

WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS MEETING MINUTES – FEBRUARY 9, 2023

Meeting Date | Time 2/9/2023 6:15 PM | Meeting Location The meeting was held pursuant to the provisions of California Governor’s March 4, 2020 State of Emergency Declaration and enactment of Assembly Bill 361 on September 16, 2021 which adopted exemptions to the Ralph M. Brown Act and the proposed findings to be adopted by the Board at this meeting, to be conducted by teleconference only in accordance with Government Code Section 54953(e). No physical location to be available for this meeting. 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, Reka Abraham, Lisa Borreani, Webster Nguyen, Donald Sturman
Legal Counsel John Bakker

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

CALL TO ORDER/ROLL CALL

Chair Romero called the meeting to order at 6:15 P.M.

Director McLaughlin took this opportunity to introduce the new City of Richmond Councilmember Cesar Zepeda, now one of the City’s representatives on the RecycleMore Board of Directors.

The Roll Call established the existence of a quorum (McLaughlin, Romero, Rudnick, Tave, Willis, Xavier and Zepeda).

CLOSED SESSION

There was no Closed Session.

PLEDGE OF ALLEGIANCE

Director Tave led the Pledge of Allegiance.

EX-PARTE COMMUNICATIONS & DISCLOSURES

There were no ex-parté communications or disclosures.

PUBLIC COMMENT

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

CONSENT CALENDAR

1. January 12, 2023 Authority Board Meeting Minutes.
2. Continue Findings of AB 361 to Allow Teleconferenced Meeting.

MOTION by Director Xavier to approve Consent Calendar Items 1 and 2.
SECOND by Vice Chair Rudnick.

MOTION PASSED unanimously by a Roll Call vote.

STAFF REPORT

Staff Report Item 7 - | Presenter | Peter Holtzclaw - Executive Director

Executive Director Peter Holtzclaw reported that the annual phone calls by CalRecycle (prior site visits now done by Zoom) had been scheduled with the member agencies this month. Staff had also communicated with CalRecycle over the AB 1826 project where all member agencies were 100 percent compliant, with the exception of Richmond given pending waiver approvals, although 100 percent compliance was also expected in that case. Going forward, the process with CalRecycle would move from local assistance and market development into the enforcement project as CalRecycle moved into SB 1383. He stated that ongoing updates would be provided to the Board.

Mr. Holtzclaw requested that the agenda be reordered to move the Election of Board Chair and Vice Chair from Item 8.1 to Item 8.3 on the agenda.

MOTION by Director Zepeda to move the Election of Board Chair and Vice Chair from agenda Item 8.1 to Item 8.3.
SECOND by Director McLaughlin.

MOTION PASSED by a Roll Call vote, with no response from Director Willis.

Agenda Item 8.1 – Change-in-Law Clause of the Post-Collection Agreement | Presenter | Peter Holtzclaw - Executive Director

Legal Counsel John Bakker advised that Director Tave had informed him this date that he had received a campaign contribution from Republic Services less than a year ago during his campaign for Pinole City Council, and he had recently become aware of Government Code Section 84308, which had recently been amended to apply for the first time to City Councilmembers.

Mr. Bakker stated it had always applied to the RecycleMore Board given that members were appointed to their position. The law prohibited participation in decisions where campaign contributions had been received from a participant in a decision, such as when Republic Services had a proceeding in front of the Board. He stated the campaign contribution threshold was \$250 received in the preceding 12 months. Despite the fact that the item before the Board was only an informational item, he had advised Director Tave to recuse himself in an abundance of caution and to provide the details of that campaign contribution. Mr. Bakker added that he would identify the changes to Government Code Section 84308 in writing for the Board's information. At this time, he recommended that Director Tave "leave the room."

Director Tave stated in an abundance of caution he would recuse himself from the item and return to the meeting once the item had concluded. He reported that the contribution had been received sometime during the summer of 2022 and he would provide the detail of that contribution to Legal Counsel who would place it into the public record.

As opposed to leaving the room, Director Willis recommended that the Zoom monitor place Director Tave in the Zoom "waiting room" and readmit him when the item had been concluded.

Donald Sturman, Manager of Finance and Administrative Services and Board Secretary did just that at this time.

