

WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS MEETING MINUTES – SEPTEMBER 16, 2021

Meeting Date | Time 9/16/2021 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in locations not open to the public in compliance with the Governor's Executive Order N-25-20 (March 12, 2020) as superseded by Order N-29-20 (March 17, 2020), allowing for deviation of teleconference and physical location meeting rules otherwise required by the Ralph M. Brown Act.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, Lisa Borreani, Christina Leard, Andy Schneider, Donald Sturman

Legal Counsel John Bakker

Board Members Present:

Directors: A. Pineda, San Pablo; T. Rudnick, El Cerrito; A. Tave, Pinole; D. Romero, Hercules (Vice-Chair); and G. McLaughlin, M. Willis, and N. Bates (Chair), Richmond

Absent: F. Glover (Ex-Officio) Contra Costa County

CALL TO ORDER/ROLL CALL

Chair Bates called the meeting to order at 6:17 P.M. The Roll Call established the existence of a quorum (Bates, McLaughlin, Pineda, Romero, Rudnick, Tave, and Willis).

CLOSED SESSION

There was no Closed Session.

PLEDGE OF ALLEGIANCE

Chair Bates led the Pledge of Allegiance.

EX-PARTE COMMUNICATIONS & DISCLOSURE

Director Tave reported that he had met with a representative of Republic Services on July 22 for a tour of the location and a discussion of Republic's basic operations, the transfer station, and the trash sorting facility.

PUBLIC COMMENT

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

CONSENT CALENDAR

MOTION by Director Willis to approve Consent Calendar Item 6.0. **SECOND** by Director McLaughlin.

MOTION PASSED unanimously by a Roll Call vote.

STAFF REPORT

Staff Report Item 7 | Presenter | Executive Director Peter Holtzclaw

Executive Director Peter Holtzclaw introduced Lisa Borreani, the new Recycling Coordinator/Administrative Assistant. He announced that this meeting would essentially be a workshop, next month would include a rate workshop, the November meeting would be moved back a week due to the Veterans' Day holiday and one item on the agenda would be the approval of a rate structure for next year, and the Board could decide whether or not to cancel the December meeting as it had in the past. He reported that SB 619 had passed and had softened some of the financial penalties related to SB 1383, by pushing out the timeframe penalties from the State if cities did not implement SB 1383 in a timely manner, and provided a time cushion for cities to present a report on how the law would be implemented by January 1, 2022.

Mr. Holtzclaw reported that Recyclist had been migrating information from the current website to a new format on the new website. The new version was not live but was expected to be in a couple of weeks. He sought input from the Board on anything to add or change, and would work with Republic Services to coordinate information. He was pleased with the progress to a more functional website and the start of a continuing update to benefit the community.

Director Rudnick sought assurance that East Bay Sanitary Company would be in the loop and that El Cerrito would be reflected in the website. She noted that the existing RecycleMore website had still not recognized all current members of the Board, although the current RecycleMore staff had been included.

Finance and Administration Manager Donald Sturman reported that:

- 1) As a staff follow-up to inquiries by the Chair and Vice Chair with respect to investment in the Code Section 115 Trusts for a better return than allowed in the public sector, and as to what other public agencies had done to address unfunded accrued liabilities with respect to 115 Trusts, he confirmed that it was possible to get a greater rate of return with the Trust in that the Local Agency Investment Fund (LAIF) was currently returning less than one percent for 2021. As a result, investing future monies with CalPERS in a 115 Trust would give the Authority access to returns in line with the overall benchmark for the market, which for 2021 was forecast to be well over 10 percent and likely 15 percent. He added that many public sector agencies had been investing in either one or both 115 Trusts being offered by CalPERS or by another competing agency. He displayed a list of the 153 cities including Richmond that were participating in the CalPERS Trusts, 76 school districts, 34 fire districts along with many community services districts, counties, and multiple other public sector agencies.

