



MINUTES OF SEPTEMBER 16, 2009

The Sonoma County Waste Management Agency met on September 16, 2009, at the City of Santa Rosa Utilities Department's Subregional Water Reclamation System Laguna Plant, 4300 Llano Road, Santa Rosa, California.

PRESENT:

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| City of Petaluma | Vince Marengo, Chair |
| City of Cloverdale | Nina Regor |
| City of Cotati | Marsha Sue Lustig |
| City of Healdsburg | Mike Kirn |
| City of Rohnert Park | Dan Schwarz |
| City of Santa Rosa | Dell Tredinnick |
| City of Sebastopol | Jack Griffin |
| City of Sonoma | Steve Barbose |
| Town of Windsor | Christa Johnson |
| County of Sonoma | Phil Demery |

STAFF PRESENT:

| | |
|----------------------------|------------------|
| Interim Executive Director | Susan Klassen |
| Counsel | Janet Coleson |
| Staff | Patrick Carter |
| | Karina Chilcott |
| | Charlotte Fisher |
| | Lisa Steinman |
| Recorder | Elizabeth Koetke |

1. CALL TO ORDER SPECIAL MEETING

The special meeting was called to order at 8:30 a.m. by Chairman Marengo

2. OPEN CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL PURSUANT TO
Government Code Section 54956.9(c) Initiation of litigation - one case

PURSUANT TO GOVERNMENT CODE SECTION 54957(b)(1) and (4) PUBLIC
EMPLOYEE PERFORMANCE EVALUATION TITLE: AGENCY INTERIM
EXECUTIVE DIRECTOR

3. ADJOURN CLOSED SESSION

No report.

Chairman Marengo requested the Board's permission to change the order of the agenda moving the unanimous vote item (Item 9.1) and other items, the changes are as follows:

4. CALL TO ORDER REGULAR MEETING/INTRODUCTIONS

The regular meeting was called to order at 9:40 a.m.

5. ATTACHMENTS/CORRESPONDENCE

Chair Marengo, called attention to the Director's Agenda Notes.

6. ON FILE WITH CLERK

Chair Marengo noted the resolution from the August 19, 2009 meeting on file with the clerk.

7. PUBLIC COMMENTS (items not on the agenda)

There were no public comments.

9.1 FY 09-10 TECHNICAL ADJUSTMENTS

Charlotte Fisher explained that the budgeting process includes an opportunity to make changes (technical adjustments) to the budget after the fiscal year-end to reflect more current available information. Seven Technical Adjustments are being presented for approval. The first one, Education cost center, in the FY 08-09 budget funding for work on the website was approved. The work was not completed in that fiscal year and the funding was not carried over, so basically this is a re-budget of an approved project. A portion of the work was done and not billed in the FY 08-09 fiscal year, so the entire cost of that project will be covered in this fiscal year.

In the Diversion cost center, there was an 85% reduction to the beverage container grant by the Department of Conservation. This proposed budgetary adjustment reflects the change of funding.

The previous budgetary adjustments are reflected in the final proposed budgetary adjustments. In the Contingency Reserves, there will be a reduction to the contributions from the appropriate cost center because of the reductions in revenues coming from the State and from the re-budgeting the approved website design project.

Marsha Sue Lustig, Cotati, moved to approve the FY 09-10 Technical Adjustments. Dan Schwarz, Rohnert Park, seconded. Item approved unanimously.

Jack Griffin, Sebastopol, left the meeting at 9:45 a.m. (ek)

CONSENT

Chairman Marengo requested that Item 8.2 be pulled from the Consent Calendar for public comment and Item 8.3 for a question by the Town of Windsor.

8.1 Minutes of August 19, 2009

Dell Tredinnick, Santa Rosa, moved to approve item 8.1. Christa Johnson, Windsor, seconded. Sebastopol absent.

