENT

No written comments were submitted, or oral comments made, by any member of the public.

CONSENT CALENDAR

Director Rudnick pointed out a typo in the letter to Senator Laird (Item 6.3) related to the support for SB 619, and requested a correction of that typo.

Vice Chair Romero removed Item 6.2 from Consent for discussion.

MOTION by Director Rudnick to approve Consent Calendar Items 6.0, 6.1, and 6.3, with the correction of the typo in the letter under Item 6.3. **SECOND** by Director Tave.

MOTION PASSED unanimously.

Consent Calendar Item 6.2 – Amend R3 Contract for SB 1383 Preparedness Planning to Extend the Termination Date | Presenter | Peter Holtzclaw – Executive Director

Vice Chair Romero explained that the R3 Consulting contract was incomplete in that there was no scope of services and the dates were incorrect.

Executive Director Holtzclaw acknowledged that some of the information had inadvertently been excluded from the document included in the Board packets. He explained that the contract had been approved last year for SB 1383 preparedness with an initial budget of \$63,000. The report had been presented by R3 to RecycleMore and he had presented the same report to the Board. The project had been delivered with \$20,000 remaining. He highlighted the report detailing the planning processes for SB 1383 along with next steps, stated the contract date ended December 31, 2020, and he wanted to restart the contract and use the leftover funds for other SB 1383 related purposes.

Vice Chair Romero commented that timelines had not been placed on the contract and he wanted to see the dates and milestones included with an explanation of why they had not been met, if that was the case, for all contracts.

The item was continued to the next meeting.

STAFF REPORT

Staff Report Item 7 | Presenters | RecycleMore Staff

Recycling and Solid Waste Program Manager Christina Leard reported that:

- 1) Temporary Household Hazardous Waste (HHW) and mattress collection events had been planned for Hercules on June 26 at the Hercules Corporation Yard; for El Sobrante on August 28 at Hilltop Church of Christ; and for Richmond on September 18 at the Galileo Club. She was attempting to facilitate and coordinate mattress only collection events two weeks prior to the previously identified HHW events. The cost would be free and the Mattress Recycling Council would provide the trucks and labor for the events, to be at different locations from the HHW events.

Chair Bates suggested that the large parking lot at the Civic Center in Richmond would be more appropriate for the HHW events and requested that the site be evaluated for its suitability.

Ms. Leard stated that Peter Nuti and Larry Sweetser had gone through a number of sites in Richmond, sites had been selected for the space related to the packing of materials and traffic flow. She also clarified in response to Director Tave that the site of the new Wastewater Treatment Plant in Pinole could also be revisited to determine its suitability for HHW events.

- 2) There would be five events in June, assisted by Consultant Matt Bolender who had been funded through the Oil Payment Program, with five oil drainer and filter drainer giveaways at AutoZone and O'Reilly stores on June 5, 6, 12, 13 and 26. The information would be posted on RecycleMore's website.

Agenda Item 8.0 – Prefunding Pension Contributions and Reducing UAL Expenses by Establishing Two IRS Code Section 115 Trusts | Presenter Donald Sturman - Finance and Administration Manager

Finance and Administration Manager Donald Sturman presented the desire to establish two IRS Code Section 115 Trusts, prefunding pension contributions and reducing unfunded accrued liabilities with the California Employers Pension Prefunding Trust (CEPPT) and the California Employers Retiree Benefit Trust (CERBT). He stated there were two ways to proactively manage pension costs, by making up for past underperformance by sending additional discretionary payments (ADPs) of Unfunded Accrued Pension Liability (UAL) to CalPERS, which staff was currently doing and the Board had allocated \$350,000 to send to CalPERS. Staff was also working with a CalPERS actuary to determine the most efficient way to apply that allocation. The other was to establish a pension contribution prefunding Section 115 Trust to improve future capacity to pay the volatile costs, which should also be done.

Mr. Sturman stated the trusts should be considered given that employer pension contributions were increasing faster than the budget, employers pension contributions were volatile from year to year and hard to plan for and afford, LAIF and the County Treasury were not earning what they used to, and increased investment income with the CEPPT and CERBT trusts could reduce contributions and save RecycleMore money. The purpose of the trusts would be to grow assets for future pension contributions including normal cost payments, UAL debt payments, and additional discretionary payments of UAL; invest RecycleMore assets with less risk than the CalPERS pension fund; outperform LAIF and County Treasury investments at safe risk levels and low costs; and retain liquidity and control.

Mr. Sturman stated that currently RecycleMore had a UAL for retirement costs at approximately \$450,000 and UAL for Other Post-Employment Benefits (OPEB) costs at approximately \$225,000, totaling \$675,000 of liability. Once determining the best way to apply the \$350,000 payment, he stated the overall liability would remain at \$325,000 plus and continue to grow if not proactively addressed. He reported that there were 27 public agencies in Contra Costa County using the CEPPT and CERBT along with almost 600 public agencies in California. In particular, the City of Richmond had \$5.5 million within a CERBT to help with its OPEB costs.

With respect to next steps, Mr. Sturman stated the merits of opening a Section 115 CEPPT Trust for future pension expenses would have to be considered along with the merits of opening a Section 115 CERBT Trust for future OPEB expenses. He would return at the May meeting with a consent item asking the Board to approve the establishment of the two Section 115 trusts.

Chair Bates commented that with the increased liability it may be necessary to make an annual commitment of funds to continue to reduce the liability to zero.

