



## Agenda Item 4.1

### Minutes of October 16, 2013 Meeting

The Sonoma County Waste Management Agency met on October 16, 2013, at the City of Santa Rosa Council Chambers, 100 Santa Rosa Avenue, Santa Rosa, California

#### **Present:**

City of Cloverdale	Bob Cox
City of Cotati	Susan Harvey, Chair
City of Healdsburg	Jim Wood
City of Rohnert Park	John McArthur
City of Santa Rosa	Jennifer Phillips
City of Sebastopol	Sue Kelly
City of Sonoma	Steve Barbose
County of Sonoma	Shirlee Zane
Town of Windsor	Debora Fudge

#### **Absent:**

City of Petaluma

#### **Staff Present:**

Counsel	Janet Coleson
Staff	Patrick Carter
	Karina Chilcott
	Henry Mikus
	Lisa Steinman
Clerk	Rebecca Lankford

- 1. Call to Order**  
The meeting was called to order 9:36 a.m.
- 2. Open Closed Session**  
The Board convened the closed session in Room 7, Conference Room, of the City of Santa Rosa City Hall.
- 3. Closed Session**  
There was one topic of discussion at the closed session: Public Employee Performance Evaluation.
- 4. Adjourn Closed Session**  
No action was taken.
- 5. Introductions**  
Board Members, Agency staff, and the audience introduced themselves.
- 6. Agenda Approval**  
There were no changes to the agenda.
- 7. Public Comments (items not on the agenda)**  
None.

**Consent** (w/attachments)

- 8.1 Minutes of September 18, 2013
- 8.2 FY 13-14 First Quarter Financial Report
- 8.3 Waste Characterization Study RFP
- 8.4 MCR-2 Project Final Report
- 8.5 MCR-3 Project Proposal

**Approval of the Consent Calendar was moved by Jim Wood, City of Healdsburg, and seconded by Sue Kelly, City of Sebastopol. The motion passed unanimously.**

**Regular Calendar**

**9. Proposed Amendment to the Joint Powers Agreement**

Janet Coleson, Agency Counsel, reported that a 2<sup>nd</sup> Amendment to the JPA had been drafted based on direction received from the Board during the September Board Meeting. The 2<sup>nd</sup> Amendment clarifies existing language in Sections 2 and 14 of the current JPA Agreement. It was explained that all ten (10) governing bodies must approve the amendment with the same specific language.

**Board Questions**

Steve Barbose, City of Sonoma, inquired if other than the City Attorney for Santa Rosa had the draft amendment been reviewed by city/ county attorneys.

Ms. Coleson responded that she and Caroline Fowler, Santa Rosa's City Attorney, had agreed that Ms. Fowler would reach out to the other jurisdiction's counsel to discuss the Amendment and inform them she supports it.

Shirlee Zane, County of Sonoma, expressed her support for the changes suggested to Section 2 of the JPA, however, she does not support the changes suggested to Section 14 noting significant implications. Ms. Zane believes that the changes made to Section 14 create a "cafeteria plan" which could undermine the JPA and its sustainability.

Ms. Coleson responded that it was her understanding that Santa Rosa wanted this language, not for the ability to opt out of programs but because they want the ability to enforce locally.

Jennifer Phillips, City of Santa Rosa, noted that the enforcement provision was already included in the JPA; the language is intended for Santa Rosa to have the option to implement its own ordinance.

Ms. Zane believed that the implementation of that amendment could be catastrophic to the existence of the Agency. She stated that as the Amendment is currently worded she could not in good faith support it and noted that her belief that implementing the Amendment would be administratively and fiscally difficult.

Jim Wood, City of Healdsburg, asked for clarification regarding how the current form of the 2<sup>nd</sup> Amendment was developed. Mr. Wood stated the he believed as a result of the September board meeting the Agency would be developing long-term solutions to address issues that may arise in the future, not just the current Carryout Bag Ordinance. He expressed his concern about issues unraveling in the future due to the currently proposed Amendment.

Ms. Coleson responded that as she understood the direction she received at the September board meeting she was to explicitly include the "opt out" language; with the understanding it

was important to some of the member jurisdictions. Ms. Fowler has also specifically requested language addressing an “opt out” option.