8.2. Compost Relocation Update

Public Comment: John Mackie, Carle, Mackie, Power & Ross, LLP, representing Sonoma Compost Company (SCC) expressed concerns about the impact the divestiture agreements may have on SCC and the composting program, the impact of relocation and the effect it may have on this successful program. He requested communication to the Board of Supervisors for continued support of the composting program and no implementation of the divestiture until there is some agreement on the composting program. Sixteen years ago the organics processing program with SCC was begun with a joint venture that by all measures was successful, becoming a national model and benefiting the County. At this time, the County is facing possible relocation requirements that will challenge the program as it is now. The draft of the Purchase and Sale Agreement (PSA) gives the composting program shift and creates a series of problems for the program. SCC plans to testify before the Board of Supervisors at the

end of the month. SCC has met with Republic Services, who has expressed support for the program, but it hasn't gotten translated into changes in the document or any other agreements. Requested action is for the Board to express to the Board of Supervisors continued support for the composting program to operate successfully, whether it's at the Central site, or somewhere else.

Chairman Marengo gave direction to staff to agendize extending Sonoma Compost Company's permit for October 21, 2009 Agency meeting.

Mike Kirn requested a breakdown of the different expiration dates for pertinent agreements.

Phil Demery said that as part of the divestiture discussion, he would also talk about compost and some possible options that may avail themselves.

Dell Tredinnick asked that the roles for extension be clearly stated including where they are established.

Christa Johnson, Windsor, moved to approve item 8.2. Marsha Sue Lustig, Cotati, seconded. Sebastopol absent.

8.3 R3 Update: Alternative Fee Collection Method

Christa Johnson, Windsor, asked when the Board could expect a full report from the consultants.

Patrick Carter said the consultants have been gathering data and should have a preliminary report in November or January.

Christa Johnson, Windsor, moved to approve item 8.3. Marsha Sue Lustig, Cotati, seconded. Sebastopol absent.

REGULAR CALENDAR

ADMINISTRATION

9.2 MOU FOR AGENCY STAFFING SERVICES

Janet Coleson, Agency Counsel, summarized her staff report.

Dan Schwarz, Rohnert Park, asked if they are under the County's health insurance plan. Ms. Coleson said they contract for the same benefits as the County has, so she believes they have the same health benefits that the County provides to their employees.

Dan Schwarz asked if they look like a County employee to their health provider.

Ms. Coleson said yes.

Chairman Marengo confirmed that the employees of SCTA and the executive director are not County employees.

Ms. Coleson said that none of them are County employees; they are all employees of SCTA.

Ms. Coleson concluded her report with stating there are a number of different models available.

Nina Regor, Cloverdale, asked how the Agency paid for staffing services.

Susan Klassen explained that essentially all the services are provided by the County. As it relates to staff, they are all in the Refuse Enterprise budget of the County. And the Agency has line items within their budget to reimburse the County for those expenses. The Agency budget separately reimburses directly to appropriate departments for certain activities, such as accounting, auditing, payroll, etc. The only expenditure through the Refuse Enterprise budget is labor.

Dan Schwarz said he'd like more information about the staffing models; such as "Are the employees at-will to the ED? Or is the County obligated to take those employees?"

Steve Barbose, Sonoma, questioned whether the current MOU would need to be changed in order to change staffing arrangements.

Ms. Coleson said the MOU simply says the Agency will contract with the County for the services of a position that has been reclassified and titled differently.

Steve Barbose, asked if the MOU for staffing services could be changed without modifying the JPA Agreement.

Ms. Coleson replied in the affirmative.

Christa Johnson, Town of Windsor, asked what the percentage of time was that the staff members spend working on County projects.

Ms. Klassen said the Agency staff is 100% budgeted to the Agency's budget, similarly to the ED. If staff is asked to work on a project for the County, and they have time to do that, they can charge their time to the County and the County will reimburse the Agency.

Ms. Fisher explained that these are small reimbursements that are made back to the Agency by the County for work that is done for the County; percentage-wise it's probably 5% or less.

