

4. CONSENT CALENDAR

a. CONSIDER APPROVING MINUTES OF THE REGULAR BOARD MEETING ON JUNE 25, 2009*

Board Member Trotter noted that on page five, the word versus was spelled incorrectly. Janna McKay, Secretary to the Board, informed the Board that the correction was made and sent to the Board by email.

There was also an additional change sent by email to the Board of Directors per Board Member Glazer's request. On Item No. 8b, page 6, adding the last sentence to read as follows: MODIFIED MOTION by Board Member Glazer to include directing staff to examine ways in which to have contracts reviewed in a more public process that either provides for competitive bids or a staff explanation about why request for proposals or competitive bidding was not done.

MOTION by Board Member Piepho to approve 4.a. with the amendments listed above. SECOND by Board Member Andersen.

MOTION PASSED unanimously.

5. NEWS ARTICLES

a. NEWS ARTICLES OF INTEREST TO THE BOARD*

No comments were made.

6. PRESENTATIONS

a. INTRODUCTION OF THE NEW CCCSWA WEBSITE

Bart Carr introduced the new CCCSWA website. He stated that staff has been working on the website for about nine months and it was team collaboration. He noted the website now has a recycling wizard on the home page, so if a user has an item they want to recycle, they just input the name of the material and it guides them to the businesses that accept and recycle that material. He commented that this is a great resource for the Agency.

Mr. Carr recognized Janna McKay who coordinated the effort and kept everyone on task, including the consultants. Finally, he asked Board Members to visit the website, and if they had any comments, please let Ms. McKay know.

Board Members requested an area on the home page where residents can send feedback to the Authority on the website functionality. Ms. McKay agreed to add this feature.

b. PRESENTATION BY GARY LISS ON APPROACHES FOR COMMERCIAL RECYCLING SERVICES

This report is for informational purposes only. No additional action is required.

Bart Carr introduced Gary Liss to follow-up his presentation on the Commercial System design options that was presented to the Board last February and to begin work with the Authority Board and staff to move towards an expanded commercial recycling program.

Mr. Liss began by reiterating that he was here to follow-up on the discussions that were held last February at the Board Retreat about the current commercial permit program the Authority operates and concerns associated with its operation. He stated that he will be working with the Board and staff over the course of the year to address some of these concerns in more depth, and look at some of the options and opportunities for change. The current permit system has 38 commercial permitted haulers with 80% of the services being handled by about six permittees. The CCCSWA permit program is scheduled to expire on June 30, 2012 although this deadline can be extended. One of the bigger issues is whether the Authority wants to continue with a permit system, in its current or modified form, or make some major changes. He noted when we look at the commercial system—we look at different “sectors”—retail, office buildings, hospitals, multi-family dwellings, schools, self-haul, etc.

Mr. Liss reviewed the 1999 estimated business waste amounts (provided on the CIWMB website) and noted that restaurants are the biggest generators of waste, which suggests a great opportunity to work with the restaurants in reducing waste and helping them be “greener”. This will help the Authority meet their larger goals. He stated that a lot of communities initially focused on residential recycling services and then slowly started focusing more on the commercial sector because they were not getting the diversion they needed.

Mr. Liss noted some of the problems with the Authority’s current permit system: 1) there are not good performance standards available, 2) uneven reporting being provided from permitted service providers, 3) not enough staff to enforce working with the permittees to comply with the system, and 4) the services change with the economy. Finally, as the economy declines and the value of materials go down, the businesses that have been providing recycling collection services tend to leave.

Mr. Liss continued his presentation and stated:

Mandatory Commercial Recycling will probably result from AB 32. A mandate is being considered for statewide adoption to have mandatory commercial recycling implemented throughout California. Mandatory commercial recycling is being considered to help reduce green house gasses by 5 million metric tons of CO2 equivalents, and rules will be adopted to implement mandatory commercial recycling in 2010 with a planned effective date of January 2011.