Recycling and Solid Waste Program Manager Christina Leard reported that:

- 1) One-Day Household Hazardous Waste (HHW) events would end for the year on Saturday, with an HHW event at the Galileo Club in Richmond, 9:00 A.M. to 1:00 P.M., with mattress collection. She reported that the previous outreach had listed Kensington as an ineligible community and the outreach had been changed to list the eligible communities only. She clarified that even though Kensington residents are not eligible to participate in the HHW events, they are eligible to use the permanent facility. She also noted with respect to treated wood waste that AB 332 had been signed by the Governor on August 31, 2021, had taken effect immediately, and the previous alternative management standards had returned where facilities that had treated wood waste could again do so. She reported that RecycleMore had applied for a \$100,000 HD-37 grant through CalRecycle and had been selected. RecycleMore would work with the California Product Stewardship Council on the grant with a focus on marine flare collection and promoting usable LED flares instead. She responded to questions and noted the grant was geared specifically for boating flares that have to be able to burn in water, are considered to be explosive, and are difficult for boaters to dispose of. LED flares are non-explosive and have a longer life span. When asked for

a report on the one-gallon propane tank program, she stated that program was ongoing and she would provide an update.

Director Tave thanked Ms. Leard for the hazardous waste collection event and asked for some type of metrics as to the number of people who were being served, and Ms. Leard stated that was planned for a future Board meeting when a presentation would summarize all three HHW events.

Agenda Item 8.0 – Consideration of Changing the Time of the Board of Directors’ Regular Meetings | Presenter Director McLaughlin

Director McLaughlin appreciated the item on the agenda given that she generally had a conflict with RecycleMore’s current meeting time. She asked if the meeting could be moved to a 5:00 P.M. start as opposed to 6:15 P.M.

Vice Chair Romero asked for a clarification of the meeting conflict, and after discussion and Director McLaughlin’s comment that she realized the inconvenience a change in meeting time would place on the other members of the Board and their own specific arrangements to get to the meeting at 6:15 P.M., she withdrew her request to change the time of the Board of Directors’ regular meetings, thanked the Board for the opportunity, and stated she would do her best to attend the meeting on time.

Agenda Item 8.1 – Republic Services Post-Collection Agreement 2020 Annual Report | Presenter Source Reduction and Recycling Program Manager Andy Schneider

Source Reduction and Recycling Program Manager Andy Schneider presented the Post-Collection Agreement (PCA) Annual Report, and stated each year Republic Services provided the Annual Report 90 days after the close of the calendar year, with this report for 2020. The PCA report documented all inbound and outbound tons for multiple materials as well as various program benchmarks to demonstrate compliance with the PCA. RecycleMore staff reviewed the report for any changes in tonnage as related to programs and processing and for Republic Service’s performance to meet the established benchmarks.

For inbound tons, Mr. Schneider stated that solid waste was a term the industry had used for a long time, recently interpreted to include all waste generated by a business, but in the PCA Report solid waste was landfill bound tons not diverted from the waste stream. The inbound solid waste for the service area showed a slight increase over the last 4-5 years. There had been no increase in population in the service area and speculation as to why the increase had occurred could be economy dependent, complex packaging, or recycling markets. The increases were still well below the limit established by CalRecycle for the landfill disposal for residential and commercial sectors.

For outbound materials, outbound organics represented finished compost, a product that could be sold to agriculture or landscapers, compost overs, materials used at Keller Canyon Landfill as alternative daily cover, and residuals removed during the compost screening process. Mr. Schneider explained that those three outbound categories would never equal the inbound tonnage because of the extreme evaporation during the lengthy composting process. He stated Republic Services had made huge improvements at their compost facility and some of the improvements had represented huge investments in site and facility improvements. Republic was also meeting the benchmarks established in the Cooperative Agreement which required more compost being sold to agriculture and landscapers and less organic material being used as alternative daily cover.

In response to the question of whether there was a way to identify the current volume of organics related to AB 1826 and how it relates to our future requirements. Mr. Schneider explained that the tonnage is available and explained that CalRecycle did not judge compliance with State law by tonnage, instead judging by participation of those required to subscribe.

