

# County of Santa Clara

RECYCLING AND WASTE REDUCTION COMMISSION OF SANTA CLARA COUNTY  
Environmental Resources Agency  
Department of Agriculture and Resource Management  
Integrated Waste Management Division



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## RECYCLING AND WASTE REDUCTION COMMISSION MINUTES

June 27, 2011

Isaac Newton Senter Auditorium  
70 West Hedding Street, San Jose CA  
Business Meeting at 5:15 p.m.

### Voting Members in Attendance

Ronit Bryant, City of Mountain View  
Jim Griffith, City of Sunnyvale  
Linda LeZotte, SCVWD  
Evan Low, City of Campbell  
Jamie McLeod, City of Santa Clara  
Cat Tucker, City of Gilroy  
Kris Wang, City of Cupertino  
Mike Wasserman, County of Santa Clara

### Representing

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

### Voting Members Not in Attendance

Kansen Chu, City of San Jose  
Susan Garner, City of Monte Sereno

### Representing

City of San Jose  
Member at Large – All Jurisdictions

### County Staff to the Commission

Elizabeth Constantino, Integrated Waste Management Division  
Lisa Rose, Integrated Waste Management Division

### Others in Attendance

Cory Black, Public Policy Solutions  
Mark Bowers, City of Sunnyvale  
Amalia Chamorro, CA Restaurant Association  
Allison Chan, Save the Bay  
Matt Cucuzza, Ed McGovern's Office  
Cheri Donnelly, City of Cupertino  
James Duran, Hispanic Chamber of Commerce Silicon Valley  
Anthony Eulo, City of Morgan Hill  
Steve Garcia, HOPE Services  
Laura Kasa, Save Our Shores  
Ryan Kenny, American Chemistry Council  
Stephen Knight, Save the Bay

**Commissioners:** Jamie McLeod, Chair; Ronit Bryant, Kansen Chu, Susan Garner, Jim Griffith, Linda J. LeZotte, Evan Low, Cat Tucker, Kris Wang, Mike Wasserman

John Koncoli, HOPE Services  
Skip Lacaze, City of San Jose  
Paul Ledesma, City of San Jose  
Bob Loreen, PAMS  
Emy Mendoza, City of San Jose  
Alex Ontiveros, Hispanic Chamber of Commerce Silicon Valley  
Chuck Page, Allied Waste  
Elizabeth Sanford, Supervisor Wasserman  
Pat Showalter, Santa Clara Valley Water District  
Lori Topley, City of Mountain View  
Adam Turrey, City of San Jose  
Andria Ventura, Clean Water Action  
Jo Zientek, City of San Jose

**1. Call to Order and Introductions**

Chair McLeod called the meeting to order at 5:24p.m. A quorum of eight was present. All Commissioners introduced themselves.

**2. Approval of Minutes from April 25, 2011 RWRC meeting**

Commissioner LeZotte motioned to approve the April 25, 2011 meeting minutes. The motion was seconded by Commissioner Bryant and passed unanimously.

**3. Public Presentation (3-minute limit)**

As a point of process, the Chair noted that it was likely that several speakers would be speaking on Item 4, and depending on the number of speakers, she may reduce the speaking time. The Chair polled the audience and learned there were fewer than 10 speakers and allotted the full three minutes for all public comment for the meeting. There were no public presentations on items not on the agenda.

**4. Final Report on Expanded Polystyrene (EPS) Food and Beverage Containers**

The Chair reminded Commission members and attendees that the Commission is an advisory board that recommends policy to the County Board of Supervisors and City Councils, who then recommend policy to their respective Boards and Councils.

Chair McLeod noted that there were various drafts of the report that had been distributed over the week. After the Source Reduction and Recycling Subcommittee met on June 23 several members felt strongly that the tiers should be reordered because a straight ban on polystyrene was easier and less staff intensive for a municipality to implement than determining what alternative materials could be collected and truly processed for recycling and composting in a given jurisdiction; thus the subcommittee decided to reverse Tiers Three and Four. .