Mr. Liss stated that both he and Bart Carr went to the Mandatory Commercial Recycling workshop in Sacramento in June, and discussion centered on issues regarding how to implement mandatory commercial recycling statewide. He noted that this seems like a simple straightforward idea on the surface but there is a lot to consider: 1) what materials will be covered (i.e. cardboard, lumber, metal, paper, glass, plastic, food scraps). Food scraps is a good example of a challenging material to include because statewide there isn’t enough composting capacity to can handle all of it, 2) thresholds—what are the types and sizes

businesses are required under the law, 3) should multi family be included? Multi-family has a very low diversion rate and inclusion in mandatory recycling may increase focus on this underserved sector, and 5) will self-haul be counted and should it be required that generators have to separate waste materials that are self-haul to a transfer station.

What's included in "recycling", Mr. Liss went over the definition of recycling including instances where if businesses might use a dirty MRF to increase diversion. However, does this count towards the requirement for having mandatory recycling if dirty MRF diversion levels are low? He noted that it is one of many issues to figure out.

Regarding reporting and enforcement, Mr. Liss posed the question of whether it was going to be the responsibility of local government to keep track of business recycling in their communities, or whether this would be done at the state level. Will businesses have to report directly to the State and, if so, how would this be accomplished? Is the enforcement going to be done locally, or by the State? He noted there are major challenges and issues with reporting and enforcing.

Under the proposed mandatory recycling regulation, the state will complete a waste characterization study and update it from year-to-year to see how well commercial programs are reducing waste. He noted that the Authority is in a good place now because we will be able to design our new commercial program to respond to the new requirements that will take effect on January 1, 2011.

Regarding different franchising options the Authority might consider: 1) an exclusive franchise refers to one service provider being permitted to collect garbage and/or recycling from businesses. It is a contract agreement which is stronger and provides a commitment for the work that has been specified, 2) Semi-exclusive franchising refers to a limited number smaller or more focused franchises in order to have some level of competition and service variation, but not permit unlimited competition, 3) Finally, non-exclusive franchising allows open collection with minimal controls, something like the Authority's current permit system. The difference between a franchise and a permit is a unilateral action by which you have set the rules and they comply with them.

Mr. Liss briefly provided some examples of communities that have different franchises based on the different categories—district wide basis, community wide basis or by materials where you have separate franchisees for garbage, recycling, and organics and composting. He explained that each community under the state law is allowed to charge for recycling which is called a "fee for service" He noted to the Board these are the options the Board will need to consider.

Mr. Liss also discussed technology and markets, where he pointed out the importance of domestic markets where materials are used regionally, (versus overseas). He notes that our recycling programs, both residential and commercial, rely heavily on foreign markets so when these markets crash, as they did last fall, collection companies and brokers can be left without consumers for recyclables, resulting in lower or no revenue. Regarding organics and reuse, the agricultural and horticultural markets are strong and about half the waste stream is organic. He suggested that the Board maintain its focus on organics as they move forward in planning. He also explained that reuse is where value is. Although material reuse represents only two to five percent of diversion statewide, it has as much as 40 percent of the value because of revenue created when selling the materials and the jobs it creates!

Mr. Liss commented on the trade-off between political versus financial “capital”. New programs require cash so local government may need to raise rates to provide services to everyone, especially commercial. He stated that you either can invest more using your political capital or invest cash to provide more convenient services and get residents and businesses to participate, or both.

This completed Mr. Liss’ presentation. He went through some publications and resources that were available. He noted that in the businesses that consider themselves “zero waste” are diverting over 90% of their waste from landfills! These businesses end up saving money, increasing their efficiency, and reducing their carbon footprint.

Mr. Liss opened it up to the Board Members for Q&A.

Board Member Anderson asked if a business taking back their products would fit within these changes. Mr. Liss responded “yes” and said it is part of the Product Stewardship/ Extended Producer Responsibility (EPR) concept. He doesn’t feel that in the short-term, producer responsibility will take place to the degree that it can make a difference which increases the importance of mandatory commercial recycling.

