

County of Santa Clara

Recycling and Waste Reduction Commission
Integrated Waste Management Division

1553 Berger Drive, Building 1
San Jose, California 95112
(408) 282-3180 FAX (408) 282-3188
www.ReduceWaste.org



RECYCLING AND WASTE REDUCTION COMMISSION MINUTES

April 22, 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
Lisa Rose, Integrated Waste Management Division

Others in Attendance

Steven Blomquist, Office of Supervisor Cortese
Mark Bowers, City of Sunnyvale
Kathy Duong, Councilmember Chu's Office
Bryan Early, Californians Against Waste
Evan Edgar, Edgar & Associates for Stanford Recycling
Anthony Eulo, City of Morgan Hill
Megan Fluke, Generation Engage, Sierra Club
Kerri Hamilton, Citizens for Environmental & Economic Justice
Robert Hamilton, Citizens for Environmental & Economic Justice
Robert Handa, KTVU Channel 2
Tim James, California Grocers Association
Ryan Kenny, Five Member Business Coalition
Skip Lacaze, City of San Jose
Ariella Lewis, Generation Engage, Sierra Club

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

Felicia Madsen, Save the Bay
Rick Mauck, City of Santa Clara
Trish Mulvey, CLEAN South Bay
Laura Reinhard, Save the Bay
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 5:20 p.m. In addition to the Chair, Patrick Kwok, Ronit Bryant, Cat Tucker, Evan Low, Peter Drekemeir and Kansen Chu were present at the start of the meeting and quorum was met. Commissioners introduced themselves. Shortly thereafter, Kris Wang arrived.

2. Approval of February 25, 2009 Minutes

Evan Low moved to approve the meeting minutes from February 25, 2009. The motion was seconded by Peter Drekmeier and passed unanimously.

3. Public Presentations

There were no public presentations.

4. Single-use Carryout Bag

Elizabeth Constantino gave a brief staff report on the single-use carryout bag issue. She noted that the single-use carryout bag issue has been a very fluid process and the melding together of many opinions. She went on to say that staff hoped to provide a loose timeline and outreach plan at the June Recycling and Waste Reduction Commission meeting. She noted that a report back went to the County Board of Supervisors on March 24, 2009 and that the Board was in favor of continuing an outreach and education plan over the next year. Additionally, the Board would like more information on eliminating or reducing the use of single-use bags at County facilities and events such as fairs and seminars. Elizabeth reminded the Commission that collecting meaningful data may be somewhat difficult, especially with limited staffing.

Lisa Rose reviewed the TAC recommendation that the Commission consider the following:

Support Countywide action similar to Palo Alto's recent adoption of an ordinance to ban plastic bags in grocery stores following a period of significant public education and outreach. TAC further recommends that all cities enact by April 22, 2010 (40th Anniversary of Earth Day), an ordinance that would take effect January 2011, doing the following:

- Ban plastic single-use plastic carryout bags at the "stores" defined in AB 2449 as a supermarket over 100,000 square feet and with an in-store pharmacy and include chain convenience food stores primarily engaged in retailing a limited line of goods that include milk, bread, soda, and snacks, with a total combined square footage of 100,000 square feet or more within the state, and, possibly, with additional phased expansion;
- Establish a fee on paper bags at the same stores noted above, with an initial fee that might be lower at the start, may be retained entirely by smaller stores where plastic isn't banned, and may increase the fee over time; and
- Provide an exemption from both the ban and the fee for organizations such as Goodwill Industries and The Salvation Army that meet the State's definition of "Nonprofit charitable reuser" (PRC 41904) and that implement an approved alternative system to encourage use of reusable bags. The Salvation

Army's new system of selling reusable bags for 99 cents and offering a 25 cent discount for every subsequent use would be one such alternative.

Ronit Bryant said she was reassured that staff would be coming back with more clear definitions at the June meeting. She questioned why the recommendation suggested working with larger stores and then phasing in smaller stores over time. Skip Lacaze from the City of San Jose said the phasing in approach was consistent with the proposed state legislation.

Peter Drekmeier commented that TAC's second bullet – starting with a smaller fee that may be retained by the business should be better fleshed out and suggested opening it up for discussion. Skip noted that San Jose may wish to phase in various options every six months over several years.

Patrick Kwok was concerned that outreach and education efforts might become duplicative if cities were to enact an ordinance at different times and that the message may become watered down. Elizabeth reminded that the County can create and run a Bring Your Own Bag campaign through the Countywide Public Education subcommittee, but that cities would still need to act independently when it came to expanded ad placement. Additionally, the Bay Area Recycling Outreach Coalition (Bay ROC) will begin a bag campaign beginning this fall.

