

County of Santa Clara

Recycling and Waste Reduction Commission
Integrated Waste Management Division

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RECYCLING AND WASTE REDUCTION COMMISSION MINUTES

February 25, 2009

1555 Berger Drive, San Jose, CA 95112

Building 2, Auditorium

Business Meeting at 5:15 p.m.

Voting Members in Attendance

Ronit Bryant, City of Mountain View
Kansen Chu, City of San Jose
Peter Drekmeier, City of Palo Alto
Patrick Kwok, SCVWD
Evan Low, City of Campbell
Jamie McLeod, City of Santa Clara
Cat Tucker, City of Gilroy
Kris Wang, City of Cupertino

Representing

Member at Large – All Jurisdictions
City of San Jose
Mountain View, Palo Alto, Sunnyvale
Santa Clara Valley Water District
Campbell, Los Gatos, Monte Sereno, Saratoga
Member-at-Large – All Jurisdictions
Morgan Hill, Gilroy
Cupertino, Los Altos, Los Altos Hills

Voting Members Not in Attendance

Ken Yeager, County of Santa Clara
Vacant

Representing

County of Santa Clara
North County Cities (Santa Clara and Milpitas)

County Staff

Elizabeth Constantino, Integrated Waste Management Division
Rob D'Arcy, Household Hazardous Waste Program
Elizabeth Pianca, County Counsel
Lisa Rose, Integrated Waste Management Division
Greg Van Wassenhove, Agriculture and Environmental Management

Others in Attendance

Steven Blomquist, Supervisor Cortese's Office
Elizabeth Brierly, Silicon Valley Taxpayer's Association
Mark Bowers, City of Sunnyvale
Darrell Costello, Roplast Industries
Manny Diaz, American Chemistry Council
Kathy Duong, Councilmember Chu's Office
Bruce England, Mountain View Resident
Anthony Eulo, City of Morgan Hill
Cornell Fowler, Mountain View Resident
Joe Galea, 7-Eleven Stores
Mark Gray, West Valley Collection and Recycling

Commissioners: Jamie McLeod, Chair; Ronit Bryant, Kansen Chu, Peter Drekmeier, Patrick Kwok, Evan Low, Cat Tucker, Kris Wang, Ken Yeager

Ryan Kenny, Five Member Business Coalition
Skip Lacaze, City of San Jose
Doug McNea, Silicon Valley Taxpayer's Association
Trish Mulvey, CLEAN South Bay
Long Nguyen, 7-Eleven Stores
Brian Schmidt, Committee for Green Foothills
Yuvraj Sidhu, 7-Eleven Stores
Lori Topley, City of Mountain View
Jo Zientek, City of San Jose

1. Call to Order/Introductions

Chair Jamie McLeod called the meeting to order at 5:22 p.m. Seven Commissioners were present at the start of the meeting and quorum was met. Shortly thereafter, one other Commissioner arrived. Commissioners introduced themselves.

2. Approval of December 10, 2008 Minutes

Clarification was needed as to who made a motion at the December 10 meeting with regard to Item 7 – Bylaws. It was determined that Cat Tucker had made the motion to approve that item. Staff will correct the minutes to reflect the change. Kris Wang motioned to approve the December 10 meeting minutes with that change and the motion was seconded by Patrick Kwok. The vote to approve the minutes was unanimous.

3. Public Presentations

There were no public presentations.

4. Household Hazardous Waste (HHW) and AB 939 Implementation Fee Re-Authorization

Rob D'Arcy, Household Hazardous Waste (HHW) Manager, introduced the proposal to reauthorize the HHW AB 939 Agency Agreement for one year and increase the HHW fee from \$2.05 per ton to \$2.60 per ton for a term of one year. The Household Hazardous Waste fee is levied on waste coming into landfills and is a mandated service. While the state is responsible for banning universal waste and sharps from the landfills, it is the local government that supplements the fees for collection of this waste, so an increase in the fee will help ease the burden on local jurisdictions. It is hopeful that there may be some relief from the state in the future. Patrick Kwok asked if the fee increase was subject to Proposition 218 and Elizabeth Constantino replied that this is a fee rather than a tax and therefore, not subject to Prop 218 noticing. Ronit Bryant motioned to reauthorize the Agency Agreement and increase the HHW fee from \$2.05 to \$2.60 for one year. Peter Drekmeier seconded. There was no further discussion and the motion carried unanimously. A favorable recommendation will be forwarded to the Board of Supervisors.

