



Minutes of February 20, 2013 Special Meeting

The Sonoma County Waste Management Agency met on February 20, 2013, at the City of Santa Rosa Council Chambers, 100 Santa Rosa Avenue, Santa Rosa, California

**Present:**

City of Cloverdale  
City of Cotati  
City of Healdsburg  
City of Petaluma  
City of Rohnert Park  
City of Santa Rosa  
City of Sebastopol  
City of Sonoma  
County of Sonoma  
Town of Windsor

Bob Cox  
Susan Harvey, Chair  
Mike Kirn  
Dan St. John  
John McArthur  
Jennifer Phillips  
Sue Kelly  
Steve Barbose  
Shirlee Zane  
Debora Fudge

**Staff Present:**

Counsel  
Staff

Janet Coleson  
Patrick Carter  
Karina Chilcott  
Henry Mikus  
Lisa Steinman  
Charlotte Fisher

Recorder

**1. Call to Order Special Meeting**

The meeting was called to order 10:05 a.m.

**2. Agenda Approval**

**Sue Kelly, City of Sebastopol, moved to approve the agenda. John McArthur, City of Rohnert Park, seconded. The motion passed with a unanimous vote. Agenda approved.**

**3. Public Comments (items not on the agenda)**

None.

**Consent**

- 4.1 Minutes of January 16, 2013
- 4.2 Minutes of January 22, 2013 "Special Meeting"
- 4.3 Recycle Guide 2013 Printing Contract
- 4.4 FY 12-13 Second Quarter Financial Report

**Debora Fudge, Town of Windsor, moved to approve the Consent Calendar as presented. Shirlee Zane, County of Sonoma, seconded the motion. The motion carried with a unanimous vote.**

## Regular Calendar

### 5. **Public Hearing for Carryout Bags Draft EIR**

Patrick Carter, staff, introduced the carryout bags item by giving background on the issue. On September 19, 2012, the Agency entered into an agreement with Rincon Consultants to prepare an Environmental Impact Report (EIR) to evaluate the potential environmental impacts of adopting an ordinance that would reduce the number of paper and plastic carryout bags designed for disposal and encourage the use of carryout bags designed for reuse. Agency staff arranged for and attended four public scoping meetings to receive comments on the adequacy of the scope of the Environmental Impact Report. The meetings were held in Santa Rosa on October 30, Sonoma on November 1, Petaluma on November 2, and Windsor on November 7, all at 6 pm.

Incorporating the comments made during the scoping period, Rincon Consultants prepared the Draft Environmental Impact Report. On February 4, 2013, the Notice of Availability of the Draft EIR was mailed out to interested parties and relevant public agencies and the notice was published in the Press Democrat on February 5, 2013. The notice of completion was delivered to the California State Clearinghouse, beginning the 45 day comment period in accordance with CEQA guidelines and ending March 22, 2013 at 5 pm.

All comments received, both at this public hearing and other communications, will be incorporated with written responses into the final EIR. There is no funding impact to the Agency by accepting these comments.

A presentation describing the CEQA process, responses to the scoping comments and the development of the report specific to the carry out bag ordinance was presented by Abe Leider of Rincon Consultants prior to opening the public hearing.

### **Board Questions**

Shirlee Zane, County of Sonoma, commented on the objection about hygiene is ridiculous because of the extensive packaging used on consumer goods. Abe Leider and Matthew Maddox from Rincon Consultants replied there are exemptions, such as the bags used to collect vegetables and fruits in the produce section of grocery stores. There have been studies done concerning the cleansing of reusable bags by the consumer and the conclusion was education on the appropriate cleaning of the bags was effective.

Susan Harvey, City of Cotati, asked if there was any information on storage of reusable bags by the consumers, such as in their cars.

Mr. Maddox replied that jurisdictions that have had the bag ban in place for a period of time have not experienced any public health issues resulting from the consumer's storage methods.

Mike Kirn, City of Healdsburg, asked if there was any consideration given to existing plastic bag inventories currently in possession of store owners. He inquired about the phase in plan for the ordinance.

Mr. Carter replied the stated date of the ordinance is July 1, but the lead time is at the discretion of the Board.

### **Public Hearing**

The public hearing was opened at 10:17 a.m.