Board Member Skrel asked if the new rules will be effective January 1, 2011 and our current permit system expires September 30, 2012—can this be the way the Authority ends their current permit system. Kent Alm, Legal Counsel, responded that the permits are done on a yearly basis which allows the Authority greater control in discontinuing the permit program. However, Mr. Alm reminded the board that the Authority was required to give a five-year notice of planned discontinuation of the program, with this notice period ending in 2012.

Bart Carr stated that the Board began their commercial programs planning process last February at their workshop, and with the ideas and goals the Board created at that time, staff has moved forward working towards changes needed in the commercial permit system. He told the Board that Mr. Liss will be returning sometime in October or December to provide greater detail regarding program and franchising options, some of which were discussed today.

Lastly, Mr. Carr asked the Board for any ideas, questions, or comments regarding commercial program planning. Board input is extremely important as our planning process progresses toward decisions the Board may decide to make at your February Board retreat.

Mr. Carr thanked Mr. Liss for his presentation.

7. ADMINISTRATIVE AND FINANCIAL MATTERS

- a. CCCSWA DESIGNATION AS A REGIONAL AGENCY***
Adopt Fourth Amended Joint Exercise of Powers Agreement to allow the CIWMB to designate the CCCSWA as a Regional Agency.

Bart Carr began by stating that staff is returning to the Board with a recommendation to establish the CCCSWA as a regional agency. He reminded the Board that staff had brought an amendment establishing regional agency status to the Board last fall for consideration. It

was decided at that time to forward the draft amendment to each city for staff review along with a request for resolutions of support. Each City responded by adopting resolutions of support in December.

Mr. Carr also stated that at that time, the County expressed concerns with the draft amendment, so Authority staff and legal counsel has been working directly with the County to address these concerns and develop consensus. County concerns included how expenses would be allocated within the regional agency, and shielding the County from these expenses since they will not be a regional agency member. Additionally, the County wanted protection from any penalties assessed from the waste board against the regional agency or any of its members.

Mr. Carr deferred to Kent Alm to explain the changes that had resulted from discussions with the County. Mr. Alm reiterated that there would be no payment by the County for costs associated with regional agency activities that the County would not benefit from. Also, the county will share no liability when the CCCSWA and its members are reporting as a regional agency. He noted that these were spelled out more precisely in the latest amendment and these changes were acceptable to the County.

Mr. Alm went on to suggest that due to the most recent changes to the amendment, and the absence of Board members from the City of Orinda, he recommended the Board consider a 14 day final review period as part of any action the Board might take to adopt the amendment. This period would allow the absent Orinda Board members to review and comment on the revised amendment, and also allow other Board members to share the amendment with their city staff for final review.

Chair Rainey reminded the Board that once the Authority is designated as a regional agency, only one diversion report will need to be submitted rather than five separate reports.

Mr. Carr recommended that the Board take action to adopt the amendment, in light of recent developments at the state level which will remove the CIWMB Board of Directors from decision making after January 1, 2010. A decision to adopt the amendment will allow staff to work with the CIWMB and place the CCCSWA's regional agency application on the CIWMB Board's November 17th meeting agenda. To do that, Authority staff would need to get the final approved amendment to CIWMB staff by September 14th for processing.

Board Member Anderson asked for clarification on allocated share of the compensation.

Kent Alm responded that the initial language that was sent to the County stated the participating members would develop a methodology for proportionally splitting the costs, and because of the County's concern about how that would be done and whether they might therefore absorb some of those costs, this has now been modified. The language now states in terms of relating it to their percentage of the overall contract, is the way we divide up all the costs and at this point there is no change."

Board Member Trotter asked with regards to the expenses of the regional agency, what costs will the County pay. Chair Rainey responded that CCCSWA staff would develop all

necessary supporting data for annual reports and separate out county specific information. The County would be responsible for their costs of gathering county specific information and then reported by the county it separately in its own annual report.

Kent Alm added that all the other costs associated with the agency in terms of running recycling programs that serve all members, are currently shared by all members including the County. Then based on their proportionate share of the overall contract, all members will continue to pay this minus the costs associated with the regional agency.