For outbound recycling, Mr. Schneider stated the majority of residential curbside recycling was shipped to Republic's more modern Material Recovery Facility at Newby Island for processing and there was limited information on what was happening at WCRR with the local IRRF. He stated the dry waste program had been developed to attempt to recover additional recyclable materials from select commercial and industrial accounts. In 2019, Republic had alerted RecycleMore that it would not be able to meet the expected dry waste processing target due to heavy contamination and weak recycling markets. It did divert over 7,000 tons of material in 2020, and R3 Consulting was reviewing the dry waste program and looking at the feasibility of continuing or expanding that program.

Mr. Schneider stated that in recent years, it had been good to boast about Republic's Recycling Coordinators and the School Program, which had provided programs to reach hundreds of West County students, although with COVID-19 reducing the school year last year there had been a premature ending to the Schools Program. Because Republic had been proactive before March 2020, ten presentations or field trips had been able to reach 263 students. He noted that Republic and RecycleMore were looking forward to reinstating the program for the 2021/22 school year after addressing some safety issues.

Mr. Schneider added that the PCA report had identified community programs headed up by Republic, listed all the new organic subscriptions, provided information on billing, and identified the numerous permits it needed to maintain to operate all its facilities.

Director Rudnick asked about dry waste goals and sought more information regarding those goals, to which Mr. Schneider stated the process was being reviewed by R3 Consulting as part of the Triennial Review to determine whether Republic and the service area were meeting the diversion goals established in the PCA and by the State. A facility tour with R3 and discussions with Republic as to the actual process would determine whether there might be some adjustments to maximize that program or whether facility improvements might need to be made. The goal remained the same, not a requirement, and Republic had tried its best to recover as much material from those loads as possible and potentially target accounts that might not be source separating as they should.

Mr. Holtzclaw described some of the issues with respect to contamination and the reaction to the marketplace and the recycling issues.

Vice Chair Romero referred to Republic's numbers and sought a report from staff on the breakdown and how it related to the PCA. While R3 was doing the dry waste assessment, he asked when the Board would get the report from staff.

Mr. Holtzclaw stated that staff would collaborate with R3 and return to the Board, potentially in January, with that report that took the volume processed by Republic related back to the PCA and PCA goals, to be analyzed as to how the volumes looked in terms of the State mandated 75 percent diversion goal as well as the SB 1383 numbers with respect to reducing organics in the landfill for both edible food recovery and methane reduction.

In response to Vice Chair Romero's requested clarification of the percentage of dry waste identified by the current PowerPoint related to the PCA and that of the next item with respect to recycling, Mr. Holtzclaw stated that was a more traditional representation. While each city would have a different material breakdown, it was a fairly accurate description of the jurisdiction.

Vice Chair Romero sought a definition of each category and what each stood for in the report to be provided to the Board.

Agenda Item 8.2 – Recycling Acceptance Presentation | Presenter Peter Holtzclaw – Executive Director

Executive Director Holtzclaw referred to recycling markets around plastics and a Material Recovery Facility (MRF) or an Integrated Resource Recovery Facility (IRRF), acronyms for a recycling plant, and explained that some of these had been discussed with regional staff nearly a year ago. At that time, there had been a decision to see how the markets would go for the next year or so before making any changes. He reported that the markets had not changed.

Mr. Holtzclaw stated there had been a number of articles written on plastics in the global economy in terms of waste, pollution, and global warming among other issues. On the question of why to recycle, he stated resource conservation commodities that were taken out of the landfill were valuable commodities, such as paper and aluminum. A big part of the value in the marketplace was because the manufacturing process used much less energy to reuse the products. The value was market defined, supply and demand, and buyers and sellers, and the rates fluctuated, and for the last few years China's decision not to buy paper had affected the markets. He identified how a MRF operated from loading and pre-sort to balers and future tech/robotics, and stated that there were great YouTube videos available for anyone to view. He identified the incoming stream by percentage with paper at 60 percent, glass at 12 percent, metal at 3 percent, plastic at 7 percent and residuals at 18 percent, and described the market for each.