Supervisor Wasserman voiced his concerns that the draft report had been distributed more than once. He was concerned about transparency, as he'd had many constituents support one tier over another and wanted to be very clear about what Tiers Three and Four included in the final report.

All support and opposition letters received both before and after the distribution of the reports were added to the [www.ReduceWaste.org](http://www.ReduceWaste.org) website

SRR Chair, Cheri Donnelly gave a staff presentation with accompanying PowerPoint describing the process and reasoning that resulted in TAC's recommendation for managing expanded polystyrene food and beverage containers in Santa Clara County. It should be noted that each Tier builds upon the previous Tier.

The Tiers are as follows:

Tier One

- Education/Outreach to community, affected businesses, Chambers is a critical starting point to enacting a ban. Hold stakeholder meetings and invite restaurants, vendors of various take out packaging, haulers, etc. so that all questions can be answered and clarified.

Tier Two

- Education/Outreach
- Adopt a policy in your own municipality to prohibit the use of polystyrene food and beverage containers in City/County facilities and/or at events sponsored by or held at municipal facilities

Tier Three

- Education/Outreach
- Ban food foam at municipal facilities and events in City/County facilities and/or at events sponsored by or held at municipal facilities
- Adopt a ban to prohibit use and distribution of polystyrene food and beverage containers by food vendors in your jurisdiction

Tier Four

- Education/Outreach
- Ban at municipal facilities and events
- Adopt a Citywide ban for all food vendors
- Require polystyrene food ware alternatives that are acceptable in your City/County's landfill diversion program(s) if sufficient infrastructure is in place

The recommended timeline is as follows:

January 1, 2012

Tier Two - Begin outreach at public events and in meetings with stakeholders and review current contracts for services with vendors and haulers

July 1, 2012

Phase into Tier Three or Four

January 1, 2013

Prepare to Phase into Tier Four

Ryan Kenny from the American Chemistry Council gave a brief presentation stating his organization does not support a ban of polystyrene and would prefer to see it recycled and that 40 cities in Southern California are recycling foam through curbside collection. He does not believe banning foam will lead to Zero Waste or reduce litter, because the alternative products will still end up becoming litter. Commissioner Wasserman asked what it would take to make polystyrene recycling more viable in Santa Clara County. Mr. Kenny responded that if the Commission recommended Tier Four, industry would be incentivized to work with haulers to provide densifiers for recycling at Material Recovery Facilities (MRF). Commissioner LeZotte asked what percentage of food service foam is actually recycled versus landfilled and Mr. Kenny did not have a statistic to report. In light of recent reports, Commissioner McLeod asked about the possible health effects of employees in the manufacturing of polystyrene products. Mr. Kenny responded that there are strict OSHA requirements in the manufacturing of polystyrene and that the FDA has no concerns about leaching. Commissioner Tucker noted that the American Chemistry Council is advocating for the recycling of polystyrene, yet no jurisdiction in Santa Clara County is recycling it. Mr. Kenny reiterated that if the Commission were to recommend Tier Four, the industry would work more closely to see that foam recycling could be incorporated into haulers' processes.

Laura Kasa from Save Our Shores gave a brief presentation about successful polystyrene bans in Santa Cruz and Monterey Counties. Through her organization she has worked with local municipalities on polystyrene ordinances, providing education and outreach to businesses, Chambers of Commerce, elected officials and the community at large. Save Our Shores has been conducting beach and river clean ups for more than 30 years and has conducted 665 clean ups. Since bans were enacted in 2007 and 2008, they have seen a marked decrease in polystyrene during these events. Commissioner Wasserman asked if recycling foam was a viable option, would she be supportive. Laura responded that she would not because it is toxic and lethal to marine life. Commissioner Griffith asked if it would be fair to suggest that Laura was not in favor of Tier Four. She replied that she would be in favor of it as long as polystyrene was never added to the list of acceptable materials.