Mr. Carr reminded the Board that the County's diversion numbers would not be included in the regional agency's annual report, as they have always done their reporting separately.

Board member Federighi asked if the CCCSWA does not meet our diversion goal and the county is the one that brings the total numbers down, wouldn't the county be included in the penalty?

Kent Alm responded that the county's numbers would not be included.

Board member Federighi followed by asking why would this be a concern for the County since the numbers are not included?

Deidra Dingman, Program Manager for the County addressed the Board and provided clarification. She noted that although it is unlikely that this will occur, the question is whether it is appropriate to say that the county is a member of the regional agency. The problem is because the waste authority was formed as a JPA and the law states as a regional agency, the county can, under the technical letter of the law, be seen as a member of the regional agency because we are a member of the JPA. We tried to word this and the waste board stated that they will not treat us (the county) as a regional agency member, however under the rule of law, on how JPAs are formed, our legal counsel doesn't want to be in a situation, in that grey area, that could come to a liability issue. We still could be assessed with a fine, as our own entity. It would be the determination of non-compliance against the CCCSWA as a regional agency based on the reporting numbers where the county is doing the same thing. They don't want to be penalized twice for themselves and then with the regional agency.

MOTION by Board Member Anderson stating since all member agencies are not represented at today's meeting and have not had an opportunity to comment on the most recent version of the documents creating the regional agency, and understanding that time is of the essence in the creation of the regional agency, the Board moves to adopt the amendment to the Joint Exercise of Powers Agreement creating a regional agency, subject to the ability of any member agency to indicate its objection in writing to the CCCSWA Executive Director by August 15. Further, the Board moves to authorize the Executive Director to submit this amendment as an application to the CIWMB if no member raises objections by that date." SECOND by Board Member Mendonca.

MOTION PASSED. AYES: Anderson, Federighi, Mendonca, Piepho, Rainey, Shimansky, Skrel, Trotter. NOES: None. ABSENT: Andersen, Glazer, Smith, Uilkema.

b. **LEASE AGREEMENT FOR CCCSWA OFFICE***

Consider Authorizing Executive Director to execute an Office Lease Agreement for a five-year period beginning October 1, 2009.

Bart Carr reminded the Board that Authority's current office lease would be expiring on September 30th. Several months ago staff was informed that their current office location would be put up for sale as an "office condo". Unless the Authority was willing to purchase the office space, staff would have to vacate. Staff started looking at various properties in downtown Walnut Creek. When we were well into our office space search, Streamline Properties, the property management company for our current office, changed their mind about selling our office and made a very competitive lease offer allowing us to stay in our current location. Mr. Carr noted that there was a \$30K difference between the lease Streamline proposed, and the next lowest cost proposal that staff was considering. With this lease agreement, which Kent Alm has reviewed and approved, there will be improvements made to our space—adding two additional offices, new paint/carpet, and the first three months would be rent free.

Kent Alm reviewed the terms of the lease agreement that was approved by Paul Morsen. The five-year term is from October 1, 2009 through December 31, 2014. The monthly payments will be:

October 1 – December 31, 2009 - \$0.00 per month
January 1 – December 31, 2010 - \$5627.25 per month
January 1 – December 31, 2011 - \$5752.30 per month
January 1 – December 31, 2012 - \$5752.30 per month
January 1 – December 31, 2013 - \$5877.35 per month
January 1 – December 31, 2014 - \$6002.40 per month

A discussion ensued amongst Board Members on square footage, class of the building, and clarification of the monthly payment. Board member Skrel asked if staff was satisfied that the current location with improvements would meet staff needs and preserve morale. Mr. Carr responded that all staff members had participated in the office search and all were happy with the recommendation presented to the Board today.

MOTION by Board Member Trotter to authorize the Executive Director to execute an office lease agreement for a five-year period, beginning October 12, 2009. SECOND by Board Member Mendonca.