(Note: the comments are transcribed verbatim for the record)

**CEA HIGGINS:** I'm Cea Higgins with Sonoma Coast Surf Rider and this is not my friend, the Bag Monster. I'm with the Sonoma Coast chapter of Surf Rider Foundation. Our mission is the protection and enjoyment of the ocean, waves and beaches through a powerful activist network. We have over 100,000 members throughout California, United States and the world. We're here today because we strongly support the proposed ordinance to regulate the use of plastic single use carryout bags in Sonoma County and we will be submitting written comment, but we wanted to highlight today some of the reasons we support this ordinance and thank you for the opportunity to express our valid concerns about the detrimental effects of plastic bags on the marine environment. As we know, plastic is not biodegradable. Every piece of plastic ever made still exists today. That is a staggering amount when you consider in the last ten years more plastic has been produced than in the whole last half century. Those plastic bags in the marine environment are mistakenly ingested by marine mammals, clogging their intestines, which results in death by starvation. Marine creatures and birds become entangled in plastic bags and drown or can't fly as a result. There have been numerous studies on this, some suggesting that up to 267 species around the world have suffered from these fates: 44% of sea birds, 43% ocean mammals, 86% of turtles ingest or become entangled in plastic. Because plastic is not degradable, that one bag is responsible for many deaths. Now I'm quoting some numbers from statistics for you, but I want you to share with you that besides my responsibilities for Surf Rider, I am a stranding volunteer for the Marine Mammal Center, responsible for rescuing stranded marine mammals on the Sonoma coast. I can tell you there is nothing more devastating than to see a once healthy California sea lion lying emaciated on the beach starving, unable to feed itself because its system is blocked with either plastic debris or plastic bags. There is nothing worse than seeing a harbor seal pup permanently separated from its colony, abandoned by its mother because it's entangled in plastic bag or plastic line. Up to 80% of the plastic in our oceans comes from land based sources. Plastic bags float easily through the air and water, traveling long distances and not breaking down. Plastic bags end up in our tributaries and litter our once pristine Sonoma coast beaches. Our organization sponsors numerous beach clean ups along the Sonoma coast throughout the year. I can tell you that plastic and plastic bags make up the majority of the volume we collect; so much so that we no longer use plastic bags to collect marine debris. We actually carry reusable buckets or used biodegradable bags so we're not contributing to the problem. We also want to address some of the comments regarding added cost and inconvenience to consumers that would supposedly accompany a bag. In reality those bags are not free. The stores currently pay for the plastic check out bags and bill their cost into the price of their goods sold. Most of the bags end up as litter in the landfills and I think the Bag Monster may talk a little bit about that. California spends \$25 million annually to landfill discarded plastic bags and public agencies spend more than \$300 million in litter clean ups, probably more if there weren't volunteer organizations also helping with litter clean up. A small portion of that money could be utilized to initiate programs and provide low cost reusable bags to consumers that would also simultaneously reduce the reliance on paper bags. We understand that initially this could be an inconvenience. We've become accustomed to this plastic convenient society. But we once lived without plastic bags and we can do it again. It's a small step but it can solve a huge problem. So we're here to encourage everyone to take that step and help preserve and protect what we all cherish, and that's the beauty of Sonoma County and Sonoma coast.

**BAG MONSTER/SARAH LECUS (comments made in-character, not to be taken literally):** Sarah Lecus, aka Bag Monster. I want to thank everyone for having me here today. I came a long way from the Pacific gyre and it's quite hot in here. I'm used to being a lot cooler out in the ocean. I am the bag monster and I am here representing all of the plastic bags and we are against this ordinance. What a plastic bag monster is, I am made up of 500 bags, which is the average amount that an American uses every year; or, as was stated earlier, more in Sonoma County, 531. Us bag monsters, we are really scared and stressed out. These bag ban ordinances are spreading all over the world. They're in China, Bangladesh, San Francisco, and Nantucket Island. We're really scared, we're becoming an endangered species and I think

you guys should do some more to help protect the bags. I, myself, am a pretty young bag monster. Most of these bags are probably only a few years old. But it's really stressful for a young bag monster, knowing that I'm going to live forever. Plastic does not decompose so I will be around here forever. Some of my bag friends were going to make our way into the ocean. We might get eaten by some seals, fish, and birds. This concerns some people, but I say there are enough animals out there. What's a million or so animals every year? Bah, we don't need that many. So in closing, I want to say, please, do not support this ordinance. I want to be free, I want to stay here and stay free to float in the air, down the river, and be used as a snack for a seal, a bird, be explored or maybe even be eaten by your dog or cat.

