

WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS MEETING MINUTES – JUNE 10, 2021

Meeting Date | Time 6/10/2021 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in locations not open to the public in compliance with the Governor's Executive Order N-25-20 (March 12, 2020) as superseded by Order N-29-20 (March 17, 2020), allowing for deviation of teleconference and physical location meeting rules otherwise required by the Ralph M. Brown Act.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 Regular
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 G. McLaughlin, and N. Bates (Chair), Richmond
Absent: M. Willis (Richmond), and F. Glover (Ex-Officio) Contra Costa County

CALL TO ORDER/ROLL CALL

Chair Bates called the meeting to order at 6:16 P.M. The Roll Call established the existence of a quorum (Bates, McLaughlin, Pineda, Romero, Rudnick, and Tave).

CLOSED SESSION

There was no Closed Session.

PLEDGE OF ALLEGIANCE

Director Tave 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

MOTION by Vice Chair Romero to approve Consent Calendar Item 6.0. **SECOND** by Director Tave.

MOTION PASSED unanimously by a Roll Call vote.

STAFF REPORT

Staff Report Item 7 | Presenter | Executive Director Peter Holtzclaw

Executive Director Peter Holtzclaw reported that an offer of employment was expected to be made for a Recycling Coordinator /Administrative Assistant who was expected to be introduced to the Board at the next meeting.

Recycling and Solid Waste Program Manager Christina Leard reported that:

- 1) The first Household Hazardous Waste (HHW) and Mattress Collection events had been scheduled for Hercules on June 26 at the Hercules Corporation Yard, in El Sobrante on August 28 at the Hilltop Church of Christ, and in Richmond on September 18 at the Galileo Club. There would also be a mattress only collection event in Pinole on June 12 at the parking lot at Pinole Valley Road and Simas Avenue by the baseball field. Other mattress only events were currently being organized. Flyers were available for all events in English and Spanish.

Source Reduction and Recycling Program Manager Andy Schneider reported that:

- 1) CalRecycle had provided RecycleMore with a letter of meeting requirements on AB 939, part of the 2016 through 2019 review cycle, and RecycleMore had been one of 380 California jurisdictions that had gotten such a letter that commended their efforts with staffing and funding in order to meet AB 939 requirements, placing RecycleMore in good position to implement the requirements under SB 1383. RecycleMore was also one of 178 jurisdictions that had an identified program gap during that review period, had corrected that program gap, and had received the letter meeting requirements.

Executive Director Holtzclaw added that RecycleMore had been working with Republic Services and its contractor Cascadia to ensure compliance with AB 1826, and with all staff involved had contacted 100 percent of all non-compliant commercial accounts. Fifty percent of those had been followed up with either a site or a phone visit. The program would be continued going forward, also setting RecycleMore up for the implementation of SB 1383.

Vice Chair Romero referred to the HHW events and expressed concern that the flyer had indicated that Kensington could not participate even though Kensington was part of Contra Costa County. He asked staff to explain that situation, and Ms. Leard advised that the County and Republic Services had not been able to come to an agreement on cost.

Chair Bates commented that the Board had unanimously supported the position to address the Kensington issue and he urged continued communication to ensure that something could be worked out. Mr. Holtzclaw stated that he would follow up with the County.

Director Tave requested that the volume of mattress collection be monitored to be able to identify the successes by city and by volume. The Board agreed.

Mr. Holtzclaw stated that data was being collected and it would be updated and provided to the Board.

Agenda Item 8.0 – Amendment to Employment Agreement with Peter Holtzclaw | Presenter Chair of the Board’s Ad Hoc Subcommittee Re the Employment Agreement

Vice Chair Romero, serving as the Chair to the Board’s Ad Hoc Subcommittee, stated that he was one of three members along with Directors Rudnick and Tave meeting as a subcommittee, with Legal Counsel John Bakker. There had been multiple meetings to review the Executive Director’s contract.

Vice Chair Romero highlighted the recommendations that had been made after those meetings, including a 7.5 percent pay increase retroactive to January 1, 2021 for this year and the next. The contract had also been recommended to be extended another two years.

Director Rudnick spoke to the discussions related to performance and leadership expectations of the agreement, how the Executive Director's work was being structured, allowing the Executive Director to lead the organization in an appropriate chain of command, and enabling him to be able to perform at his best while tightening and strengthening the organization.

Director Tave added that the discussion had also included the need to update the website and ensure public engagement to encourage the use of the programs. He added that training for staff and project management had been emphasized in the discussions.

Mr. Holtzclaw thanked the ad hoc committee for the recommendation and commended the discussion about future goals. He was confident of the RecycleMore team and with the contractors and all those involved, and stated the future was bright to expand on existing programs, meet state mandates, and provide excellent environmental services at competitive prices.

Legal Counsel John Bakker clarified that the contract amendment was retroactive to the anniversary date of December 2, and not January 1 as earlier noted.

MOTION by Director Rudnick to authorize the Board Chair to execute an Amendment to Executive Director Peter Holtzclaw's Employment Agreement. **SECOND** by Director Tave.

MOTION PASSED unanimously by a Roll Call vote.