Kansen Chu said he could not support a watered-down version and that a reliable funding source is needed. He would like to stick to the original recommendation from February that would place a fee of \$0.25 on bags with a \$2.00 cap.

Evan Low noted that the Water District had committed to spending \$2 million on a water conservation campaign and questioned if there is a dollar amount that the TAC is considering for public education.

Staff will report back to the RWRC at the June 2009 meeting with an outreach plan and a loose timeline for proceeding with the plan. Skip noted that public education and outreach has been tried for a number of years and has not had the desired results and thus recommends a more aggressive approach beyond outreach alone be considered.

Ronit wants to be clear about outreach and education and leave the meeting with a clear understanding of a public education plan.

Jamie McLeod wondered if staff would be able to gather baseline data by April 2010. Skip reminded that the TAC discussion about metrics was not as much about trigger dates and that TAC would like a clear idea of what goals the Commission would like to achieve. One example was to reduce the amount of trash in streams by a certain percentage over a specified amount of time.

Chair McLeod then opened up the floor for public comments on this issue.

Trish Mulvey with CLEAN South Bay supports the TAC recommendation. She sees a problem that needs to be corrected now. She also supports improved recycling and waste reduction. She understands smaller communities may not be comfortable acting immediately but feels six months is more than enough time to enact an ordinance.

Ryan Kenny of the American Chemistry Council stated his strong support for working together with local jurisdictions on public education and outreach, recycling of plastic bags, litter control and increased enforcement of litterers.

Bryan Early with Californians Against Waste says he supports an outright ban on plastic bags and that public outreach and education has not achieved a voluntary reduction in the number of bags. He feels any ordinance needs to be very clear and specific.

Kerri Harrington with Citizens for Environmental Justice supports an immediate ban. She takes this issue very seriously. Working with San Jose State students reminds her that the focus needs to be on future generations and that a ban on bags is not a burden on retailers. She stated there is no room for waste in our society.

Tim James from the California Grocers Association neither supports nor opposes the recommendation but did say he had concerns. He questioned what the best course of action is and asked if metrics/targets would be used as triggers for further phasing in.

Megan Fluke, Generation Engaged and Sierra Club stated that she cares about the environment and people and strongly supports the banning of both paper and plastic bags. Thirty years ago there was a call to divert 50% of materials from the landfill and all of Santa Clara County jurisdictions have met and exceeded those goals. She is confident that consumers will adapt to a ban,

Laura Reinhard with Save the Bay is really grateful and proud that the RWRC is taking on this topic. She believes the current economy should make us want to conserve more than ever. When a measure to ban plastic bags was placed on the ballot in Fairfax, California, 79% of voters supported the ban, despite the threat of lawsuits. Laura asks that a strong recommendation of a ban or fee be considered on all bags and at all retailers.

Felicia Madsen with Save the Bay has 7,000 supporters in Santa Clara County and 25,000 supporters throughout the Bay Area. 5,800 people sent letters to Governor Schwarzenegger's Office and 175 emails were sent to San Jose City Council members. She rejects any recommendation of doing just public education and outreach for a year or two stating that it undermines those cities who wish to move forward in a timelier manner. She supports a straight ban or ban/fee combination approach that would apply to all stores and also supports promotion of reusable bags.

Patrick Kwok felt timing is very important and that enough is enough. As a Board member serving the Santa Clara Valley Water District he is a steward of the creeks and there is a tremendous amount of trash in the creeks. The Water District is very serious about water quality and he supports a ban on both paper and plastic bags. Consumers have a choice – bring a bag and avoid a fee or ban. He also supports an effective date sooner than January 1, 2011 – perhaps April 22, 2010 on the 40th Anniversary of Earth Day.

Commissioner Chu thanked the Save the Bay supporters and confirmed that the City of San Jose spends \$3 million annually to clean up litter and is looking for revenue to cover these costs.

Commissioner Bryant added that it is time to act. Trying to reach consensus between all jurisdictions has slowed down the process. She would like to adopt something today and let cities join in at their own time but that the public should be ready for a fee to be in place within a year's time. She would like to see metrics that measure consumer's behavioral changes rather than act as a trigger date for more action.