MOTION PASSED unanimously.

c. **CLARIFICATION OF POLICY AND PROCEDURES REGARDING "BOARD OF DIRECTORS RULES AND PROCEDURES," CHAPTER 14***

Board Consideration and motion to approve changes to Chapter 14 of The CCCSWA Board of Directors Rules and Procedures to read: "The Central Contra Costa Solid Waste Authority shall compensate Board Members \$50.00 per meeting for Regular Board Meetings, Special Board Meetings and Committee Meetings of the Central Contra Solid Waste Authority. Maximum compensation shall be \$100.00 per month per member."

Kent Alm spoke about the issue that was raised at a previous Board meeting about the Rules and Procedures of the Authority, which states Board Members, would receive compensation of \$50 per meeting, not to exceed \$100 per month. The request was to clarify if that included committee meetings and if so, to revise the Rules and Procedures to reflect that.

Chair Rainey expressed concern and stated that she was against any monetary increase to the Board Members for committee meetings. She believes it is not a good time for a pay increase. Board Member Skrel agreed.

A discussion ensued amongst Board Members and it was requested that clarification is needed under the Bylaws and Rules of the Authority to ensure staff apply the policies in the correct way.

Janelle Cameron of CCCSWA staff added that it will change the amount allocated for the year in CCCSWA budget. She informed the Board that the current budget had allocated funds to pay for Board meetings, not committee meetings. Board Member Piepho responded that budget changes relating to this could be addressed and adopted in the next fiscal year's budget.

Board Member Trotter recognizing that a number of board members were not present, recommended that this item is tabled for further discussion when more Board Members were in attendance.

Board Member Skrel suggested to Kent Alm that when this comes back to the Board, some additional background information would be helpful, including information regarding when Chapter 14 was authored, has there been any amendments, and finally, the need for clarification.

Board Members agreed to table item 7c. to a future Board meeting.

8. PROGRAMS

a. OUTREACH ACTIVITIES UPDATE*

This is an update only. No additional action is required.

Bart Carr informed the Board that staff will be participating in the Lafayette Art & Wine Festival, the Walnut Creek Walnut Festival, both mid September, and the Moraga Pear Festival in late September.

b. LEGISLATIVE UPDATE*

This is an update only. No additional action is required.

Lois Courchaine gave a brief Legislative update to the Board. She stated that due to the California budget crisis, most of the bills being supported or followed by the CCCSWA were either dead or being converted into two year bills that would be brought up during the next legislative session. Ms. Courchaine also highlighted that a support letter AB473 was sent to the Governor's office on June 27.

9. EXECUTIVE DIRECTOR'S REPORT

a. UPDATE ON COMMERCIAL FOOD WASTE PILOT PROGRAM

Bart Carr reported that phase two of the commercial food waste pilot had started on July 1st, which involves the expansion of approximately 45 new commercial participants, which will result in around 85-90 participants total.

Some highlights to note were: 1) February is the official conclusion of the pilot program. With Board approval to proceed, the CCCSWA and partners will initiate expansion of the permanent program beginning March 1, 2009, 2) Allied will begin establishing a third route day during phase 2 of the pilot, 3) Tim Argenti of Allied reported that they have modified a truck with new hardware to accommodate picking up both the 64 gallon cart and 1, 2 or 3 yard debris boxes that the larger generators (Whole Foods in Walnut Creek & Diablo Foods in Lafayette) require, 4) CCCSWA, Allied and ESA representatives met with St. Mary's College in Moraga. College staff is very excited about starting the collection program, so training will begin in late August and the food collection will begin soon after.

Mr. Carr also informed the Board that negotiations for a formal contract with East Bay Municipal Utility District (EBMUD) for disposal of food waste at their facility in Oakland is going well and will report back to the Board in September.

Board Member Trotter thanked the Authority on the behalf of the Town of Moraga for getting St. Mary's College involved with the program.

Bart Carr also thanked Tim Argenti and all of the Republic Services staff involved. They attended all of the initial meetings with St. Mary's and have been very supportive.