**SARAH LECUS:** I want to say a couple words not as the Bag Monster. Clearly I am here today to support this bag ban. I myself am a marine biologist, and I've been lucky enough to work along different coastal areas of California, I've worked in estuaries, rivers, and I've worked off-shore on the east coast. It just greatly saddens me; I would be hundreds of miles off shore and we'd pull plastic bags out of the ocean. I have seen firsthand, I've seen fish and birds eat these bags. So I have seen it with my own eyes. It's not just something you hear about, it really does happen. I just wanted to touch on the topic of recycling these plastic bags. I often hear that as a viable solution and alternative to the bag bans. But the recycling of plastic bags just doesn't work. The infrastructure has been in place for a few years now in California and only about 5% of the bags are recycled. So recycling plastic bags has been given its chance and has not been successful. So we need to have a better real solution and I think this bag ban could be it. I also hear some consumers say they reuse their plastic bags: they use them to pick up after their dog or cat or to line their trash bins. But if we look around, everything comes wrapped in plastic, so why can't we maybe use the plastic bag from our bread or produce. So those are alternate solutions, they are out there. So thank you and I hope you guys support the ban.

Jennifer Phillips, City of Santa Rosa, requested clarification as to the public record concerning the statements made by the Bag Monster. Sarah Lecus aka Bag Monster stated that the comments made by her as the Bag Monster were hyperbole.

The public hearing was closed at 10:27 a.m.

### **Board Comments**

Shirlee Zane, County of Sonoma, commented that she frequents the creek trail and has observed many plastic bags in the trees after a period of high water. She supports the bag ban and feels this should have been done a couple of years ago when other jurisdictions were formulating their bans.

Debora Fudge, Town of Windsor, supports a short lead time for implementation of the carryout bag ban as possible.

Susan Harvey, City of Cotati, recognizes the high awareness of the need for a ban and supports a short lead time.

Dan St. John, City of Petaluma, asked what plans have been made for the enforcement of the ordinance and the anticipated impact on staff time.

Mr. Carter replied the enforcement plan is to use minimal staff time and would be complaint based. The first effort would be education of the ban and then staff would respond to any complaints coming from citizens. There is no anticipated increase in rates to finance the ordinance. Janet Coleson, Agency Counsel, replied that this would be an administrative ordinance only. Henry Mikus, Executive Director, added that this would be a tiered

administrative enforcement; the first offense would be a warning and after that there would be fines imposed.

## **6. Compost Contract & Site License**

Henry Mikus, Executive Director, introduced the item by stating that there were two items presented for decision. The first is the Compost Site License and the second is the Compost Operating Contract.

Compost Site License is an agreement for use of the land currently being used by the composting contractor. The only change from the draft presented in June is the inclusion of payment of utilities associated with the property. This revised Site License is presented for the Board to discuss, and approve.

Compost Operating Contract as developed for June 2012 is presented with minor changes. The alterations are in the pricing, done to reflect the passage of nearly a year since SSC developed its cost proposal and the reduction of the contract term by a year (which affects the effect of amortizing capital expenses). County staff have indicated the concerns related to the term length of the new contract have been resolved.

The Board decided to discuss one item at a time starting with the Compost Site License.

### **Board Questions**

Shirlee Zane, County of Sonoma, requested an expanded explanation of the relationship between the Compost Site License and the County's Master Operations Agreement (MOA). Mr. Mikus replied the MOA was developed as a result of the Solid Waste Advisory Group (SWAG) discussion. It has been decided by the County and Republic Services that an 18 month period envelope for discussion concerning the composting operation as a part of the MOA.

Steve Barbose, City of Sonoma, inquired about the termination language and the relocation option.

Ms. Coleson answered that during the negotiations with the County the termination language was removed recognizing the joint powers agreement and the Agency now has flexibility to terminate with a 30 day notice. There are some blanks in the agreement that are not finalized and she requests some flexibility from the Board to fill in the blanks without further Board action.

Dan St. John, City of Petaluma, asked about the storm water requirement issue.

Mr. Mikus replied that language was not included in the draft agreement and will need an amendment to address the issue when that requirement has been decided.

Mr. St. John asked about the intention of Article 6.3.2 financial impact.

Mr. Mikus referred to Exhibit B, which describes the discussion of making the Agency financially whole. The fee structure is for the MOA and as tenants on the site the rate discussion needs to be included.

Mr. St. John asked about the fee increase on garbage in the MOA.

Mr. Mikus replied that he did not know the details on the language in the MOA.

Mr. St. John inquired about the cost of utilities and will they be passed through to the contractor.

Mr. Mikus replied that the costs would be passed through and would be based on the standard market for each utility. There are three utilities; electricity, water/sewer and trash.

Jennifer Phillips, City of Santa Rosa, asked about the County concession payment noted in Article 6.3.2.

Mr. Mikus replied that the Agency has no control over this fee; it was a County negotiation with their contractor.

Ms. Phillips asked about processing fee collection.

Mr. Mikus replied presently the County collects all fees at the gate including the Agency surcharge and then transfer them to the Agency.

Ms. Phillips requested a more detailed staff report.

Ms. Coleson explained the process in taking a three-party agreement to two two-party agreements.