Agenda Item 8.1 – Prefunding Pension Contributions and Reducing UAL Expenses by Establishing Two IRS Code Section 115 Trusts | Presenter Donald Sturman – Manager of Finance and Administrative Services

Executive Director Holtzclaw clarified for the benefit of the discussion that staff was not asking the Board to fund the two IRS Code Section 115 Trusts, but asking for the authorization to create the two Section 115 Trusts.

Manager of Finance and Administrative Services Donald Sturman explained that Other Post Employment Benefits known as OPEB, and pension costs together known as Unfunded Accrued Liability (UAL), were increasing annually and if not managed well would become a budgetary burden on the Authority. As a result, many public entities were only able to pay the CalPERS liability obligations as they became due, known as the PayGo method. RecycleMore had historically used that method to address the short-term expenditures related to those costs although that did not address the growing overall liability. He stated there were two additional vehicles to address those issues permitted under IRS Code Section 115, a California Employers Pension Prefunding Trust (CEPPT) and a California Employers Retiree Benefit Trust (CERBT).

Mr. Sturman recommended the use of such a trust given that pension contributions were increasing faster than the budget may grow, pension contributions were volatile from year-to-year and hard to plan for and afford, the State Local Agency Investment Fund (LAIF) and County Treasury funds weren't earning what they used to, and increased investment income with the CEPPT and CERBT trusts could reduce contributions and save money. He identified the purpose of prefunding a 115 Trust to grow assets for future pension contributions, invest Authority assets with less risk than CalPERS pensions, outperform LAIF and County Treasury investments at safe risk levels and low costs, and allow the Authority to retain liquidity and control over RecycleMore's money.

Mr. Sturman reported that the current UAL was approximately \$525,000, the unfunded UAL for OPEB was at \$225,000, and with the Board's approval an additional discretionary payment of \$680,000 could be made to lower the overall liability to less than \$75,000. He asked the Board to consider the merits of opening a Section 115 CEPPT Trust for future pension expenses, and consider the merits of opening a Section 115 CERBT Trust for future OPEB expenses. Staff would not be funding the 115 Trusts and would only open one CEPPT Trust and one CERBT Trust.

In response to Director Tave, Mr. Sturman stated that with a less than \$75,000 liability, the idea would be to fund the two trusts which should allow RecycleMore to cover any costs associated with the pension costs and OPEB costs. As to how much money should be put into any of the trust accounts, he stated that once the trusts had been funded the safest and most conservative program could be pursued with the Board. He added that he would be working with an assigned CalPERS actuary as to the most efficient way to use the funds. He clarified that interest would be earned on the trust and there would be a policy annually as to how much would be committed to the fund. He added there was a wide latitude of decisions available once the trusts had been created.

Director Rudnick verified the desire to authorize the opening of the trusts and she asked about the funds to place in the trusts, to which Mr. Sturman stated that two payments to be made to CalPERS of approximately \$680,000 in total would pay down both interest and principal instead of just interest costs on the PayGo method. With the additional discretionary payment, the approximate \$750,000 owed, depending on interest rates, would be nearly satisfied.

Mr. Sturman stated the trust could be opened with zero funding and a policy could then be determined and the Board could decide how much to fund. Once paid down, the interest costs would not be a factor and just principal costs would be involved on a monthly or annual basis. He clarified in response to comments that a policy would have to be developed as to the funding itself, which would be part of a budgetary allocation or appropriation with a specified amount every year given that pension costs were far and away the greatest costs.

Vice Chair Romero requested that staff survey other agencies to determine how they were addressing the same issues. He also suggested that opening up a 115 Trust with the \$680,000 and building that up might be something else to consider.

Chair Bates verified that each employee contributed a small amount to fund the PERS payment but it did not cover the full payment. Referring to the reserves and other RecycleMore funds drawing no interest, he asked if the law permitted the Authority from investing in other stock to get the greatest return.

Mr. Bakker stated that the Authority's money sitting in the bank was subject to strict limits on the types of investments that could be made. At most treasuries and government backed bonds could be purchased and there were special rules on trust funds.

Mr. Sturman stated he would invite someone from CalPERS to advise of the possibilities.

MOTION by Director Tave to authorize staff to establish two trusts relating to pension and Other Post-Employment Benefits costs; one CEPPT and one CERBT. **SECOND** by Director Rudnick.

MOTION PASSED unanimously by a Roll Call vote.

Agenda Item 8.2 – West Contra Costa Integrated Waste Management Authority Fiscal Year 2021-22 Budget | Presenter Peter Holtzclaw – Executive Director

Executive Director Holtzclaw presented the FY 2021-2022 budget and noted that the presentation had been made last month and there had been very few recommended changes from the Board at that time.

There was no change in projected revenues, a few changes in expenses, the budget filled the Authority's mission for cost-effective compliance with state law and effective oversight, protected ratepayer interest, provided cost-effective waste disposal and diversion while assisting member agencies to meet state mandates. The final budget total expenditures were identified as \$1,510,217, with the same revenue amount, still using reserves to balance the budget and making some retirement payments. He presented the fund balances for June 30, 2021 and the projections for June 30, 2022. He characterized the budget as being in strong shape.