Ms. Phillips noted that language exists in the current JPA Agreement that allows member to not participate in certain programs or services. Ms. Fowler has interpreted this to include non-participation in an ordinance, as it is not specifically defined; they are seeking to specify what can and cannot be opted out of. She also noted that Petaluma has asked for language clarifying the “opt out” options.

Chairperson Susan Harvey, City of Cotati, inquired how an opt out/ opt in scenario would affect citizens as well as staff; specifically how would participation be tracked? Ms. Harvey also inquired about liability.

Ms. Coleson responded that the Agency would defend any litigation against a participating jurisdiction; it was noted that if a jurisdiction were to opt out of any agency program they would be responsible for their own legal representation.

Ms. Phillips stated that Santa Rosa currently plans to adopt an ordinance identical to the JPA’s. It is currently her understanding that the JPA would be able to provide education as the ordinances would be identical, if Santa Rosa were to adopt or amend an ordinance which varied from the JPA’s they would then be responsible for the education to the community.

Ms. Harvey noted she does not believe the Agency would have any obligation to provide education or outreach for a jurisdiction not participating in its program.

The issue of whether the Agency would provide education support if a member opted out of the regional program was not resolved.

Ms. Harvey asked Ms. Phillips if similar language was included in or would be added to other JPA Agreements of which Santa Rosa is a member.

Ms. Phillips responded that language regarding the ability to pass ordinances was included in the Library JPA at the request of Santa Rosa; however, it is not anticipated to be included in all JPA’s they participate in.

## **Public Comment**

None

## **Board Discussion**

Steve Barbose, City of Sonoma, stated he had not anticipated an amendment offering members the opportunity to opt of out any Agency program. He believed that the language in Section 2 allowed a jurisdiction to opt out of any of the Agency’s programs. Mr. Barbose wants specific language which limits the opt-out option to only the Carryout Bag Ordinance.

Ms. Coleson noted she is attempting to clarify existing language in Section 2 which allows for member to opt out of non-major programs.

Ms. Zane asked if any jurisdictions have ever opted out of any Agency’s programs.

Ms. Coleson responded, affirmatively, in minor programs, such as used oil.

Ms. Coleson inquired if the Board had suggestions for additional or different language to be used in the amendments of Section 2 and Section 14.

Mr. Barbose stated he would support changing the language to limit the opt out capabilities to exclusively the Carryout Bag Ordinance.

Ms. Coleson expressed her concern with making the Amendment specific to the Carryout Bag Ordinance, noting that it would potentially have to be amended again for the ability to pass another ordinance.

Ms. Phillips stated that it is not the intention of Santa Rosa to use the currently proposed language to opt out of either major or minor Agency programs. She believes that the more specific language would be acceptable.

Ms. Zane inquired about the financial impact of having the ability to opt out of Agency programs.

Ms. Coleson replied that opting out of a program would not eliminate or decrease the surcharge owed to the Agency by the jurisdiction.

**Mr. Barbose made a motion that the amendment be modified to limit the ability of jurisdictions to opt out of only the proposed Carryout Bag Ordinance.**

Ms. Coleson asked Mr. Barbose if it would be his desire for jurisdictions to remain able to opt out of non-major programs.

Mr. Barbose responded affirmatively.

Ms. Coleson proposed that, as a motion had been made, she would like to define specific language that the majority of the Board would agree upon because all ten (10) jurisdictions have to adopt the exact same language.

Ms. Coleson's recommended amendment modification: "Each participant executing this agreement may elect to participate in any or all of the non-core Agency programs, including any Carryout Bag Ordinance.

Ms. Zane expressed her concern regarding the success of the Carryout Bag Ordinance if Santa Rosa is able to opt out.

Ms. Phillips noted that Santa Rosa is not the only jurisdiction expressing a desire to not participate in the Agency's Carryout Bag Ordinance. At this time it is her belief that the mechanism which is used to adopt this ordinance, whether it is the Agency or an individual jurisdiction, is of less importance to the community.

Debora Fudge, Town of Windsor, asked that core and non-core programs be explicitly defined within the Amendment.

Ms. Harvey inquired if jurisdictions not participating in the JPA's ordinance program would be obligated to complete their own Environmental Impact Report.

Ms. Phillips responded that Santa Rosa would be able to use the Agency's EIR as a fundamental base and then conduct studies specific to Santa Rosa.