Steve Barbose expressed interest in pursuing the SCTA model further.

Dell Tredinnick, Santa Rosa, was also interested in pursuing the SCTA model.

Christa Johnson said in light of the expiration of the JPA Agreement in 2017, and the time constraints this Agency has, the Town is not eager to expand the responsibilities of the Board. The current staffing model has worked until recently and has been cost effective.

Mike Kirn, Healdsburg, added that SMART has a similar model. He said he is willing to entertain discussion, but is not sure he would support the Agency going down that path.

Public Comment

Tim Smith, former Agency Boardmember, supports the Board looking at the SCTA model. His opinion is that the Agency has acted effectively for many years. He suggested that staff look into the initial set-up costs. He thanked the County for allowing him to participate in the hiring process for the recent ED. He said the Agency Board had input, but not very much.

Dan Schwarz questioned keeping the 'status quo'. Another alternative to consider would be a contract similar to the one Phil Demery has with the Board of Supervisors (BOS), yet he is effectively a County employee. The question of the ED of the Agency have an at-will contract with the Agency Board and still be a County employee, as long as it's stipulated that they would be subject to all the rules and regulations of all other County employees.

Phil Demery said the only difference would be that the BOS does his performance reviews, so the Agency Board would be responsible for doing the ED's performance reviews. County staff would report to the Agency Board.

Dan Schwarz said he had that arrangement with his previous employer and it worked just fine. He'd be happy to get those documents. He has a different opinion about the frequency that the Agency board interacts with the ED. This Board is the only one who establishes work goals for this position on a regular basis.

Phil Demery said that's part of the complication, although the ED is a County employee, he/she also serves the Agency. The County is trying to keep costs to the Agency and the County to appropriate levels. Expanding the performance review with the work product that is heavily influenced by the Agency Board and Work Plan will involve more of time and effort. With a traditional senior manager in the T&PW Dept doing this function, the Agency could accumulate quite a bit more expense. This position is different from other typical employee/employer relationships.

Ms. Klassen confirmed the direction to staff is to bring back more information about the SCTA model. She hears interest in how the whole thing works and specifics of contractual relationships. The other consideration is the cost factor and whether there are any cost implications from changing from one model to the other, which could be a fairly detailed analysis.

At this juncture T&PW has requested HR open the recruitment for the ED position. SCTA also contracts with the County's HR department to conduct those recruitments. She questioned whether the recruitment should continue knowing that the model could change and ultimately the selection of the individual could be made by the Agency Board. She requested direction on how to proceed.

Chairman Marengo summarized that the Board wants to look at three models, possibly more. He requested comparing the existing model with the others, particularly the SCTA model. He requested using both scenarios of the executive director without staff and with staff. To be included in the comparison are the terms and conditions for each model, roles and responsibilities, frequency of meeting with the Board, and start up costs for each model. In regards to the issue of the HR recruitment, it would appear beginning the search doesn't do any harm, but he will defer to Agency Counsel.

Ms. Coleson said it's up to the pleasure of the Board. She didn't think it would hurt to start the recruitment.

Dell Tredinnick remarked any indigenous or local candidates who might have insight into what's happened recently with divestiture and the resulting flux might be reluctant to apply.

Ms. Coleson said the advertisement doesn't have to be specific or could indicate that the reporting structure is under review.

Dell Tredinnick questioned whether the Board had the right to advertise the position using the structure review language.

Chair Marengo directed staff to do more research, such as the SMART model.

Marsha Sue Lustig, Cotati, supports the SCTA model, but feels it is important that they understand the model as well as the cost benefit.

Dan Schwarz, Rohnert Park, commented that the JPA Agreement specifically cites the Agency will contract with the County for staffing services. There can be exploration for the contracting arrangement, which is consistent with Section 6 of the staffing agreement, but there is some constraint on how the Board staffs the Agency. The MOU specifically states the Agency contract with the County for staffing services.