5. Solid Waste Planning Fee

Elizabeth Constantino, Program Manager for the Integrated Waste management Division, requested a favorable recommendation be forwarded to the Board of Supervisors for a \$0.22 increase of the Solid Waste Planning Fee from \$0.56 per ton to \$0.78 per ton effective July 1, 2009 for a period on one year. The fee is paid by landfills and transfer stations and helps to achieve the state's mandate for 50% diversion. This increase will help to balance the revenue decrease resulting from a downturn in the economy which also causes a downturn in tonnage disposed and the success of ongoing diversion programs. TAC had discussed basing the fee on a wider range of materials, which would have allowed for a decrease in the fee. However there were some legal concerns, so it was recommended to increase the fee for one year with the idea of further exploring other materials on which the fee may be based. Patrick Kwok motioned to approve the Solid Waste Planning Fee by \$0.22 and forward a favorable recommendation to the Board of Supervisors. Peter Drekmeier seconded the motion and it passed unanimously.

6. Single-Use Carry Out Bag Draft Model Ordinance

Lisa Rose reported that staff was asked to query cities about the proposed draft model ordinance related to single-use carryout bags and report back by January 30. Cities were asked to review the ordinance and gather input on feasibility of implementing such an ordinance and to identify issues and concerns. Data was collected from cities, stakeholders and the community at large and compiled into a staff report; letters of support and opposition were forwarded to the RWRC and are included in the Commissioner's packets. All cities agreed that bags are an environmental and fiscal burden in all jurisdictions. Some city councils agreed that the proposed draft ordinance is very much aligned with their city's environmental goals and policies. However, there were varied opinions as to what approach is most prudent at this time considering the economic climate. Other considerations included: uniformity in enforcement; finding a clear nexus between the fee and cost of implementing a program to address the ordinance; increased public education; a phased-in or tiered approach that might involve increased public education followed by a small fee and potentially a larger fee in the future; supporting and advocating for state legislation; consideration of other approaches including a ban on plastic with a fee on paper or an all out ban. Additionally the San Francisco Bay Regional Water Quality Control Board declared 26 bodies of water in the SF Bay Area "impaired" by trash entering creeks and water bodies; there will be mitigation requirements imposed on local jurisdictions in the near future; an ordinance to address single-use carryout bags could certainly help to mitigate these control measures. Also included in the packet was a draft resolution for consideration.

There were a couple of questions from Commissioners before the public comments began. Cat Tucker asked if cities were directed to go to City Council or staff for comment. Lisa replied that the request was made to the City Manager with a request to share with Mayor and City Council and well as City Attorneys and staff. Ronit Bryant questioned if the data collection referenced in the draft resolution would be something new for cities to collect. Lisa Rose responded that it would be new information to collect. The question was posed whether cities had enough staff to collect such data. Evan Low asked about potential litigation issues. County Counsel Elizabeth Pianca replied that there have been legal challenges in every California jurisdiction that attempted to place a ban on bags. Elizabeth Constantino noted that in the broadest spectrum, County Counsel has expressed concern about the potential for litigation based upon letters received by the County from various opponents of bag bans or fees.

Chair McLeod then asked for public comment on the issue and reminded the audience that they needed to submit speaker cards and would have two minutes to speak on the topic. She also noted that speaker cards will be scanned and entered into the record, and eventually posted on a public website.

