



## **Staff Report**

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### RESOLUTION REQUESTING SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY (SBWMA) ALLOW ELECTED OFFICIALS TO REPRESENT MEMBER AGENCIES ON THE JOINT POWERS AUTHORITY BOARD OF DIRECTORS

Honorable Mayor and Council Members:

#### **Summary**

City Council Member Bill Dickenson has asked that the City Council again consider the matter of allowing elected officials to serve on the SBWMA Joint Powers Authority Board of Directors. The City Council previously considered this issue on July 12, 2005, February 27, 2007 and April 28, 2009.

A new resolution is attached should the City Council wish to approve it.

#### **Background**

The City of Belmont is one of 12 member agencies in the South Bayside Waste Management Authority (SBWMA). In addition to Belmont, the other member agencies are the cities of Atherton, Burlingame, East Palo Alto, Foster City, Hillsborough, Menlo Park, Redwood City, San Carlos and San Mateo along with the County of San Mateo and the West Bay Sanitary District.

#### ***The Early Years***

These agencies initially formed a Joint Powers Authority (JPA) in June 1982 pursuant to Section 6500 et seq. of the California Government Code. The new agency was known as the South Bayside Transfer Station Authority (SBTSA) and was responsible for negotiating and managing the garbage collection and recycling services franchise agreements, including the contract with San Mateo County Scavenger Company (which became BFI). Initially, there was no transfer station. BFI built, owned and operated the transfer station. The agreement provided for the agencies to have Solid Waste collected by the provider (San Mateo Scavenger/BFI) and then processed through a Transfer Station located on Shoreway Road in San Carlos.

In 1999 with passage of the recycling law AB 939, the SBTSA exercised an option to acquire the Transfer Station and related buildings and property including the Recyclery located on Shoreway Road in San Carlos. The SBWMA was then formed to continue the functions of the SBTSA as well as to issue revenue bonds in early 2000 to acquire these facilities. The life of the SBWMA extends to the year 2019 to match the term of these revenue bonds. Pursuant to the Bond Indenture Agreement, the members have covenanted to deliver waste, plant material and recyclable material collected through their respective franchisees to the System so long as the

2000 Bonds remain outstanding. Withdrawal by a Member from the Authority requires that such Member reimburse its proportionate share of Bond obligations and other liabilities of the authority.

The primary purpose of the original JPA, SBTSA, was to provide an adequate flow of municipal solid waste to the San Carlos transfer station and to assure BFI-San Mateo that it would recover its investment in the facility. Creation of SBWMA allowed the members to finance and own the facilities. A secondary purpose of forming the JPA was to have strength in numbers in negotiating customer rates with the provider (San Mateo County Scavenger Company/BFI, which became Allied Waste and now Republic) and to have cost efficiencies in doing the rate review (auditing their books and recommending rates). Prior to the formation of the JPA, each agency had its own franchise and had to go through a separate rate setting process. In the early years after formation of the JPA, one uniform rate increase would be negotiated for all agencies and then applied to each member agencies rates. With the passage of AB 939, recycling requirements became mandatory by state law. The MRF (materials recycling facility), a competitive RFP process for selecting the waste/recycling hauler and transfer station/MRF operator, etc have all greatly expanded the scope/responsibilities of what started as a purely technical entity.

The SBWMA now owns the transfer station and recycling center facilities. It operates the Transfer Station and Recyclery through an Operating Agreement with Allied Waste Systems (formerly known as BFI). An annual franchise fee is paid to the City of San Carlos. The operating agreement with Allied expires on December 31, 2010. The new operator, South Bay Recycling, was recently selected by the SBWMA Board and will begin as the facility operator January 1, 2011. A facility master plan has been approved and the Shoreway facility will be renovated beginning in the summer of 2009 with project completion slated for winter of 2010-11. The construction project bid process is currently underway. Favorable construction bids have been received. Approval of the Bond Financing plan and Construction contract award is anticipated to take place July 24<sup>th</sup>.

The Board of Directors of the SBTSA was originally comprised of senior staff members from the member entities of the JPA membership. As is the case today, each City entered into a separate franchise agreement with the provider. Customer rates were negotiated by a rate committee composed of staff from the member agencies, primarily Redwood City, San Carlos and San Mateo. The group was lead by the Redwood City Director of Finance. Today Redwood City is the Fiscal Agent for the JPA. Because this was technical in nature, the Board was comprised of non-elected officials. In lieu of staff, the JPA hired consultants HF&H, Mr. Bob Hilton to perform rate analysis for the Board and member entities.

The JPA was revised once when the name was changed from South Bayside Transfer Station Authority (SBTSA) to South Bayside Waste Management Authority (SBWMA) and again when the decision was made to have a full-time executive director, redefine who on staff could represent each agency and limit the Board's authority to independently make decisions by requiring that certain actions be taken back to the respective elected officials of each agency for approval and requiring a 2/3 approval threshold of all agencies. During this latest JPA revision,

there was discussion about having elected officials be on the Board but nearly all agencies felt that staff could represent them well on the many technical issues and then for the big decisions (e.g., incurring bonded indebtedness, acquiring property, selecting an facility operator, etc.), this model required that they would be made by ALL the elected officials of ALL the agencies by each agency taking action and requiring this 2/3 approval requirement.

The Board of Directors of the SBWMA JPA was, similarly to the SBTSA, comprised of senior staff members, e.g. City managers, Finance Directors, Public Works Directors, and Assistant City Managers.

### ***Amendments to SBWMA JPA Agreement in 2005***

In 2005, the SBWMA Board of Directors proposed amending the organization's JPA Agreement.