Ms. Coleson replied this was correct, but there is one line in the JPA Agreement that is flexible enough to provide some room for a different arrangement than the one currently being used.

Dan Schwarz said direction to staff is all the alternatives should be considered within the context of the JPA Agreement and every analysis should include the impact it will have on staff. He felt the recruitment process should be held.

Nina Regor, Cloverdale, stated when going forward with the recruitment, it would be beneficial for the Board to discuss the goals and objectives of the ED position as well as qualities the ideal candidate would possess.

DIVERSION

10.1 GREEN CITIES CALIFORNIA CARRYOUT BAG MEA

Patrick Carter reviewed his staff report. The recommended funding as directed by the Board was \$5,000. Staff recommends authorizing the Interim Executive Director to make a payment to Green Cities California in the amount of \$5,000.

Public Comment

Tim Smith, former Agency Boardmember, encouraged the Board to pass this item which could have a great effect, and potentially allow the Agency to adopt a plastic bag ban by next year.

Dell Tredinnick, Santa Rosa, thanked Mr. Carter for the report. He's in support of the contribution. He suggested that staff may want to inquire with the Attorney General's office for additional support or insulation. Last time the Board talked about a plastic bag ban, there was fear of threats of lawsuit. He'd like to see some clout at the State level.

Mr. Carter said he would check in with the State Attorney General's office. One of the main goals of this project is to develop a form of insurance to those cities that wish to make those bans. Basically, the reason cities have been sued in the past is not providing an adequate environmental analysis of the banning of plastic bags. The document that Green Cities is going to be preparing is basically an Environmental Impact Report (EIR) that could be adapted by each local jurisdiction to their local circumstances and provide that enhanced environmental analysis that would basically agree or disagree with statement coming from the plastic bag manufacturers.

Dan Schwarz asked staff if they believe the Agency will be asked for more money over time.

Mr. Carter said conversations with Carol Misseldine, Coordinator for Green Cities of California, she indicated they are open to more contributions, but are only requesting \$5,000 at this time. He didn't get a sense that there would be another solicitation of funds.

Steve Barbose asked staff's expectation whether the master report, when complete, would need additional work in order to have it directly applicable to Sonoma County.

Ms. Coleson said the point of doing this is to provide the analysis to be used in subsequent EIR's throughout the State, different cities and different agencies. One of the hurdles in banning plastic bags is completing an EIR. If individual cities need to do individual EIR's, its very

expensive for them. The proposed EIR can be used by everyone. It's a public document and it does have to be customized, but the cost would be considerably less.

Steve Barbose questioned if there will be an attempt to adopt a uniform ordinance so there will be more of an ability for cities to defend and band together in a common interest.

Mr. Carter said he included the scope of work for ICF Jones and Stokes and it does not include any information about a model ordinance.

Ms. Coleson said that goes beyond the scope of what they're doing right now, but that's not to say they won't develop one.

Mr. Carter said can provide more comments on this project. If it's the Board's direction, he can request that the inclusion of a model ordinance could be a consideration of this project if funding is available.

Marsha Sue Lustig, Cotati, expressed support for the project and made a motion to approve the \$5,000 contribution to Green Cities California for the Master Environmental Assessment for the banning of carryout bags. Steve Barbose, Sonoma, seconded. Sebastopol absent. Motion carried.

Chairman Marengo commented that he felt this is in the best interest of the Agency and in the spirit of doing the right thing.

HOUSEHOLD HAZARDOUS WASTE

11.1 EWASTE COLLECTION EVENTS

Lisa Steinman summarized her staff report.

Staff recommends approving immediate issuance of an RFP for an E-waste Contractor and directing staff to return with a recommendation for a selected E-waste Contractor and a "back-up" E-waste Contractor.

The alternative recommendation would be to approve extending the existing arrangement with ECS Refining to provide services for all the currently publicized events through March 14, 2010 and direct staff to issue a RFP for a one year agreement with an e-waste contractor to provide services to start in April 2010 and return with a recommendation for a selected e-waste contractor and a back-up e-waste contractor.