Trish Mulvey of Clean South Bay encouraged the use of reusable bags and supports moving forward with some sort of control measure. She shares an interest in making sure all jurisdictions collect same data regarding bags and suggests getting advice from the Technical Advisory Committee (TAC) on how best to gather data and report out. She also wants to be sure that it is feasible for cities and the County to collect such data.

Darrell Costello stated that Roplast Industries is a California manufacturer of high density reusable plastic bags. She noted that opponents of the fee on bags had stated it would cost an average family \$300. That implies those families would never be using reusable bags and just paying for bags each time they went through a check out line. If the same family were to purchase inexpensive reusable bags they would actually save money on an annual basis, especially if those using reusable bags were issued a credit for using their own bags. If consumers are concerned about paying a fee, they can avoid it entirely by bringing their own reusable bag.

Jamie McLeod read a letter that was received from the Friends of Guadalupe River Park and Gardens (FGRPG) that stated their support a countywide ordinance that would encourage consumers to shop with reusable bags as

it would decrease the number of plastic bags that end up in local waterways. Plastic bags are swept into storm drains that empty into creeks and rivers and that debris is eventually carried out to San Francisco Bay. Save the Bay lists the Guadalupe River as #5 on its Top 10 SF Bay trash “hot spots”. While the FGRPG wants to see a reduction in plastic bags in the Guadalupe River, they are not invested in whether that occurs through a ban or fee. If a fee approach were adopted, they recommend any net revenue be dedicated to litter abatement and consumer education.

Mark Bowers, Solid Waste Manager in the City of Sunnyvale and expert on recycling said that early in his career he had someone offer to take plastic bags for recycling. After collecting them for six months, the man said he would no longer take them stating that they were too dirty. There is no market for film plastics. \$14 million was spent on the new Materials Recover Facility for the SMaRT Station and the new machinery is already being hampered by plastic bags.

Tony Eulo from the City of Morgan Hill thanked the RWRC for taking the bag issue seriously. He also acknowledged that the recent ruling by the San Francisco Regional Water Quality Control Board (SFRWQCB) is a wake up call. Times have changed – we can no longer afford short term solutions from both an environmental and financial standpoint. While his personal opinion is that eliminating single-use bags altogether will encourage recycling and reuse, his professional opinion is that simply eliminating bags won’t work.

Mountain View resident Bruce England said the bigger picture with regards to bags is climate change and how it is affected by the transportation of both paper and plastic bags throughout the country and beyond. He advocates for reusable bags and stated that it will take consumers to make behavioral changes to lead to zero waste.

Ryan Kenny from the American Chemistry Council (and representing six stakeholder groups) stated that the public is overwhelmingly opposed to a fee on bags. He also attended many city council meetings throughout the County and feels many elected officials are also opposed to a fee. The proposal is passive and should include all bags including newspaper bags and dry cleaning bags. He supports a regional approach to promote recycling including a 5 cent incentive and litter abatement efforts and has committed support to finding a solution.

Manny Diaz with the American Chemistry Council proposes doing a public/private partnership with City of San Jose to “beef up” a more effective recycling campaign and public education. He is also supportive of financial incentives for consumers and advocates for a regional approach.

Joe Galea, President of 7-Eleven franchise provided a petition to his customers. They overwhelmingly oppose a fee or ban on bags. He does not believe customers will bring their own bags and store owners and operators would be forced to educate customers. He also felt this is a bad time to impose fees on consumers.

Long Nguyen has been a 7-Eleven franchise owner for five years. He is pro-customer and collected 3,000 signatures opposing a fee for bags. It “makes him sick” that government wants to do this and is unsure of the goal that is trying to be accomplished. He says he is resentful and that the proposed fee is unnecessary.

Brian Schmidt with the Committee for Green Foothills stated that Kirby Canyon Landfill is located next to Coyote Ridge. Even with a well managed facility, bags from Kirby Canyon still blow over to Coyote Ridge. In addition to supporting the proposed ordinance, he is also concerned with paper bags from an environmental and logging standpoint. He asked the Commission to stop delaying and take action now.