Executive Director Holtzclaw reiterated that the item was informational only. He updated the Board on where RecycleMore was leaning in the change of law expense request from Republic Services in the last rate process in October and November 2022, when Republic had requested approximately \$230,000 for compost capital equipment to handle increased volumes and contamination through a change in law clause in the Post Collection Agreement (PCA). He explained that in discussions with Mr. Bakker and other staff, he was leaning towards accepting that justification but would have to do more due diligence. He wanted to make sure that other municipalities using the compost facility were being charged similar amounts. He noted there was some value that the capital would bring in terms of compost revenue and beneficial use of some compost overs where a portion of those revenues in the area of \$25,000 to \$30,000 could be rebated back to ratepayers. He clarified that the amounts had been passed in the rates in November 2022 and could be modified when returning for the 2024 rates in October and November 2023.

Director McLaughlin stated that once the final decision had been made in what might turn out to be a rebate to ratepayers, the refund be provided as soon as possible to ratepayers to prevent outrage, and Mr. Holtzclaw stated that could be possible although he had to talk to Republic about the mechanics of doing that. He commented that the amount of capital was very small in the scheme of things and the impact on a residential ratepayer for that small fraction of the rates would likely be less than five cents a month. Rebates would be fractions of a penny and the impact would not be visible on a bill.

Director Xavier advised that the City of San Pablo had a large percentage of renters with a significant turnover and the rebates would likely not reach the affected ratepayer. As such, she recommended that the credit be applied as soon as the correct amounts had been determined.

Vice Chair Rudnick commented that since El Cerrito was a bit of an outlier, the El Cerrito City Attorney would have to have a separate Meet and Confer to be able to discuss whether there were any impacts to El Cerrito ratepayers.

Mr. Holtzclaw confirmed that El Cerrito, although different, would have the same package and the rebate would also apply subject to the volume of El Cerrito's compost.

Chair Romero noted there had been no discussion of a rebate in December 2022 but it had been discussed that there would be a credit on next year's budget that would affect everyone overall. He sought clarification to allow the Executive Director and Mr. Bakker to confer with Republic Services, and stated the item would return to the Board again. As such, he suggested the discussion of a rebate was somewhat premature.

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

Director Tave was invited back into the meeting at this time.

Agenda Item 8.2 – Potential to Use Teleconference Meetings Under Assembly Bill No. 2449 | Presenter | John Bakker – RecycleMore Legal Counsel

Legal Counsel John Bakker stated that because of COVID, remote meetings consistent with the Governor’s Executive Order had been pursued. That Executive Order would expire at the end of February 2023, and in Contra Costa County the authority to continue using AB 361 would be eliminated and in-person meetings would begin in March 2023 and thereafter. He explained there was existing law under the Brown Act to allow teleconferenced meetings that would have to be noticed, allow members of the public to be present at the teleconferenced location and that location would have to be identified on the meeting agenda. There had been discussions in the last Legislative session of potentially allowing virtual meetings on a permanent or temporary basis. The Legislature had adopted AB 2449, which included limited mechanisms whereby individual Board members could participate via teleconference beyond what was already allowed under general teleconferencing rules with certain caveats.

The first caveat was that at least a quorum of members must participate in-person at a site open to the public. Members of legislative bodies could participate remotely if there was a just cause (a child or family care need, a need related to a disability, a contagious illness, or traveling on official business of the agency or another state or local agency), or if there was an emergency circumstance (a physical or family medical emergency). In both cases, the Board needed to find that a just cause or emergency circumstance existed and a decision in that regard could be made at the meeting.

Mr. Bakker stated that if members participated remotely certain rules would apply and the Board member must be on both video and audio. If a Board member participated remotely, the meeting would have to be a hybrid in-person meeting where the public could participate remotely as well by watching the meeting or by addressing the meeting. Both an in-person and virtual meeting would have to be held and the Board member who participated remotely was required to disclose the presence of any person in the room with them over the age of 18 and the relationship with that person, which was a unique aspect under AB 2449.

Mr. Bakker determined that the agency was not required to make remote meetings available to members of the public. This item had been presented to the Board to determine whether or not to allow the agency to determine whether it would allow people to participate by teleconference at RecycleMore Board meetings.