Steve Barbose said he was leaning towards the alternative recommendation.

Mike Kirn agreed and asked if the RFP could have a two year window, instead of one year.

Ms. Steinman said it could.

Public Comment

Curtis Michelini, Global Materials Recovery Services, said he has conducted many e-waste events and is requesting that this item go out for RFP and also that it is awarded to a local business.

Christa Johnson thought some consideration should be given to a local non-profit.

Mike Kirn, moved to approve staff's alternate recommendation of continuing with ECS Refining for all of the publicized events through March 2010 and then going out for RFP for a two year period thereafter with the addition of adding some scoring points for local

and/or non-profit status. Steve Barbose, seconded. Sebastopol absent. Motion approved.

9.3 UPDATE ON DIVESTITURE

Phil Demery, County of Sonoma, explained the County is in the process of meeting with the City Managers and when those meetings are completed, will meet with the City Councils. The Central landfill ceased landfilling in 2004 because permits were denied by the Regional Water Quality Control Board, which resulted in outhauling about 270,000 tons per year to other Bay Area landfills. With the premature closing, the County realized the instantaneous liability of closure and post-closure costs, which is about \$50 million dollars. The County's perspective is this is a shared liability, past, current and future, between the Cities and the County because all have been putting trash into that landfill. The Board of Supervisors has been working with the community, in a public process, for a list of alternatives. Clearly the goal is providing an in-county disposal facility, stopping the outhaul to Bay Area landfills as well as increasing diversion and developing a stable rate structure. As a part of the public process, the County went through a Request for Information, Request for Qualification and a Request for Proposal industry review process and selection. Originally there were eight interested parties, four were shortlisted, two waste companies submitted proposals and, finally, Republic Services was chosen for negotiation purposes. All of this was done in closed session. The first thing the County did was hire outside counsel experienced with the divestiture process, which took about a year and a half in closed session as directed by the Board of Supervisors. The City Managers, sworn to confidentiality, were provided with monthly updates.

The general public was kept at arms distance through most of the process. There was unveiling in August. In order for Republic to obtain necessary permits and assume the liabilities, they require assurance of a constant revenue stream. That assurance will be provided through the County and the Cities committing all their flow with the exception of Petaluma, who left the system.

Proceeding with divestiture is predicated on the Central Site being permitted for landfilling. County staff determined a double composite liner would be required and obtained an independent estimate of about \$70 million dollars. In discussions with the different proposers, and with negotiations with Republic, they verified the estimate and need for a double composite liner. This will be submitted to the California Integrated Waste Management Board and the Regional Water Quality Control Board.

In the divestiture proposal, there's a revenue source, in the form of royalties, being accumulated solely for addressing future offsite environmental risks. Republic has agreed to pay up to \$7.5 million dollars for a ten year period. There is also \$10 million dollars, contributed by the Cities and County, held in a trust fund for closure. There would be another \$2.7 million dollars a year in royalties that would be used for the closure reserve funding. If nothing happens in that 10 year time, that money will be allocated back to the Cities and County. Essentially this is a fund that's a revenue source and can be used as indemnification for potential environmental risks.

The other major public input was the call for more diversion, so included in the PSA is the construction of a material recovery facility (MRF) for handling construction and deconstruction sorting as well as a commercial and industrial material (C&I).

The haulers have been integrated into the whole process. In discussions with the largest hauler, North Bay Corporation, Republic has agreed to continue commercial and industrial waste hauling to their existing facilities on Standish Avenue. The residual flow would continue as currently done and construction and deconstruction waste would flow directly to the MRF that Republic plans to build.