Andria Ventura from Clean Water Action gave a brief presentation and noted that Clean Water Action supports Tier Three which would ban polystyrene foam containers as it is the most straightforward approach that can be taken by municipalities. She stated that foam is a "bad actor" in the environment from both a litter and aquatic standpoint in that it breaks into small pieces that get through storm water catchment systems and ends up in creeks and eventually the Bay and beyond. The clean up for this is extremely costly to cities and counties. If a municipality adopts a ban, it is very likely that they can get compliance credit towards their permits in the coming years. Clean Water Action has worked with many municipalities to create ordinances and most of these ordinances include hardship exemption language. Ms. Ventura believes Tier Three is the only effective option because it is very straightforward. She quoted Dr. Philip Landrigan, dean for global health at Mount Sinai School of Medicine in New York, who said that he would advise people — particularly pregnant women and small children — to avoid using polystyrene containers and other products that use styrene.

Staff will send copies of all speakers' PowerPoint presentations following the meeting.

The Chair then opened up the Public Comment period and the allowed each speaker the full three minutes.

John Koncoli from HOPE Services noted that HOPE works with 3,000 people with disabilities and teach them about recycling. They had been approached about the possibility of recycling polystyrene and looked into it but decided the potential health concerns were too detrimental to the health of their clients.

Stephen Knight, Save the Bay was there to speak on behalf of their 25,000 members. He urged the Commission to recommend Tier Three to City and County leaders as they are falling behind other Bay Area cities. He noted that residents are being misled to believe foam is being recycled when it is not. He stated concerns that those manufacturing foam are being exposed to materials identified as being carcinogenic. With upcoming storm water mandates, he strongly encourages banning polystyrene foam containers.

Bob Loreen of PAMS plastics opposes any ban of polystyrene, noting that recycling of polystyrene is the better path and that the alternatives to foam food and beverage containers cost 40-100% higher.

Amalia Chamorro, representing the California Restaurant Association's 300 members in Santa Clara County stated that restaurant sales generate tax revenue for local municipalities and that restaurants employ 10% of the state's residents. She submitted 51 letters from restaurants opposing a ban on polystyrene. She noted that restaurants are heavily regulated by government and placing more regulations would be too hard for small businesses to absorb. Commissioner Griffith noted that most fast food chain restaurants have moved away from polystyrene foam. Ms. Chamorro responded that many chain sit down restaurants are still using polystyrene foam for their take out needs.

James Duran, Chair of the Hispanic Chamber of Commerce and owner of a Campbell restaurant opposes an outright ban stating that it is anti-business and anti-consumer. He said businesses are over-regulated in the state and that the level of litter will not change with a ban. He suggests penalizing litterers and not business. He is supportive of recycling polystyrene foam and public education/outreach.

Skip Lacaze with the City of San Jose noted that San Jose started recycling foam in the 1990s and continued for over 10 years. Two contractors were collecting the foam. One reported that over half the foam that was collected was landfilled because it was not cost effective to recycle it. A second contractor baled 50% of the collected foam, but couldn't move it as there was no market for the product. Some block foam does get recycled but the vast majority of it is still not being collected.

Commissioner LeZotte thanked the Source Reduction Subcommittee for their work on this report and thanked Ryan, Laura and Andria for their presentations, noting that a lot of time has gone into this issue. Commissioner LeZotte motioned that:

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- The Commission recommends to Cities and they County adopt a tiered system as set forth and have a timeline in which cities adopt at a minimum Tier Two by January 2012 at in their cafeterias, facilities and events.
- By July 2012, adopt Tier Three or Four and;

- That by January 2013, phase into Tier Four, if not already in place. The motion was seconded by Commissioner Bryant. Commissioner Griffith asked if the motion could be amended that if any municipality adopt Tier Four that it expressly exclude polystyrene.

A lengthy discussion among the Commissioners ensued.

A vote was taken and three commissioners were in favor and five opposed. The motion failed.