PETER NUTI, Republic Services, referred to the MRF separation of material and the bales, and stated that until about two years ago China had been the number one importer of secondary materials in the world, had the greatest number of paper mills to process mixed paper corrugated and pulp, and had the most technology to handle paper of quality although not as stringent as the local mills in the U.S. When China wanted to clean up its environment, it had pursued a number of environmental initiatives such as *Green Fence* and *The China Sword*, both of which had reduced imports into China of secondary material such as plastic, paper and fiber.

Mr. Nuti explained that the market had then shifted from China to smaller countries throughout the world such as Korea, Mexico, Vietnam, and Indonesia, which did not have the capacity that China had for the secondary markets. The delivery specs to those countries then had to get tighter with less and less contamination, bodily fluids or food products which meant that those secondary items were not accepted. The world market then became stricter and the small countries could pick and choose specific streams of material such as dry waste and plastic. Today China did not import any raw material into its country of a secondary market which went to an intermediary company that preprocessed it into production material. Because there was so little capacity in the other countries and the entire world was shipping to those small countries, pricing was terrible and the PET and HTPE bottles and jars, not the clamshells, not the solo beer cups, or the oddball plastic (the 3s through 7s), the mixed rigids which were the kids toys and play structures, there was a very scarce market. He stated just because it was collected, processed, baled and shipped to a country did not represent the true situation to customers because if the materials could not be sold on an ongoing basis there could be no sustainability in the market.

Mr. Holtzclaw indicated to the Board that while there could be a market for those materials in the future, there are going to be major problem without easy solutions and the consequences could be even more problematic.

Vice Chair Romero wanted to know whether CalRecycle would give the okay to sort out the 3 to 7 plastics and potentially change the contract in that respect. While he accepted the report about the MRF, it would be difficult for him to attempt to work a new franchise agreement knowing that might break the law. He sought approval from CalRecycle and wanted to follow the law.

Director Willis asked about the timeline of being able to move forward, and Mr. Holtzclaw noted that most franchises for the member agencies and the PCA were up in 2025, and while there was still time, there was a desire to be transparent with the ratepayers and there was a desire to deal with the issue sooner rather than later

Director Willis requested quarterly reports to allow consistent input and direction from staff to be able to address the situation reasonably before the issue became critical.

Vice Chair Romero asked for an opinion from CalRecycle to then determine when a monthly or quarterly report would become necessary.

Director Pineda referred to the budget related to bin labeling and suggested that other things might need to be considered as well. He recommended that bin labeling for compost waste or recycling be translated to Spanish. He also wanted to see what other agencies were doing and how CalRecycle had been responding to others.

Mr. Holtzclaw stated he would return to the Board with information from CalRecycle to be able to move forward. He added that the issue would not go away and would come up again in the Triennial Review.

Agenda Item 8.3 – SB 1383 Memorandum of Understanding (MOU) | Presenter Peter Holtzclaw – Executive Director

Executive Director Holtzclaw stated that the Joint Exercise of Powers Agreement (JEPA) had forecast an MOU between member agencies and the Authority in terms of how to implement SB 1383. In a workshop format, he presented the MOU as to how to start delineating the duties to implement SB 1383, and an overview of the context to SB 1383 related to bringing organic material out of the landfill so that the landfill did not create as much methane given that it was a gas that contributed to global warming.

To those interested, Mr. Holtzclaw referred to Bill Gates' book on climate change and Mr. Gates' overview on how to break down and analyze global warming. He also referred to other information from the California Environmental Protection Agency (EPA), federal EPA and CalRecycle to identify the situation that created global warming and the impacts it produced. He explained that while China was the worst emitter of carbon (methane was worse than carbon dioxide) at 27 percent, the U.S. was second at 11 percent. In the U.S., California emitted less carbon than the majority of states in the U.S. He stated that methane in California accounted for 9 percent of 420 million tons of carbon and the majority related to agriculture, and between cows and waste there was more than 20 million tons of methane generation. Landfills and compost facilities represented 20 percent of the total. Landfills were heavily regulated to capture methane gas, and while most landfills captured 75 percent of the gas, the amount not captured had not been identified and could be more. Compost facilities also emitted carbon and some methane. He explained that landfill gas was sold and provided a resource on the grid. SB 1383 was attempting to reduce less than 2 percent of the carbon emissions from the State of California, and if every business actually followed the law, the carbon from the landfills would not change for years because there were still millions of tons of material in them and it would take years, if not decades, for that methane to be reduced.