There is a provision for a C&I sorting line. There will be separators on the front of the C&I line that will allow it to act as a "dirty" MRF, taking selective loads that are currently in the gray trash can and running them through the facility. This is a new diversion never done before in this county. Republic will start this as a pilot because of the need to assess what routes provide the greater quantity of dry product. There are performance targets for diversion complete with consequences for meeting or not meeting those targets. There are greenhouse gas emission targets developed with the Climate Protection Campaign, who developed targets for the solid waste sector for 1990 and 2009. Greenhouse gas emission inventories and targets have been adopted by the Cities and County. Republic has been asked to identify a 1990 baseline of greenhouse gas emissions as it relates to their portion of the solid waste sector.

Specifically as it relates to the Agency, there are two facilities at the Central Site that lie on land being divested, the Household Toxics Facility (HTF) and the very successful compost facility. The County felt that the best way to protect the HTF is to identify it in terms of a leased area. Republic claims to interest in running a household hazardous waste facility, so it will stay in place. The Agency JPA Agreement has an expiration date of 2017 unless there is an extension. In the PSA, the lease on the HTF expires in 2017 with two five-year extensions.

Compost, the largest Agency diversion effort, insures compliance with the AB 939 mandate. There is currently a compost site relocation project being conducted by the Agency. In talking with Republic, the County has included in the PSA language for coordination and assistance within the Central property. The problem is timing. Independent of divestiture, it is necessary to look at relocating the composting site. The reason is the resource agencies want zero discharge. Currently the compost facility is located on landfill mass. If that property were made impervious, it would very difficult to compost because of settling. Although Republic is willing to look for alternative compost sites on the property, they may not acquire it by 2011, which is the expiration date of the compost agreement. The County is also dealing with North Bay, who has an option to buy ranch property directly adjacent to the landfill. When the Agency was looking at potential compost sites, this site was considered. There were a couple of issues, one was residences on the property and the other was the discovery of tiger salamanders found on the lower part of the property. If the residences were removed, there could be a brief fatal flaw biological analysis for tiger salamanders. Input from the Agency Boardmembers concerning options for the continuation of the compost operations would be valuable.

On September 29, 2009, the Board of Supervisors will consider the PSA for divestiture. At that point the cities will have 90 days to consider flow commitments. Keeping the 90 day deadline is important from a regulator perspective for closure. The County wants to show the process is moving forward. Should the regulators lose patience, they can decide tomorrow to close the landfill. If that were to happen, the Cities and the County would have to come up with \$11 million dollars closure cost.

Additionally, there is a 90 day extension that the Board of Supervisors could provide in 30 day increments. If the Cities feel they can't commit to flow control in 90 days, they can have an extension. Once Republic starts getting flow commitments they will turn plans into the regulatory agencies for permitting. Absent their ability to get permits, there will be no divestiture. One benefit is, if on September 29th the Board approves or executes the PSA, the County has a transitional operational agreement that gives time to look at other alternatives between the Cities and the County.

Michael Caprio, Republic Services, pledges cooperation. Republic agrees with the County and Cities diversion rate targets, continuing with the County's obligations for the Household Hazardous Waste Facility and then working cooperatively with the JPA and all member agencies to make sure there is a permanent home for the compost operation.

Secondly, he spoke about the diversion programs they have planned and some of the reasons they are looking at this as a “diversion first” project versus “disposal first”. During this process Republic reviewed all of the Agency agreements, the HHW, and the diversion programs that are in place. They are very comfortable with the obligations assumed from the County and having continuing those programs at the five transfer stations and the Central Site.

Mr. Caprio offered assistance with permitting a new compost facility. If there is any operational interaction needed to help identify a potential location on the footprint of the landfill property, Republic will be flexible. Ultimately another site for that facility will need to be found.

The diversion plans have gone from a source separated C&D operation to a C&D commercial/industrial sorting operation. The collection programs for the source separated materials lend themselves to being processed somewhere else because of economics and the rights included in the haulers agreements. The C&D line planned to be put in place is supported by the experience Republic brings with the operation of four similar facilities in California. Republic has two commercial/industrial lines in northern California. It clear that the public wants to see more of the refuse in the gray can and in the commercial bins put through this commercial/ industrial line.