Mr. Holtzclaw identified the rate for post-collection activities and for the different programs and presented the budget summary where revenues stayed the same, salaries and benefits had increased \$21,000 from last month due to a 3 percent Cost-of-Living Adjustment (COLA), the program direct expenses had dropped by \$38,000 by leasing as opposed to purchasing a vehicle, with total expenses of \$1,510,217. Sources of revenues were identified as Republic Services payments, El Cerrito monthly payments, HHW and oil grants, and interest. Given that there were no electric charging stations at the office, a hybrid vehicle would be leased and an electric vehicle would be considered in the future. SB 1383 compliance activities would be grouped into the compliance fund and those items would be returned for discussion when discussing rates in October and November. He referenced the recent retirement discussion and outlined where the funds had come from to pay down CalPERS, which with a payment of almost \$680,000, would nearly eliminate all UAL/OPEB liabilities for the Authority and bring it to \$75,000 or less.

Vice Chair Romero noted the last two years the Board had increased rates to set aside funds for SB 1383, part of which was the Recyclist contract, although now the Recyclist contract would be incorporated into the rates. He asked how that situation would be addressed and Mr. Holtzclaw stated in terms of the compliance fund, between the \$225,000 it had originally been funded in 2019, and another \$250,000 put in six or seven months ago, the compliance fund was available for such things as addressing a third-party enforcement mechanism for SB 1383, among other purposes. He suggested that RecycleMore could read and react to what CalRecycle did and use that money appropriately. The monies could always be moved out of that fund or from the operating fund or reserve fund back to the ratepayers, which determination could be made every year.

Mr. Holtzclaw referred to the rates and wanted to make sure that the waste authority ratepayers were not being charged more for the programs than was absolutely necessary.

On the discussion of the COLA and the 3 percent that had been budgeted, Mr. Holtzclaw pointed out that most cities were giving 3 percent since the COLA was usually based on the Consumer Price Index (CPI), and the CPI this year was 3.2 percent.

Vice Chair Romero suggested there needed to be consistency in the selection of the COLA and he urged that RecycleMore establish a formula, to be used consistently every year.

MOTION by Vice Chair Romero to adopt Resolution 21-02 Approving the Fiscal Year (FY) 2021-22 Operating Budget (Exhibit A to Attachment 1) in the amount of \$1,510,217, including use of reserves in the amount of \$200,000 to balance the Operating Fund (Fund 780) Budget; and to appropriate \$330,000 from the Recycling Fund (Fund 781) to make a significant payment to CalPERS to pay down UAL Retirement/OPEB liabilities. **SECOND** by Director Xavier.

MOTION PASSED unanimously by a Roll Call vote.

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

Executive Director Holtzclaw explained that over the last year the local liaison for CalRecycle and her supervisor had indicated a need for RecycleMore to amend the Joint Exercise of Powers Agreement (JEPA) so that the jurisdictions could delegate the responsibility of SB 1383 compliance to the Authority. In consultation with legal counsel Meyers Nave, he explained that the JEPA had been written with flexibility and specifically for SB 1383 and delegating that responsibility through a Memorandum of Understanding (MOU) among the cities. He stated that CalRecycle would be so advised where the cities would be given the authority to delegate that responsibility to RecycleMore. The MOU would be returned to the Board for discussion when drafted.

In response to Director McLaughlin as to when the document would be submitted to the member agencies, Mr. Holtzclaw explained there were a couple of deadlines looming, the MOU and the SB 1383 ordinances, and the final drafts were being developed before being distributed to the member agencies, both expected by the middle of July so that city attorneys and city staff would have plenty of time to evaluate those documents. He was hopeful the MOU would be brought back to the Board for the July meeting.

Vice Chair Romero asked that the Executive Director contact the City of Hercules city engineer, city manager, and the Authority Director to identify what was occurring so that the city attorney could be contacted and everyone was prepared to discuss the issue and to help the flow of information.

Mr. Holtzclaw noted that he had been hesitant to contact the city managers given that the solid waste ordinances were very tedious, time consuming and had not been touched for 30 odd years, which ordinances had been re-crafted to be SB 1383 compliant. He was confident he could get those out fairly quickly.

BOARD MEMBER AND STAFF ANNOUNCEMENTS

Director McLaughlin referred to the time conflict she had in attending RecycleMore meetings and the request she had made at the last meeting as to whether or not a change in meeting time or day could be considered by the Board.

Mr. Bakker explained that pursuant to the Brown Act and since the request had not been agendaized it could not be discussed at this time, although the next Board meeting could be scheduled to accommodate Director McLaughlin and at that time a decision could be made whether to make it a permanent situation.

It was recommended that the next meeting start at the regular time and that the request be placed as the first item on that meeting agenda.

ADJOURNMENT

With consensus of the Board, Chair Bates adjourned the meeting at 7:35 P.M. until the regular Board meeting scheduled for July 8, 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 June 10, 2021.

Christina Leard

Board Secretary, Christina Leard

Jan 13, 2022

Date






2021 6-10 Board Meeting Minutes-WCCIWMA-RecycleMore

Final Audit Report

2022-01-13

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