While it was a good idea to bring organics out of the landfills and to capture edible food waste and get it to hungry people, Mr. Holtzclaw stated even if the law was implemented nothing would change the amount of carbon coming from landfills and compost facilities. The law was actually very long term and there would be no environmental benefits from the law for years. When going through the MOU and the process, it would have a very minimal impact on global warming, climate change benefit for a long while and may never offer significant environmental impacts. He added that SB 1383 would cost a lot of money and produce little impact. The MOU was looking at responsibilities between the hauler, the member agencies and the Authority, and the Authority would be taking on a number of duties that city code enforcement officers would normally do.

Director McLaughlin verified that Mr. Holtzclaw had reached out to the city managers and city attorneys about the MOU in the context of ordinances that would have to be modified, the draft MOU, and the draft compliance breakdown between the hauler, the member agencies and the Authority to ensure commercial accounts had organic service.

Mr. Holtzclaw also confirmed that RecycleMore staff had reached out to White Pony Express and others related to the edible food recovery portion of SB 1383. He commented that he personally preferred a professionalized system as opposed to a volunteer system to address chain of custody and ensure no liability with respect to edible food recovery.

Director Tave asked if a landfill could be aerated to reduce methane, although Mr. Holtzclaw stated that air space was valuable and while aerating could be an answer carbon dioxide would still be created and have to be captured.

Director Rudnick expressed concern that El Cerrito city staff had not been provided a copy of the MOU until it had been included in the Board Packet and that no feedback from City staff had been possible as a result. She asked RecycleMore staff to work with El Cerrito city staff on the MOU.

In response to Director Rudnick, Mr. Holtzclaw explained that the MOU was through the JEPA and the PCA was separate. He stated the document had gone through a number of drafts at the staff level. The process was that the Board needed to sign off on the MOU since the Board oversaw the Authority and the cities needed to sign off because they were the member agencies of the Authority.

Mr. Bakker advised that the JEPA anticipated the need to have MOUs that addressed SB 1383 to ensure that the Authority had the authority it needed to provide services to the member agencies, and there was also a thought that services might be individualized to individual agencies, which was the genesis of the MOU concept and which had been vetted with CalRecycle to ensure that an MOU would be acceptable. He clarified that the Board had directed RecycleMore staff to bring documents to the Board first prior to seeking input from the individual member agencies.

Director Rudnick noted that El Cerrito had a different agreement with RecycleMore than the other agencies. She referred to indemnities and waivers in the MOU that were important for El Cerrito to address.

With respect to the role of Contra Costa County in the workplan, Mr. Holtzclaw clarified some discussion with the county. In terms of SB 1383, he stated the county would have to provide some data in terms of capacity planning, a relatively low impact of SB 1383. The county would also play a part in edible food recovery. There would also be a role for the County Public Health Inspector to inspect generators or go-betweens for edible food.

Director Pineda referred to previous direction and process and how information was provided and stated it was also important for information to go to member agency staff. He requested 30 days to allow legal counsel and legal staff of the member agencies to provide feedback prior to returning to the Board. He reiterated that San Pablo appreciated information provided to everyone to allow everyone to work together and have sufficient time to offer feedback.

Vice Chair Romero agreed that in the past there had been a procedure where member agency staff would be apprised of information and where the RecycleMore Executive Director would make presentations to the city councils prior to a vote on a critical item so that the city councils could direct their representatives to RecycleMore how to vote, in this case on the MOU.

Mr. Holtzclaw clarified that there was no need to vote on the MOU in October in that there was time for feedback.