Shirlee Zane, County of Sonoma, referred to the SWAG development of the MOA in asking about who will be paying the additional liability insurance for composting in order to indemnify the cities and the County. The second question is how would the composting affect the 90% diversion rate goal established by SWAG.

Mr. Mikus responded to the second question that there is additional tons of green waste to be removed from the waste stream. The additional tonnage would contribute to the 90% with approximately 80,000 tons of food and green waste.

Mr. Mikus replied to the first question by reminding the Board that the compost operation is currently placed on landfilled garbage. The storm water is a problem now and the liability for the compost exists now for the Agency and will be remedied by using the leachate pipeline. When compost operation moves, the liability of the landfilled garbage will not exist for the Agency.

Ms. Coleson added the agreement defines the Agency liability does not extend to anything located under the compost site as a pre-existing condition.

Ms. Coleson made a disclosure for the record that Supervisor Zane as a Sonoma County Supervisor does receive compensation per Code 13.90. She will be voting on this item as a Boardmember and she will be voting at the County on the same item as a Supervisor.

Susan Harvey, City of Cotati, reminded the group that during the process SCC has taken into consideration of the food waste composting as it relates to the diversion rate.

Jennifer Phillips, City of Santa Rosa, asked about the language Agency Counsel concerning returning the existing compost site to its pre-existing condition.

Ms. Coleson referred to the Article 6.2.1, which recognizes the language contained in the joint powers agreement.

Dan. St. John, City of Petaluma, restated the risk the Agency is assuming is being transferred to the contractor.

Ms. Coleson replied in the affirmative.

#### **Public Comment**

None.

**Steve Barbose, City of Sonoma, moved to approve the contract subject to amendment by staff as necessary. Debora Fudge, Town of Windsor, seconded. The motion passed with a unanimous vote.**

### **Compost Operating Contract**

The discussion began with Agency Counsel noting a necessary date change (July 1, 2017 to February 1, 2017 for the expiration of the agreement) in the agreement reflecting the expiration of the JPA agreement and accompanying dates. The dates for accepting material would be changed to September 1, 2016.

Mr. Mikus reported that the major change is the pricing. Instead of using a 5 year amortization, the agreement will now use prices calculated on a 4 year amortization. The other change is the treatment of the "overs", which normally goes to the biofuel market that has now disappeared. New pricing will be less than is currently in the SCC contract. The last change is the reduction of the threshold for environmental changes from \$100,000 to \$50,000.

### **Board Questions**

Dan St. John, City of Petaluma, inquired how the changed costs per ton compare with the other proposers.

Mr. Mikus replied that Sonoma Compost Company was still the lowest responsive bidder and that there would be no change in staff's recommendation of Sonoma Compost Company.

Jennifer Phillips, City of Santa Rosa, asked if this was a "not to exceed" contract.

Mr. Mikus replied that this was a volume based contract.

Mike Kirn, City of Healdsburg, asked about the tonnage limits.

Mr. Mikus replied that the limit is determined by the permit.

### **Public Comments**

Pam Davis, Sonoma Compost Company (SCC), clarified that the gate fees cover all tonnages no matter what they were. SCC was successful during the RFQ process; it is locally owned and operated, and cities are entitled to a measure of finished materials. SCC requests Agency support and approval of the contract.

### **Board Questions**

Dan St. John, City of Petaluma, asked if the revenue earned were entirely SCC.

Mr. Carter replied that in lieu of revenue sharing, the revised contract seeks to lower the gate fees with the language contained in Article 4.2.3. This is based on the highest amount revenue ever earned by SCC.

Dan St. John, City of Petaluma, asked about the financial impact of the former agreement versus the revised agreement,

Mr. Carter replied that the revenue sharing is difficult to calculate, but the Agency will have less expense than with the former agreement (approximately \$2.00 per ton).

**Steve Barbose, City of Sonoma, moved to approve the composting operating agreement as presented. Bob Cox, City of Cloverdale, seconded the motion. The vote was unanimous. The motion was approved.**

### **7. Boardmember Comments**

None.

**8. Staff Comments**

Mr. Mikus requested that Boardmembers look at the Draft Workplan even though it has been continued and formulate any changes for incorporation into the budget.

Mr. Mikus informed Boardmembers of the status of the Senior Office Assistant position and there is a temporary person acting as receptionist.

Mr. Carter reminded Boardmembers there are beverage container funds still available for their use.

**9. Next SCWMA meeting: March 20, 2013**

**10. Adjourn**

**Debora Fudge, Town of Windsor, moved to adjourn the meeting. Bob Cox, City of Cloverdale, seconded. The vote was unanimous and the meeting was adjourned at 11:45 a.m.**

Submitted by  
Charlotte Fisher

DRAFT