In response to the Vice Chair, Mr. Sturman reiterated that OPEB was currently at \$225,000, with the UAL for retirement at approximately \$450,000 not including the soon-to-be-applied \$350,000. Total liability was \$675,000 and once the \$350,000 had been applied, the liability would remain at \$325,000.

Vice Chair Romero referred to a document dated July 26, 2018 and the prior commitment to set aside \$550,000 as part of a discussion of reserves at that time. Given that \$350,000 had actually been committed, he asked about the remaining \$200,000. He added that the report should have identified the history of that discussion and he requested the inclusion of that type of information in all future reports.

In response, Executive Director Holtzclaw described his understanding of what had occurred prior to his employment in that while the amount of \$550,000 had been discussed, it had never been allocated. The \$350,000 was the actual amount the Board had approved. He would investigate that situation and determine what had actually occurred.

Agenda Item 8.1 – Approve a Resolution Codifying Processes and Rules Governing the Authority’s Board of Director’s Meetings | Presenter Peter Holtzclaw – Executive Director

Executive Director Holtzclaw stated that the staff report identified the basic rules governing Board of Director meetings.

Vice Chair Romero had brought up the issue because of a situation where a Board agenda item had been submitted at the last minute which had created problems with the Board, after which the Board had stipulated that RecycleMore staff be allowed 21 days to research anything that had been submitted for Board consideration, which was the current practice but which had never been codified. He clarified that there was no intent to amend the JEPA but to amend the Bylaws by resolution.

Legal Counsel John Bakker clarified that the resolution was intended to restate all the Bylaws and put them all in one place, which would be the controlling document.

Director Tave questioned whether this would be the time to codify the Chair and Vice Chair positions, and Mr. Holtzclaw clarified that the rotation of Chair and Vice Chair was informal and had not been codified.

The Board discussed whether to consider the rotation of officers in the process and decided to discuss that issue at a later date.

Vice Chair Romero referred to the draft resolution, specifically Section 7.2.3 related to those addressing the Board and the need to state their name, city of residence, and the name of the organization. He verified with Mr. Bakker that the provision had been designed to be consistent with the language in the Brown Act. With respect to Section 7.2.4, he suggested the language implied that Directors were limited to three minutes of comment, although Mr. Bakker explained that the provision stated that all comments to the Board of Directors shall be limited to three minutes.

With respect to Section 7.2.4, Vice Chair Romero recommended an amendment that: *All public comments to the Board of Directors shall be limited to three minutes unless an extension of time is granted by the Chair with the consent of the Board of Directors.*

Vice Chair Romero also noted that the Board had provisions for alternates and he asked where that would be codified in the document given his understanding that a city clerk from a Member Agency would make a request to staff 72 hours prior, and there had been a manipulation of that time in the past which had created controversy.

Mr. Bakker advised that the 72-hour language had made its way into the JEPA and was not in the Bylaws or any other document. He added the document under discussion was not a comprehensive set of Bylaws and primarily dealt with certain aspects of how meetings were run.

Mr. Holtzclaw recommended that with numerous new members of the Board something could be scheduled over the summer to consider the Bylaws in a more comprehensive way than what the agenda item offered.

MOTION by Director Tave to approve a Resolution, codifying processes and rules governing the Authority's Board of Director's meetings, with a minor amendment to Section 7.2.4, as shown.
SECOND by Director Xavier.

MOTION PASSED unanimously by a Roll Call vote.

Agenda Item 8.2 – Adopt a Resolution Authorizing Two Contracts with Recyclist for Cloud-based Compliance Software Services | Presenter Peter Holtzclaw – Executive Director

Executive Director Holtzclaw removed the next item from the agenda.

Director Rudnick explained that El Cerrito was waiting for approval on its contract with Recyclist and wanted to avoid continued delays. She sought more information on the need to continue, and Mr. Holtzclaw commented that he was trying to bifurcate the two contracts so that there could be a vote on the El Cerrito specific contract.

Chair Bates stated there were some serious concerns that needed to be clarified and the City of Richmond should be able to resolve its concerns by the next meeting.

BOARD MEMBER AND STAFF ANNOUNCEMENTS

Chair Bates reported that Prologis had purchased the Hilltop Mall shopping center, intended to revitalize the center, and Richmond looked forward to working collaboratively with El Cerrito and other cities in that revitalization.

Vice Chair Romero reported he had participated in a League of California Cities discussion with 125 participants about SB 1383. He commented that the legislation was six pages long while the rules governing the legislation were 250 pages long. He recognized that RecycleMore was in a very good position with respect to SB 1383.

Director Tave stated he had met with the Government Transparency Labor Relations group and agreed with the importance of Section 115 pension trusts. He also noted that the City of Pinole was interested in participating in the mattress collection program.

Chair Bates congratulated all Member Agencies on their efforts to address COVID-19.

ADJOURNMENT

With consensus of the Board, Chair Bates adjourned the meeting at 7:13 P.M. until the regular Board meeting scheduled for May 13, 2021 at 6:15 P.M.

I hereby certify the foregoing to be a true and correct statement of the Official Minutes of the West Contra Costa Integrated Waste Management Authority Board meeting held April 22, 2021.

Christina Leard

Board Secretary, Christina Leard

Jan 13, 2022

Date






2021 04-22 Board Meeting Minutes-WCCIWMA-RecycleMore

Final Audit Report

2022-01-13

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