Vice Chair Romero made a number of recommendations: To Section D on the first page where there were no numbers he stated the report should have a baseline; to Section E with respect to multi-family residential, he stated there was no definition for a multi-family dwelling which he suggested usually meant five units or more, and a definition would need to be provided; for the enforcement action more language was needed in that the enforcement action should be registered at RecycleMore; to Item U, he stated the county had not been mentioned; and he asked if there was a defined list of self-haulers in the region and urged the addition of language to deal with self-haulers.

Mr. Holtzclaw noted that in SB 1383, self-haulers were usually self-haulers of organics, which was outside of solid waste in the franchises, although he agreed there should be enforcement of self-haulers of solid waste.

Vice Chair Romero suggested there should be two definitions of self-haulers. He also suggested working with grocery stores to speak about their self-hauls for green waste and food waste. With respect to Section I on Page 5, he sought more clarification of the county's role in edible food recovery. With respect to food recovery programs, he suggested that lawsuits could occur and restaurants would lose their insurance because there was no language in the laws to allow food recovery programs. Referring to the bottom of Page 7 and the sharing of information, he recommended that section be stricken since it could create complications moving forward.

Justin Sullivan, Contra Costa County, pointed out on Page 2 of 3 under the heading of County Responsibilities the statement that the county may have responsibility for inspecting the edible food generators. He clarified that under SB 1383, it was not the county's responsibility to inspect edible food generators. SB 1383 would require each jurisdiction to have an inspection enforcement program designed to ensure their tier 1 and tier 2 food generators were compliant with SB 1383 requirements, and he stated the Authority would have that responsibility. With respect to Attachment 2 of Item 8.3 (footnote 3), which stated that part of this activity would most likely be handled by County Public Health personnel, he stated that was inaccurate and it was not likely that County Environmental Health staff would do that. He urged RecycleMore staff to contact Environmental Health directly to negotiate and determine if and how that department would play a role and how Environmental Health would be funded to do work on behalf of the Authority.

In terms of capacity, Mr. Sullivan stated the county was required to report countywide on capacity to CalRecycle but was not required to gather that information. The county would request information from all jurisdictions, including the Authority, for a list of the in-county and out-of-county organic waste recycling facilities the jurisdictions used, the available capacity of each, and the same for edible food recovery, and would request a list of edible food recovery organizations RecycleMore would partner with and their available capacity. If there was a lack of capacity, there would be a follow up with a request for an implementation plan with required timelines, as directed by CalRecycle. He added that the county was required to identify jurisdictions that did not respond to CalRecycle.

Mr. Holtzclaw clarified that Mr. Sullivan was correct.

Director McLaughlin requested that the issue be designated as a standing item on each meeting agenda for feedback until approved.

Given the poor audio at the time of his comments, Vice Chair Romero requested that Mr. Sullivan provide his comments in writing.

On the continued comments related to whether or not the member agencies had been pre-notified of the current presentation on the MOU, Mr. Bakker clarified that the MOU was an agreement between the Authority and each individual member agency, and each city council would have to approve the agreement. He explained that the agreement had been brought to the Board first to verify sufficient acceptance to allow negotiations to begin.

BOARD MEMBER AND STAFF ANNOUNCEMENTS

Vice Chair Romero noted that earlier in the year the RecycleMore Board had been in conflict about Recyclist data, which conflict had been resolved, but he requested that representatives of Republic Services identify what Recyclist would do for the member agencies. As a result, he requested that a representative from Republic Services come to the Board to explain what Recyclist would do for the different agencies and how that would occur.

ADJOURNMENT

With consensus of the Board, Chair Bates adjourned the meeting at 8:31 P.M. *in memory of Margaret "Jean" Henderson Knox, a valuable member of Contra Costa Community College staff*, until the regular Board meeting scheduled for October 14, 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 September 16, 2021.

Donald W. Sturman

Board Secretary, Donald Sturman

Jan 20, 2022

Date






2021 09-16 Board Meeting Minutes-WCCIWMA-RecycleMore

Final Audit Report

2022-01-21

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