Republic has had discussions with the North Coast Regional Water Quality Control Board (NCRWQCB) about the necessary permits. Following these discussions, a good plan has been developed for presentation to the NCRWQCB.

Christa Johnson asked if the “dirty” MRF was going to be for residential as well as commercial.

Mr. Caprio said they were going to try both.

Dell Tredinnick asked if the liner would go on top of material there now, or would the garbage be dug up and the liner be put under the garbage?

Mr. Caprio said his guess is that there will be a double liner placed over the existing garbage, but that would be a question for the NCRWQCB.

Dell Tredinnick questioned contaminated leachate in the test wells.

Mr. Caprio said there are two sources of leachate generated at the site.

Dell Tredinnick said one of the benefits of the divestiture is the removal of liability, and as Santa Rosa is the largest city, it would have the greatest liability. One of the assets on the Central site is the 7.5 megawatts of energy generated by the landfill.

Mr. Demery said right now there is a positive profit of about \$9.62/ton from the power sales. The capacity is 7.5 megawatts, but because waste hasn't been put into the landfill, there's been a reduction of gas production. Of course with new waste, there should be a reversal of that trend and there will be greater positive revenue from power sales.

Dell Tredinnick asked if that gas was being used to power transit buses.

Ms. Klassen said that there was a pilot project done at the landfill to compress landfill gas and fuel vehicles. So far one bus has been partially filled and one transit vehicle being filled on an ongoing basis.

Dell Tredinnick said he appreciates the concern about the compost facility. The Agency shares a good relationship with Sonoma Compost Company and he'd like to see that continued in a very careful and good way.

Steve Barbose asked for clarification about the in ground liner, being installed on landfilled material to deal with the groundwater.

Mr. Caprio said that what's there is there; there will be no excavation of the trash.

Steve Barbose added that Sonoma Compost Company is very important to us.

Christa Johnson inquired if space should be found at the Central Landfill for the compost site, would the arrangement be the Agency leasing that site from Republic?

Mr. Caprio said he's not sure exactly what the arrangement would be, but it would probably a long-term lease on the property somewhere.

Christa Johnson asked if Republic had similar arrangements at their other landfills sites.

Mr. Caprio replied at their other sites they own and operate the compost facilities. They do have public agency projects at some of their other facilities.

Christa Johnson asked if the composting services provided at Republic's other facilities were the same level of service as the current program.

Mr. Caprio requested clarification of scale of the product. He said there are times of the year when they are putting between 500 and 600 tons a day through there in one form or another, so the scale is similar.

Chairman Marengo inquired regarding the 'put or pay' level on the twenty year horizon in the PSA.

Mr. Caprio said it's difficult to say and he hopes that level is never reached.

Phil Demery commented that the economy dictates waste generation. Unless there is an adoption of significant diversion goals that reduce the tonnage, that will affect everyone's tier towards 'put or pay'. This is not anti-diversion. Republic just needs to be assured that they have the revenue to cover all of the liabilities and obligations they are being asked to cover. Absent of that, this deal can't work.

Steve Barbose said that with all the investment Republic would make, they need to be assured of a revenue stream in order to be able to do that. If the move toward or trying to achieve zero waste, which would mean zero landfill, this would affect how the income stream would be able to cover necessary expenditures and obligations.

Mr. Caprio said that in the beginning the closure issue needs to be addressed, both closing the landfill and post closure liability, and all the other costs associated with this site. Eventually, however slow it might be, the site is going to be built out, just operating the equipment and taking trash to one of the other facilities, Republic won't have the residual liability. Once the PSA is signed and Republic takes possession of the assets, the company takes on the liability of closure and post closure costs. It is planned \$70 million dollars will be expended for the new liner.