Board Member Anderson asked about disposal fees and revenue sharing with EBMUD and whether this had been discussed in the negotiation. Mr. Carr responded that the pilot is currently paying \$32.50 a ton, which is what EBMUD charges all of its large suppliers of food waste. He stated given their current processing costs and the capital improvements that they are planning to handle the expansion of their digestion program, EBMUD has made it clear that they are unable to lower the disposal fee or share revenue from selling energy generated from the methane that is created. Mr. Carr stated that as negotiations continue, Authority staff will pursue sharing revenue generated by sale of carbon credits, and the recoverable energy certificates linked to the creation of renewable energy.

b. UPDATE ON PHARMACEUTICAL PROGRAM

Bart Carr gave an update on the Pharmaceutical Program and stated that the Authority has been piloting the pharmaceutical collection with the City of Walnut Creek and the pilot has gone very well. The good news is that Central Contra Costa Sanitary District (Central San) has approved funding to expand the program to all of the member agency's cities and unincorporated areas. He stated that each city and county will need to make a formal request in order to allow the expansion into their city. Each city will follow the Walnut Creek model by setting up collection at their local police or sheriff's station. Paul Morsen will be contacting each city to ask for the formal request to initiate the collection program.

Curt Swanson, Central San, addressed the Board and added that the program has been running since February 2009, and currently there are three collection locations that have produced about 1600 lbs of pharmaceuticals waste and have cost about \$7000 to collect and dispose of.

He mentioned a few things: 1) the Central San Board conceptually approved expansion of the program in other cities within Central Contra Costa, 2) Cities will need to model their collection program after the Walnut Creek program, 3) Cities will need to obtain law enforcement approval for the collection process, and 4) cities will need to sign a memorandum of understanding (MOU) with the Central Sanitary District outlining operations and responsibilities.

Mr. Swanson also stated that a meeting will be scheduled for all participating cities so that their questions can be addressed and for expansion planning. Mr. Swanson said he has been very pleased with the Sheriff's Department taking on the pilot program and making operational improvements to reduce the cost of disposal.

Bart Carr thanked Curt Swanson for coming and updating the Board. He also expressed gratitude to Paul Morsen and Lois Courchaine who have been working hard at building another great partnership with Central San, Sheriff's Department, and the City of Walnut Creek Police Department to design this very successful program. Mr. Carr also recognized Board member Rainey for her support of the pilot program.

c. REPORT ON THE CA DEPARTMENT OF CONSERVATION CRV MATERIALS PAYMENT REDUCTION

Bart Carr reported that in June 2009, the CCCSWA staff was notified by the Department of Conservation that due to the increase in recycling rates of California redemption value containers and economic factors—payments to both recycling processors and municipalities will be reduced. Staff is currently working with CCCSWA processors, Pacific Rim Recycling and Valley Waste Management, to determine the impact this will have. Fortunately, staff followed a conservative approach to developing the Diversion Incentive Fund (DIF) budget so when payment reductions take place, Authority programs should not be affected.

d. REPORT ON SMITH AND HAWKINS BIOSTACK BINS

Bart Carr reported that all Smith & Hawkins stores are scheduled to close in December, but he was pleased to announce that the CCCSWA will continue selling Biostacks through the municipal biostack sales program. He stated that the only way that residents will be able to purchase biostacks in the future will be through municipal sales programs such as ours.

e. REPORT ON THE 2008 INITIAL CIWMB REPORT

Bart Carr reported that Authority staff had been working throughout the summer on the annual diversion reports for all five member cities. He was pleased to announce to the Board that every city met or exceeded the 50% target which means everyone is in compliance with AB939 for calendar year 2008. He noted that the official report will be submitted the next day to the CIWMB and a full report will be presented to the Board at their September meeting.

f. ANNOUNCEMENTS

None.

10. BOARD COMMUNICATIONS AND ANNOUNCEMENTS

None.

11. ADJOURNMENT

There being no further business to come before the Board, Chair Rainey adjourned the meeting at 4:44 P.M.

**Corresponding Agenda Report or Attachment was included in the Board packet.*

Respectfully submitted by:

Janna McKay, Executive Assistant/
Secretary to the Board of the
Central Contra Costa Solid Waste Authority,
County of Contra Costa, State of California