Doug McNea of the Silicon Valley Taxpayer's Association is not opposed to the reduction of bags but does oppose a tax and increased compliance by stores. He prefers that we encourage people to use Roplast type bags and other reusable bags by giving an incentive rather than requiring consumers to pay a fee.

Elizabeth Brierly, representing the Libertarian Party of Santa Clara County, the Silicon Valley Taxpayer's Association and a member of the San Jose City 2008 Budget Deficit Elimination Task Force is not sure where she stands – she is opposed to a fee and feels it may be in violation with Proposition 218. She feels this is a bad time economically and that this is a regressive tax. She would prefer to see an increase in enforcement of current litter laws, regulations lifted on grocery stores and more local control.

Cornell Fowler lives in Mountain View and helped work on San Francisco's ordinance to ban plastic bags. He said he wished that ban would have included all bags and not just plastic. He feels a fee is voluntary – if the consumer brings their own bag, there is no charge to the consumer. He would like to see the RWRC consider a ban on all bags and encourage consumers to bring reusable bags.

Jamie McLeod thanked all the speakers for their input and reiterated that comments are always welcome. She asked for input and comments from her fellow Commissioners. Because he had to leave early, Peter Drekmeier asked to go first. He said that the City of Palo Alto will be deliberating on a plastic ban bag at their March meeting with a fee for paper bags to follow shortly thereafter.

Kansen Chu thanked all the speakers for their comments. He had initiated a memo to ban plastic bags last year and it was cosigned by Councilmember Nora Campos and Mayor Chuck Reed. He later learned from staff that it takes 14 years to grow a tree that would then be turned into 700 paper bags. The environmental costs to transport the paper bags and recycle them only add to the problem. He thanked city and county staff for bringing the model ordinance forward. He also said the surest way to avoid a fee is to bring your own bag. He feels protecting the environment is everyone's responsibility and it is not a fee or tax that is needed but rather a change in behavior. He would like to extend the time for implementation of an ordinance at this time but supports a regional approach.

Patrick Kwok of the Santa Clara Valley Water District agrees there is a responsibility to improve waterways through litter reduction activities. He supports the use of traps to prevent debris from entering the waterways. The SFRWQCB will need to be addressed and tighter regulations to minimize Total Maximum Daily Load (TMDL) levels will need to be in place. This is the third year of drought for Santa Clara County. He does not feel that voluntary measures to reduce single-use carryout bags have been effective. He supports some type of regulation and restriction but the \$0.25 fee is too high. He believes a CRV type approach may be a good start or perhaps a phased in approach with a lower fee after voluntary measures and public education have been in place. Economically, this is not the right time to institute a fee. He would like the RWRC to consider deferring a fee for at least a year before implementing a fee with an increase to public education and outreach in the meantime.

Ronit Bryant stated that the focus on recycling and clean up doesn't make sense – consumers need to make behavior changes. She would rather not clean up creeks and roadways. The proposed fee is a matter of choice – if consumers bring their bags, they will not be charged a fee. She feels the more financially challenged people already know a lot about resource conservation as it becomes a part of their daily lives. She prefers to see more work on education for store employees and that it be the same across all jurisdictions. She also suggested that stores consider increasing incentives to get people to bring their own bags. Commissioner Bryant also aired concerns about several of the items in the resolution – specifically those related to data collection (#6, 7, 9, 10 and 11). She especially takes issue with the collection if it involves more work for staff.

Cat Tucker embraces the need to clean up the environment but she is angry as a consumer at the prospect of having to pay for bags. She feels it is the wrong time to take such an action and that the ordinance needs some retooling. She would like to see a phased in approach and encourages business outreach, promotions and education but no fee or ban.

Kris Wang thanked the public for their input and agrees that this is not the time for a fee on bags and that the focus should be on more education and outreach. She doesn't agree that city staff should be required to collect additional data and doesn't agree with San Francisco's approach (ban on plastic bags only). She does not support items 6, 7, 9, 10 and 11 in the resolution.