Mr. Bakker reported that he and staff recommended that the Board indicate that it did not authorize the use of AB 2449 teleconferencing for the following reasons. If the Board was to accommodate the meetings, the agency would have to run a hybrid meeting where there was no large staff or dedicated chambers, and it would be a big and expensive undertaking for a small agency like RecycleMore with no telecommunications. For RecycleMore, each Board member had an alternate and if there was just circumstance there would be an alternate available. He and staff had taken the position that AB 2449 would not be available for this agency.

Director Xavier explained there was no Memorandum of Understanding (MOU) between RecycleMore and the City of San Pablo for the use of the Council Chambers and an MOU would be required to allow that to occur.

Mr. Holtzclaw agreed and stated that the MOU had been deferred pending the vote as to whether or not AB 2449 would be pursued by the RecycleMore Board of Directors.

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

MOTION by Director McLaughlin that the Board of Directors did not authorize West Contra Costa Integrated Waste Management Authority (WCCIWMA) (RecycleMore) Board members to participate remotely in Authority Board meetings under the authority established by Assembly Bill 2449, and starting with the March 9, 2023 meeting, WCCIWMA would conduct in-person meetings only. **SECOND** by Vice Chair Rudnick.

MOTION PASSED unanimously by a Roll Call vote.

Agenda Item 8.3 – Election of Board Chair and Vice Chair | Presenter | Peter Holtzclaw – Executive Director

Mr. Holtzclaw noted the item was to nominate and elect a new Chair and Vice Chair.

MOTION by Chair Romero to elect Vice Chair *Tessa Rudnick* as the Chair of the West Contra Costa Integrated Waste Management Authority (WCCIWMA) (RecycleMore) Board of Directors for a term beginning February 10, 2023 and ending February 8, 2024. **SECOND** by Director McLaughlin.

MOTION PASSED unanimously by a Roll Call vote.

Chair Rudnick chaired the meeting at this time.

MOTION by Director McLaughlin to elect Director *Anthony Tave* as the Vice Chair of the West Contra Costa Integrated Waste Management Authority (WCCIWMA) (RecycleMore) Board of Directors for a term beginning February 10, 2023 and ending February 8, 2024. **SECOND** by Director Zepeda.

MOTION PASSED unanimously by a Roll Call vote.

The Board thanked former Chair Romero for chairing RecycleMore Board meetings over the last year, and for his leadership and his mentorship.

Director Romero emphasized the importance of regional committees and was pleased that everyone had gotten along and had worked together to bring excellent garbage collection, composting and recycling services to the RecycleMore service area. He commended RecycleMore staff and emphasized the importance of working together.

Director Xavier announced that this year would be the City of San Pablo's 75th Anniversary and there would be celebrations all year. She invited everyone to a celebration on April 27, 2023 and would keep everyone informed of the ongoing events.

Mr. Sturman reported that staff had worked on a comprehensive Board member Orientation that would be available in the coming months.

Mr. Bakker stated again that he would be sending a memo to the Board on campaign contributions and conflicts of interest under Government Code Section 84308. He explained that the memo would be privileged and confidential to the agency and should not be handed off to city managers or city attorneys, although both could be advised of the memo and encouraged to call him with any of their questions.

Chair Rudnick announced the unexpected passing of former El Cerrito Councilmember and five-time Mayor Janet Abelson, who had been a staple in local government for over 25 years. She advised that a celebration of life had been scheduled for February 25, 2023 at 1:00 P.M. at the El Cerrito Community Center.

BOARD MEMBER AND STAFF ANNOUNCEMENTS

There were no Board member or staff announcements.

ADJOURNMENT

With consensus of the Board, Chair Rudnick adjourned the meeting at 7:02 P.M. *in honor of former El Cerrito Councilmember and five-time Mayor Janet Abelson* until the regular Board meeting scheduled for March 9, 2023 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 February 9, 2023.

Donald W. Sturman

Board Secretary, Donald W. Sturman

Apr 21, 2023

Date






2023 02-09 Board Meeting Minutes-WCCIWMA-RecycleMore

Final Audit Report

2023-04-21

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