Cat Tucker stated that she has done a lot of research both in the South County area she represents and in Santa Clara where she works. She strongly supports the recommendation of education followed by a ban on plastic bags and a fee on paper by Earth Day 2010. She feels this approach will be more acceptable to consumers and retailers.

Evan Low believes that while consensus is an important part of the process, a good amount of time has been spent studying the issue and the process has become bogged down. He thinks the Recycling and Waste Reduction Commission needs to take a leadership position and supports a ban on plastic and fee on paper. He sees this as an opportunity to lead statewide legislation.

Commissioner Wang agrees that action is needed but favors a full ban rather than a ban/fee approach and that each city should adopt an ordinance after a period of public education.

Commissioner Bryant is concerned that banning only plastic bags sends a message that paper bags have no environmental impact and views this as a big concern. Single-use bags, regardless of whether they are paper or plastic, are an environmental issue.

Peter Drekmeier noted the City of Palo Alto's concern that a fee charged to consumers would most likely be challenged legally, so they opted for the ban on plastic bags.

Chair McLeod thanked staff and TAC for all of their efforts on the bag research and developing various strategies. She feels the RWRC has a responsibility to propose an aggressive approach to eliminating the waste caused by single-use carryout bags. Timing is key in preparing retailers and consumers for these changes. She would like to see staff develop benchmarks while still moving forward with an aggressive approach. The following quote by Michelangelo summed up her thoughts regarding an aggressive approach to single-use bags: "The greater danger for most of us is not that our aim is too high and we miss it, but that it is too low and we reach it." She favors a ban on plastic and a fee on paper.

Peter Drekmeier motioned that the RWRC support Countywide action to ban plastic bags in grocery stores and recommend all cities adopt an ordinance by November 1, 2009 to become effective Earth Day, April 22, 2010 to do the following: ban plastic single-use carry out bags at stores defined in AB 2449 and include chain convenience food stores, establish a fee on paper bags at the same stores and provide an exemption for organizations such as Goodwill Industries and Salvation Army that meet the state's definition of a nonprofit charitable reuse stores until April 22, 2011. Patrick Kwok seconded the motion.

Commissioner Bryant asked why limit the ordinance to just 2449 and chain convenience stores and that she would prefer a phased in approach for all retailers. Commissioner Drekmeier accepted the friendly amendment as did Commissioner Kwok.

Commissioner Chu stated that paper bags are not environmentally friendly, as they are resource intensive to recycle. He would like to amend the motion to allow retailers to provide two plastic bags per checkout for the first year of implementation and then transition to a ban on all bags after that, with no fee charged at any time. Peter noted that this may be confusing to the consumer.

Commissioners Drekmeier and McLeod suggested that rather than amend the current motion, it may be cleaner for this to be a substitute or secondary motion. Kris Wang seconded the substitute motion. After more discussion, a vote was taken and the motion failed 5 to 3.

Commissioners asked for clarification as to why a ban on plastic and a fee on paper. Skip Lacaze said the California Grocers Association initially supported an all out ban but retreated from that position due to a fear that customers would no longer have options if a bag was not provided. However, bags would be available to purchase in stores.

Kansen Chu said retailers were concerned that fees would create accounting issues for smaller retailers and the jurisdiction.

Kris Wang asked if the fee on bags would be taxable. It is recommended that any fees generated from fees be used to help pay for reusable bags for low income people and to potentially be used for enhanced litter control, enforcement and other related programs.

Cat Tucker made a friendly amendment to ban plastic with a fee on paper for a year and then move towards a complete ban. Peter rejected the friendly amendment because it might prove challenging for both businesses and jurisdictions to implement a fee for just one year.

Peter Drekmeier reintroduced his initial motion and moved that the Recycling and Waste Reduction Commission recommend to the Board of Supervisors and the Cities an ordinance with an enactment date of November 1, 2009 with an effective date of April 22, 2010 to ban single-use plastic bags and place a fee on paper bags at all retailers with an exemption on non-profit reuse stores. The motion was seconded by Patrick Kwok and passed with a vote of 6-2 in favor. The two (Kansen Chu and Kris Wang) who voted against the motion stated they didn't think it went far enough and wanted to see a full ban on single-use paper and plastic bags.

The next step will be for staff to draft a letter from the Chair that will be forwarded to the Board of Supervisors, the city managers and mayors of each jurisdiction and one to the Cities Association with a recommendation from the recycling and Waste Reduction Commission.

The following items were taken out of order since some members had to leave and quorum was required for these action items.