Key changes made at that time included:

- Provisions for an Executive Director that would be responsible for the day to day operations of the SBWMA
- Eliminating the executive duties of the Chairman of the SBWMA Board who up to this point in time had been the San Carlos City Manager...even when it was the SBTSA.
- Changing the JPA to allow any member agency board member to serve as the SBWMA Board Chair (previously the City Manager or Assistant City Manager of San Carlos served as Board Chair in light of the presence of the Transfer Station and Recyclery on Shoreway Road in San Carlos)
- Changing the SBWMA Board Membership to require that Board Representatives be at the level of City Manager, Assistant City Manager, Finance Director, Public Works Director and Environmental Programs Manager rather than the prior practice of City Management and Mid-Management level personnel serving as Board Representatives in some agencies.

In addition to these changes, the SBWMA Board proposed transferring several of their key responsibilities from the SBWMA Board to the member agency City Councils and Governing Boards. The Board felt that these changes would leave the most important decisions with the greatest structural and/or financial impacts to each agency's Governing Body. The following areas were transferred:

- Acquisition of Real Property
- Disposal of Real Property
- Entering into or amending franchise agreements for operation of the Facilities
- Issuance or refinancing of bonds

The SBWMA JPA Agreement requires a 2/3 vote – or a vote of 8 or more of the 12 agencies to affect an amendment to the JPA Agreement. The 2005 amendments received a 2/3 vote from all of the twelve member entities of the JPA and were adopted.

### ***Letters Regarding the Composition of the SBWMA Board of Directors***

During the discussion of the 2005 proposed amendments, the then Belmont Mayor Dave Warden sent a letter to each of the Mayors and Board Chairs of each of the member agencies. The letter

indicated that the Belmont City Council believed that the SBWMA JPA Agreement should be further amended to change the Board of Director membership to City Council Member and Board Member representatives rather than the past practice of City Managers, Assistant City Managers, Finance Directors, Public Works Directors, Environmental Programs Managers and other City Management personnel. The letter was discussed by several cities and the concept of a board made up of elected officials or a mixed board made up of elected and appointed officials was supported by Belmont, Redwood City and the West Bay Sanitation District. It was not supported by the other 9 agencies.

In March of 2007 a similar letter was sent to the Mayor of each of the SBWMA member agencies from the then Belmont Vice Mayor Bill Dickenson.

### ***Conclusion***

The SBWMA, a twelve member solid waste management joint powers agency, began as a managerial effort to jointly improve the efficiency of solid waste rate setting reviews in San Mateo County between cities and the garbage provider. The initial efforts were initiated by staff in a few peninsula cities which evolved into a full blown joint powers agency after the passage of the recycling and diversion law AB 939. In 2005, the JPA Agreement was amended to require individual City Councils/Boards to approve certain significant policy issues such as issuance of debt. However, a majority of the member agencies have, in the past, not been inclined to support amending the JPA agreement further to include elected officials on the Board of Directors. This matter was formally considered by the member agencies as recently as 2005.

### **General Plan/Vision Statement**

There is no impact from this report

### **Fiscal Impact**

There is no impact from this report

### **Public Contact**

The Council Agenda was posted

### **Acknowledgements**

I would like to acknowledge contributing information from Martha Debry (Hillsborough), Rahn Becker (Retired), Bob Lanzone (San Carlos), Jim Hardy (Foster City), Brian Moura (San Carlos) and Kevin McCarthy (SBWMA) for providing materials for this report.

### **Recommendation**

This is a City Council Member initiated report. An updated resolution is included should the Council wish to consider it.

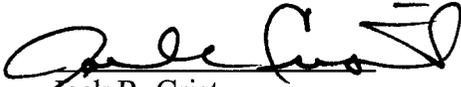
### **Alternatives**

1. Take no action
2. Refer back to staff for further information

**Attachments**

- A. Resolution
- B. City Council Report dated April 28, 2009

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jack R. Crist". The signature is fluid and cursive, with a prominent loop at the end.

Jack R. Crist  
City Manager

**Staff Contact:**

Jack Crist, City Manager

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**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT  
REQUESTING THE MEMBER AGENCIES OF THE SOUTH BAY WASTE  
MANAGEMENT AUTHORITY TO RE-STRUCTURE THE BOARD MEMBERSHIP TO  
ALLOW ELECTED OFFICIALS TO REPRESENT AGENCY MEMBERS**

**WHEREAS**, the South Bayside Waste Management Authority (SBWMA) was established to provide for the joint ownership, financing, administration, and operation of the transfer station and recycling facilities; and,

**WHEREAS**, the SBWMA was established to provide effective planning and implementation of our solid waste and recycling collection; and,

**WHEREAS**, the SBWMA has broad powers including the power to acquire and finance facilities, real property and personal property; enter into agreements; hire agents and employees; incur debts, liabilities and loans; and establish rates and fees for the transfer and recycling station facilities; and,

**WHEREAS**, the ability of the SBWMA to commit public funds should be the responsibility of those who are elected to represent the citizens of our respective communities, not appointed staff members; and,

**WHEREAS**, it is the elected representatives of each respective community who are ultimately held responsible for any actions taken by the SBWMA.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Belmont:

1. Requests the South Bayside Waste Management Authority to re-structure the Board membership to allow for elected officials to represent agency members.

\* \* \* \* \*

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on May 12, 2009 by the following vote:

AYES, COUNCILMEMBERS: \_\_\_\_\_

NOES, COUNCILMEMBERS: \_\_\_\_\_

ABSTAIN, COUNCILMEMBERS: \_\_\_\_\_

ABSENT, COUNCILMEMBERS: \_\_\_\_\_

\_\_\_\_\_  
CLERK of the City of Belmont

APPROVED:

\_\_\_\_\_  
MAYOR of the City of Belmont