Ms. Coleson presented her suggested modifications to the Amendment: "Each participant executing this agreement may elect to participate in any or all of the Agency's non-core programs, including any Carryout Bag Ordinance.

Core programs are defined to be: Household Hazardous Waste, Wood Waste, Yard Waste, Public Education and Require Reporting.”

**Mr. Barbose amended his motion to adopt the modified language proposed by Ms. Coleson.**

Ms. Zane requested that the Amendment of Section 2 include the additional language: “Any opt out will not affect the fiscal contributions of any entities.”

Ms. Coleson presented her suggested modifications to the Amendment: “Should any participant elect not to participate in a non-core program, including any Carryout Bag Ordinance, there would be no reduction in fiscal responsibility.”

**Mr. Barbose motioned to approve the modified language. Ms. Fudge seconded the motion. The motion passed with a unanimous vote.**

Ms. Coleson instructed the Board that the next step will be to present the Amendment to all of the Agency’s ten (10) governing bodies for approval.

Mr. Mikus stated that he would be reaching out to members individually to address their needs for assistance in presenting the Amendment to their Councils.

#### **10. Carryout Bag Ordinance Update**

Patrick Carter, Agency Staff, reported that meetings to discuss the Ordinance have yet to be scheduled with the cities of Rohnert Park and Petaluma. The Agency has responded to questions submitted by the Cloverdale City Manager to Mr. Mikus; the questions and responses were included in the meeting packet.

##### **Board Questions**

None

##### **Public Comments**

None

##### **Board Discussion**

None

#### **11. Compost Future Discussion**

Mr. Mikus opened the item addressing Board questions from the September meeting. Mr. Mikus reported that the Agency has completed an analysis for the use of electrical equipment on site as well as using the facility to generate solar power. The electrical power analysis was conducted utilizing diesel usage data at the Compost Facility at the Central Site from the previous year. It was determined that the application of electrical power to applicable machines would result in a reduction of 160 metric tons of Greenhouse Gases (GHG). Based on the surface area of the planned facility’s roof it was determines that the utilization of solar panels would result in a GHG reduction of 423 metric tons per year. Mr. Mikus moved on to discuss the potential costs for the use of the leachate pipeline. At this time discussions are still continuing as there is an abundance of information to be worked through. Mr. Mikus reported that the County has completed a “Leachate Conveyance Study,” however, there are issues that still remain.

Ms. Zane requested that Susan Klassen, Sonoma County Transportation & Public Works Director, address the Board and provide additional information regarding the leachate line.

Ms. Klassen noted that resolving the pipeline issue is complex. The County has completed a study which examined six options which could be pursued. Additional discussions are taking place between the County and Santa Rosa, Rohnert Park, and Cotati. Ms. Klassen reported that the focus of the conversations her and Mr. Mikus have had have been in regards to the compost facility's zero-discharge requirement.

Mr. Mikus continued his report noting that the Agency has vetted the trucking costs which were provided in the Site Analysis completed by Agency Staff. Based on tonnage and mileage the costs presented by the Agency and the costs presented by the private trucking firm were within 7% of each other. Mikus reported by utilizing the Cost Factor Sheet prepared by the Agency the net difference varied between 1% and 1.5% with a range of \$.28 per ton to \$.37 per ton. Mr. Mikus noted that Ms. Coleson had prepared and distributed a memorandum to board members regarding the land use and zoning concerns of Site 40.

Ms. Coleson summarized the memorandum stating that the Agency is not subject to County Zoning Regulations as they pertain to Site 40.

Mr. Mikus reported that Agency staff have participated in discussions with Site 40 representatives; they have indicated they are willing sellers; however, there are issues to be resolved regarding the property's value. While the appraisal conducted on behalf of the Agency was based on the highest and best use being pasture land Site 40 representatives believe composting would be the highest and best use for the land.

Mr. Mikus reported that in conversations with Ms. Klassen she informed him that cost for the use of a new compost site at the Central Disposal Site would ultimately be a decision for the Sonoma County Board of Supervisors to approve or deny. As requested by Dan St. John, City of Petaluma, Mikus asked board members to consider the formation of a technical committee to specifically address leachate pipeline issues.