5. 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, Kris Wang motioned to change the Recycling and Waste Reduction meetings from the 4th meeting of every even-numbered month to the last Monday of every even-numbered month. Evan Low seconded the motion and it passed unanimously. Staff reminded Commissioners that meeting dates are part of the RWRC's bylaws, so the Board of Supervisors will need to take action on the change. Staff will present an amendment to the bylaws at the June RWRC meeting as a favorable recommendation to be forwarded on to the Board of Supervisors.

6. Non Disposal Facility Element

Elizabeth Constantino, Program Manager for the Integrated Waste Management Division made a brief presentation on the Non Disposal Facility Element (NDFE). She noted that the NDFE amendments must go through several steps. As part of the permitting process, facilities need to be adopted into the NDFE. After presentation to the RWRC, Commissioners, acting as the AB 939 Local Task Force, have 90 days to provide comment before it goes to the County Board of Supervisors for adoption, possibly in August 2009. Once adopted by the Board, a letter of comment by the Local Task Force will be submitted along with the Board of Supervisors' recommendation to the California Integrated Waste Management Board (CIWMB). The BOS will submit a resolution to the CIWMB within 30 days and the CIWMB will then have 30 days to determine its completeness and another 60 days to review and approve the amendment.

One speaker, Evan Edgars, representing Edgars and Associates acting on behalf of Palo Alto Sanitation/Stanford (PASCO) spoke in support of approving the NDFE as it related to PASCO.

Peter Drekmeier commented that he believed a tonnage figure was incorrect on the previous version of the NDFE in that it stated a daily maximum tonnage rather than annual maximum. It will be corrected upon adoption of the seventh amendment.

Kris Wang motioned that the RWRC accept the NDFE report and forward a favorable recommendation to the Board. Cat Tucker seconded and the motion passed 7-0.

7. Legislative Update, Letters of Support and Opposition

Elizabeth Constantino noted that eleven letters were drafted for signature by the Chair that either support or oppose current legislation. Seven of the 11 followed the 2009 Legislative Policies and Priorities. Discussion took place for those letters that were not specified in the current Legislative Policies and Priorities. Cat Tucker motioned to approve forwarding the letters on to the state legislators and Evan Low seconded. The motion carried unanimously.

8. Vacancy on RWRC

Jamie McLeod noted that there is still a vacancy on the Recycling and Waste Reduction Commission. There is not a current representative from the Central Cities (Milpitas/Santa Clara). Commissioner McLeod expressed interest in stepping down from her Member-at-Large seat in order to assume the Central Cities seat, thus opening up the Member-at-Large seat to a larger group of potential Commissioners. Commissioner McLeod asked for thoughts as to how Commissioners would address the Chair position. Peter Drekmeier noted that he is pleased with Chair McLeod's leadership and would recommend that she remain Chair, regardless of whether she remains a Member-at-Large or moves to the Central Cities seat until elections are held at the August meeting. All agreed that Jamie should remain Chair until the next election of officers if the transition takes place prior to that time. Staff noted that the transition would not be an issue because the election of officers would be coming up at the August meeting. Kris Wang asked that the Cities Association be notified again and solicit nominations one more time before moving forward with this plan. Staff will ask the Cities Association Executive Director to send out one more notification to the Cities of Milpitas and Santa Clara to nominate a representative. Staff will also let the Cities Association know that should someone not be nominated from the Central Cities, Commissioner McLeod has agreed to resign her Member-at-Large and would like to be considered for that seat.

9. TAC Minutes

Lori Topley, Vice Chair of the Technical Advisory Committee gave a brief overview of the TAC minutes and offered to answer questions from the minutes that were included in the RWRC packet.

10. 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.

Skip Lacaze asked for more direction with regard to the single-use carryout bags for the Source Reduction and Recycling subcommittee. Was it the desire of the Commission to come back with a recommendation or model ordinance? Chair McLeod stated that while a sample ordinance would be

nice, she didn't want that to slow down the process. She recommended SRR move forward with a policy recommendation for the broad, general concept that had a menu-type approach and perhaps a link to the City of Palo Alto's ordinance. She also recommended that Skip and Tony Eulo may wish to go to the various cities to speak about the recommendation and explain why this approach is preferred. Commissioners agreed and referred by consensus to staff. Skip also commented that if stores charged a fee for "green" paper bags, cities may consider allowing the retailer to keep that fee as an incentive to offer them over the traditional paper bags.

11. Adjournment

Peter Drekmeier moved to adjourn the meeting. It was seconded by Cat Tucker. The meeting was adjourned at 7:50 p.m.