Steve Barbose said it's not feasible economically for RS to see zero discharge or zero waste as it will cut off their revenue stream to pay the liabilities about to assume. Mr. Caprio said material planned to be diverted, is currently to the facility right now and probably can be diverted at the facility. For instance, the commercial food waste, there are a number of programs all around the Bay Area for commercial food waste processing

Public Comment:

John Moore, representing Industrial Carting, addressed the city representatives. His client asks certain questions be posed to the city officials. Industrial Carting feels if this divestiture deal goes through as proposed, they will go out of business along with a lot of other local businesses. The three questions are:

1. What is being sold and who owns it? *The asset is the flow, which the County owns.*
2. Can we legally sell this flow? *The United States Supreme County decision of 1994 states that public agencies cannot sell their flow to private companies.*
3. If someone were to make a compelling case that diversion under the divestiture program would be less than the diversion now, would an EIR be required? *The flow of the materials that is planned or is there right now is what comes in after the upfront diversion has already occurred. If you put the upfront diversion processors out of business there's going to be less diversion, if there's less diversion state law is really clear that that creates a significant adverse environmental impact, which would require an EIR.*

Christa Johnson inquired about the flow control only including the material in the gray can or does it include C&D and recycling.

Phil Demery responded the County's waste stream or C&D delivery is what North Bay collects. Each individual city has their individual franchise agreements.

Christa Johnson confirmed the definition of flow for the divestiture process is the material in the gray can.

Phil Demery concurred.

John Moore directed a question to Phil Demery concerning the definition of committed waste, such the inclusion of construction and deconstruction debris and commercial recyclables.

Phil Demery requested a delay in the conversation.

Chairman Marengo stopped the discussion.

Public Comment:

Norman de Vall, representing a group of debris box haulers organized as the Sonoma County Resource Recovery Association (SCRRA), remarked that the divestiture proposal as presented to the Board of Supervisors if adopted will put the association's members out of business. They primarily recycle C&D and other recyclables generated by the customers. The divestiture proposal with RS creates a monopoly. There was no discussion of putting in front of the voters.

12. BOARDMEMBER COMMENTS

Steve Barbose asked if the Agency was going to have a chance to get an opinion to the BOS before the September 29, 2009 meeting.

Ms. Coleson replied it's not on the agenda this month and the BOS meet before the Agency meets again. A lot of what was said at the meeting today is not the purview of the Agency; this September 16, 2009 SCWMA Meeting Minutes

is an open forum for talking to members of this body who are also members of cities. We need to keep in mind the difference between this Agency and the Cities.

Steve Barbose said the mission of this Agency is consistent with the goals of waste reduction and greenhouse gas emissions reduction, which are key issues. The opinion of the members of this board should have some weight with the BOS.

Phil Demery said it depends on whether or not the Board executes the agreement on the 29th or not.

Steve Barbose said all the negotiations were done in secret, which has been a sore subject, and now to schedule this decision before this Board has a chance to weigh in on it seems to be an indication of just how important the opinion of this Board actually is.

Phil Demery pointed out that if he hadn't offered to put the divestiture item on the agenda today, the Agency wouldn't have heard it today. The fact is it's important that each of the cities weigh in on the issue and each of the cities and the County has a representative sitting on this Board. The point is that this Agency serves the individual jurisdictions as well.

Public Comment:

Norman de Vall said the SCRRA will be present at each of the City council meetings.

13. STAFF COMMENTS

Susan Klassen inquired about regular updates on EPR and requested Board direction for a standing item on the Consent Calendar for EPR. The Board confirmed that it would be a good idea to add it to the Consent Calendar as needed.

14. ADJOURNMENT

Meeting adjourned at 12:30 p.m.

Respectfully submitted,
Elizabeth Koetke

Copies of the following were distributed and/or submitted at this meeting:

1. 3rd Quarter Compost Allocations
2. Call for Action from Sonoma Compost Company
3. Letter to BOS from AB 939 Local Task Force dated 4/24/2009
4. Statement to Agency from Norm de Vall, SCRRA
5. PD Editorial: Sea Sick