### **Board Questions**

Mr. Wood asked if there was a timeline for when the remaining questions and issues may be resolved.

Mr. Mikus replied that his belief is that the pipeline is the biggest issue and asked Ms. Klassen for her input.

Ms. Klassen stated that an engineering study should be completed by the Agency to determine how much storm water the County can accommodate through the pipeline, noting that storm water comes in at high volumes with high intensity which is different than what typically passes through the leachate pipeline. She also believes that the study should include the amount of storage needed to detain the flow to a point where it could gradually be fed into the pipeline at a rate it could accommodate.

Mr. Mikus asked Ms. Klassen if she had any additional information regarding hook-up fees that would be associated with the pipeline.

Ms. Klassen answered that the County has hired an engineering firm to investigate different options for the transfer pipeline and the hook-up fees would be dependent on the jurisdiction so they were not and could not be accounted for in the study.

Mr. Mikus reported that a clearer timeline should be available by the November meeting.

Ms. Kelly inquired what the costs would be if the Agency discharges all of its storm water to the Laguna Treatment Plant.

Ms. Klassen responded that there would be a disposal fee for any amount of storm water put through the pipeline on behalf of the Agency, however, she did not know what the rate would be.

Mr. Mikus informed the Board that the Agency has submitted an application for a Discharge Permit to the Utilities Department at the Laguna Treatment Plant. This will make it possible to collect the "first flush" and haul it. He anticipates having a better idea of what rate the Agency will be charged within the next few weeks.

Ms. Fudge asked if the Central Disposal Site has the space for the required water storage.

Mr. Mikus responded that in the conceptual design, as provided in the re-circulate EIR, there is adequate space.

Ms. Harvey, noting that the use of the Central Disposal Site will be a decision for the Sonoma County Board of Supervisors, asked what the Agency should do at this time to move forward to ensure the site will be a viable option.

Mr. Mikus agreed with Ms. Harvey and will proceed as soon possible.

Ms. Harvey asked for clarification that Site 40 can indeed be used for composting.

Ms. Mikus replied that Ms. Coleson has determined the Agency is not subject to County Zoning Regulations. Mr. Mikus also noted that a use permit could be obtained which ensures the property is properly zoned.

Ms. Harvey asked for clarification about the lease and purchase options, noting that certain things are required to fall into place for the site to be used but they do not seem obtainable if only part of the property is leased.

Mr. Mikus responded that it has become apparent that in order to make everything work the entire property should be leased or purchased. Cutting out just 50 acres as has been discussed may pose access, water and other issues.

Ms. Zane asked for clarification if Site 40 is a Williamson Act Property.

Mr. Mikus responded affirmatively.

Ms. Zane stated that she believes because Site 40 is a Williamson Act Property that ultimately it would have to go to the County for approval of a use permit.

### **Public Comments**

Roger Larson, Happy Acres, stated that no consideration has been given to the GHG emissions produced if the Central Disposal Site is selected for the new compost facility and it fails to meet its objective of 200,000 tons per year. Mr. Larson noted several items he believes should have been included in the Agency's report and were not, including: emissions from trucks hauling 20,000 tons or 60,000 tons of material out of the county, the cost of the trucking service, and the cost in GHG or dollars to truck away waste water to meet the zero-discharge requirements. Mr. Larson also noted his surprise that the Rancho Adobe Fire Chief was not

concerned about the static piles catching fire as well as the pipes that may put out any fire that may start; Mr. Larson noted that water is not piped to the piles for anything but humidity control. Mr. Larson told the Board that they have an opportunity to build a state of the art compost facility that can serve Sonoma County into the future at Site 40.

Allan Tose, Site 40 Representative, spoke to clarify some of the zoning questions that have been brought up. He noted that there are three (3) options which could be pursued: 1) change the sale to that of a public facility 2) as stated by Ms. Coleson the Agency is exempt from County Zoning Regulations and 3) as of a year and a half ago compost became an allowable use per LEA Zoning, and complies with the Williamson Act; noting there is precedent of this throughout the State. Mr. Tose noted that composting is considered agricultural if it is done on agricultural land and half (50%) of the product is agricultural.

### **Board Discussion**

Mikus inquired if any board members, other than Mr. St. John were interested in participating in the Technical Committee for the Leachate Pipeline.