Being new to the Commission, Evan Low took a step back and reminded everyone that this is the Recycling and Waste Reduction Commission, not the business and finance commission and to think about the RWRC's role and mission. The goal is to reduce waste and increase recycling opportunities to meet the state's AB 939 diversion goals. As one of the youngest in the room, he cares about the current generation and feels that we need to leave the earth better than we found it. As a Commissioner of the RWRC, he believes we can reduce waste through behavioral change. He would like to take more time to have staff flesh out the issues and concerns and to take a closer look at the lingering concerns in a meaningful and thoughtful manner before enacting an ordinance.

Chair McLeod said the point was well taken as to the role and mission of the Commission. The question is how to effectively handle the bag issue while minimizing the impact on stakeholders and also balance concerns that will work in all jurisdictions. She would like to see the framework for a phased in approach that would allow cities to implement whichever phase was right for them at a given time. While she would like to see an aggressive approach – either a fee or ban – as a Member at large, she also wants a regional approach that will work for all cities and the County. She envisions Phase 1 to focus on education and outreach for 12 – 24 months with specific goals to be met. If some or all of those goals are not met, Phase 2 would be a more aggressive approach – perhaps a small fee. If certain benchmarks are still not met after a reasonable amount of time, Phase 3 may include increasing the fee to a larger amount to help change behavior or possibly a ban on single-use carryout bags. She was happy to hear that the American Chemistry Council wants to be a part of the solution and hopes they will follow through. She would like clear metrics and measurements to be defined. For the motion, she asked that direction to staff be good, clear and specific.

Kris Wang still took issue with the data specific items in the draft resolution and would like more clarification on the studies. She stressed that data collection needs to be accurate and that it might behoove us to rely on experts who have already collected and compiled data such as the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), the California Integrated Waste Management Board (CIWMB)TAC or the Source Reduction and Recycling subcommittee to TAC. She would like to see involvement between Integrated/Solid Waste Program staff and Water Quality staff.

Skip Lacaze noted that currently there is no data available from the CIWMB and that some stores haven't even reported any information per AB 2449 requirements.

Ronit Bryant said that while metrics and data are important to her, she would still prefer to see a higher level plan.

Ronit Bryant motioned to direct staff to come back with a higher level plan that included a tiered approach with an emphasis on public education and outreach, clearly defined goals and the metrics to be used and who might already have some data to share. Discussion continued when Kris Wang asked that staff create a table outlining the data collection and the party responsible for collection. Staff was also asked to gather input from cities that

may have not yet given Integrated Waste Management staff their input on the draft model ordinance. Patrick Kwok seconded the motion. The motion carried unanimously.

7. Meeting Schedule

Jamie McLeod noted that the current meeting schedule prevented some seated Commissioners from attending on a regular basis and asked whether a different date might be considered for Recycling and Waste Reduction Commission meetings. After a brief discussion, it was decided that a more suitable date was not available and the RWRC meetings will continue to be held the fourth Wednesday of every even numbered month (February, April, June, August, October and one of the first two Wednesdays in December).

8. TAC Minutes

Tony Eulo, TAC Chair, noted that the TAC had been looking at the fee issues that were approved earlier this evening (Solid Waste Planning Fee and Household Hazardous Waste Fee) and had looked at some educational items.

9. Announcements/Future Agenda Items

Patrick Kwok reminded everyone that the Great American Litter Pick Up (GALPU) will take place April 25, 2009 and that all cities are asked to participate. Lisa Rose noted that in order to have all jurisdictions participate, the GALPU Planning Group has extended the dates of participation from the beginning of April through the end of March and asked that all cities participate in some type of beautification activity from litter clean up to tree planting to graffiti removal. Results from these events will be compiled and presented at the June RWRC meeting.

Peter Drekmeier would like to discuss food waste composting at an upcoming meeting.

10. Adjournment

The meeting was adjourned at 7:25 p.m.