More discussion took place. An alternate motion was made by Commissioner Griffith that the Commission recommends to all jurisdictions that:

- 1 **By January 1, 2012** Cities and the County begin outreach and education and adopt a **policy** prohibiting expanded polystyrene food and beverage containers in all County/City cafeterias, facilities and events and prohibiting the use of expanded polystyrene by anyone or any group utilizing County/City facilities/parks;
- 2 **By July 1, 2012** Cities and the County adopt an **ordinance** banning expanded polystyrene food and beverage containers at all food vendors County/Citywide **and/or** consider adopting an **ordinance** requiring that all food vendors within the jurisdiction use only containers that are accepted and processed through the City's/County's landfill diversion program with the understanding that EPS **will not** be collected for recycling.
- 3 **By January 1, 2013** (if this was not undertaken previously) Cities and the County *strongly consider a long term plan* (with their franchise agreements in mind) for requiring that all food vendors within the jurisdiction use only containers that are accepted and processed through the City's/County's landfill diversion program with the understanding that EPS **will not** be collected for recycling.

Commissioner LeZotte seconded. A vote was taken and the motion passed unanimously.

## 5. RWRC Meeting Date

Commissioner McLeod noted that in April 2009 the Commission voted to move the RWRC meeting dates from the fourth Wednesday of even-numbered months to the last Monday of even-numbered months, to accommodate a former Commissioner. In doing so, Commissioner Tucker had been unable to attend several meetings due to scheduling conflicts with her City Council meetings. Since Commissioner Tucker was just reappointed to a second term of the RWRC, she asked that meetings be moved back to the fourth Wednesday of even-numbered months. Tony Eulo, representing the City of Morgan Hill noted that their Council meetings take place on the fourth Wednesday of the month and that should a Morgan Hill Councilmember eventually be appointed to the RWRC, it could pose a potential conflict. The Chair responded that if that were to occur, the meeting date could be revisited at that time. Commissioner Tucker motioned to move RWRC meetings back to the fourth Wednesday of even-numbered months. The motion was seconded by Commissioner Wasserman and passed unanimously.

## 6. TAC Minutes

Skip Lacaze asked if there were any questions about the TAC minutes and there were none.

## 7. Announcements/Future Agenda Items

Commissioner LeZotte noted that the CALPERS newsletter had an article advocating that pharmaceuticals be placed in the trash and wanted to know if the Chair can write a letter informing them of the correct procedures of handling pharmaceuticals. Staff will follow up with the Chair to draft a letter to CALPERS.

Commissioner Griffith reported that he, Jason Baker and Steve Tate, acting as the Subcommittee on Single-Use Bags, presented recommendations to the Board of Directors of the Santa Clara County Cities Association on adopting a common vision and regional strategy regarding a ban on single-use bags in order to avoid practical and political problems inherent in the use of plastic bags.

Recommendations include:

- 1) In the interest of regional consistency, it is recommended that the Cities Association encourage its member cities to adopt ordinances restricting the distribution of single-use carryout bags.
- 2) It is further recommended that the Cities Association encourage its member cities to follow the San Jose process and ordinance as a model for their own ordinances.
- 3) It is further recommended that the Cities Association encourage its member cities to adopt ordinances in accordance with California Environmental Quality Act (CEQA) requirements, using the San Jose EIR as a template for drafting their own EIRs.
- 4) It is further recommended that cities establish a maximum fee of \$2 in fees per patron per purchase for the first three years of adoption of a single-use carryout bag ordinance, with no maximum after three years of adoption. This is in accordance with recommendations from the County Recycling and Waste Reduction Commission, which included this cap to minimize the impact of ordinances on low-income customers.
- 5) It is further recommended that the Cities Association encourage those cities which adopt ordinances to monitor their effectiveness, increasing bag fees as appropriate to maintain the effectiveness of such restrictions.

The Board of Directors of the Santa Clara County Cities Association voted unanimously on June 9, 2011 to support the report of the Subcommittee on Single-Use Bags.

Commissioner Griffith noted that City of Sunnyvale is actively pursuing a single-use carryout bag ban and that the Council would be meeting about funding a polystyrene bag. The staff recommendation was that they not move forward with a polystyrene ban at this time but Commissioner Griffith felt he may have a differing recommendation.

Commissioner Tucker noted that both she and Commissioner McLeod were both reappointed to the Recycling and Waste Reduction Commission by the Cities Association. Staff noted that those terms are six years unless a Commissioner leaves office before that.

## **8. Adjournment**

The meeting was adjourned at 7:54 p.m.

The next meeting will take place Monday, August 29, 2011.