Ms. Phillips and Ms. Kelly agreed to participate. John McArthur, City of Rohnert Park, abstained from the committee due to Rohnert Park's ongoing involvement with the project.

## **12. Executive Director Contract**

Ms. Coleson opened this item informing the Board about the two agreements which exist for the employment of the Agency Executive Director; one being between the Agency and the County for staffing service and the other being between the County and the Executive Director. The Agency may request that the County extend or modify then approve the agreement with the Executive Director. It is at the discretion of the Board how to form the request to the County. Ms. Coleson noted that she will need direction and approval from the majority of the Board to proceed.

### **Board Questions**

None

### **Public Comments**

None

### **Board Discussion**

**Ms. Phillips motioned that the Board recommend Agency Counsel to work with County Human Resources to establish a new contract with Henry Mikus to continue working as Agency Executive Director beginning January 3, 2014 and extending for a one (1) year term with two (2) options each for a one (1) year extension. The new contract shall contain the same terms regarding pay and benefits as they currently exist. Ms. Zane seconded the motion.**

Mr. Barbose expressed his preference for a longer term than one (1) year; he suggested a two (2) year term with a one (1) year extension option.

**Ms. Harvey conducted a vote for the motion presented by Ms. Phillips. The motion failed with two (2) affirmative votes and seven (7) negative votes.**



**Mr. Barbose motioned to renew the contract for a two (2) year term with a one (1) year extension option. Ms. Fudge seconded the motion. The motion carried with seven (7) affirmative votes and two (2) negative votes.**

### **13. Strategic Plan Retreat**

Mr. Mikus discussed the Board's expressed desire for a strategic plan. The regularly scheduled board meeting in December has been selected as the date for an initial Strategic Plan Retreat. Mr. Mikus reported he has obtained proposals from two facilitators, Sherry Lund and Bill Chiat, both previously having worked with board members in different capacities. Mr. Mikus noted a large variation in costs between the proposals, citing that Ms. Lund provides more preparation and follow-up work. Mr. Mikus asked for direction from the Board.

#### **Board Questions**

Ms. Zane reiterated that many board members have worked with Mr. Chiat in the past and noted that he has an expertise in solid waste which she believes would be an advantage in moving the Agency forward. She also noted that he is the more economic of the options.

Ms. Kelly, noting the cost difference, asked if the solicitation of services were similar.

Mr. Mikus responded affirmatively stating the primary difference in services in the prep work and follow-up the facilitators believe they need to complete for a successful meeting.

Ms. Harvey noted that Ms. Lund's proposal stated that it was based on an assumed meeting location of Sausalito.

Mr. Mikus replied that the location must have been an oversight and ensured the Board that the location of the retreat would take place locally.

Ms. Harvey noted that Mr. Chiat did not provide for any follow-up in his proposal; she inquired if Agency Staff would be capable of summarizing his information and findings into a report.

Mr. Mikus responded affirmatively.

Ms. Fudge remarked that she has worked with both Mr. Chiat and Ms. Lund; based on Ms. Lund's work with the Agency last year and her follow-up she would be her preferred facilitator.

Mr. Barbose asked if Mr. Chiat would be capable of conducting follow-up for an additional fee.

Mr. Mikus responded affirmatively.

Mr. Wood expressed his desire for follow-up, noting he believes it would be essential for to form a conclusion of the meeting.

#### **Public Comments**

None

#### **Board Discussion**

Ms. Kelly supports Ms. Fudge's preference for Ms. Lund citing Ms. Lund's work with the Agency last year makes her more up-to-date with members and the issues the Agency is facing.

**Ms. Kelly made a motion to proceed with the selection of Ms. Lund. Ms. Phillips seconded the motion. The motion carried with a unanimous vote of the members present.**

**14. Attachments/Correspondence:**

14.1 Director's Agenda Notes

14.2 Reports by Staff and Others:

14.2.a October and November 2013 Outreach Events

14.2.b County letter & response, compost inspections

14.2.c Zero-Discharge Correspondence

**15. On File w/Clerk**

Resolutions approved in September 2013

**16. Board member Comments**

**17. Staff Comments**

**18. Adjourn**

The meeting was adjourned at 11:57 p.m.

Distributed at meeting:

Sherry Lund Introduction Document

Submitted by

Rebecca Lankford