



DEPARTMENT OF PUBLIC WORKS  
Solid Waste Management Division

**MINUTES**  
**ZERO WASTE COMMISSION**  
**Monday, September 26, 2011**  
**North Berkeley Senior Center, 1901 Hearst Street**  
**Workshop Room B, 1<sup>st</sup> floor**

Chair Kalil called the meeting to order with a quorum at 7:10 PM

**1. Roll Call:**

**Commissioners present:** Kalil, Kirkpatrick, Halperin, Bartlett, Schultze-Allen, Saborio, Jensen, Tam, Blachman (7:15)

**Commissioners absent:** None

**Staff:** Ken Etherington - Solid Waste Division Manager, Andy Schneider – Recycling Program Manager

**Members of the Public:** Martin Bourque of the Ecology Center (EC); Sara MacKusick and Jeff Belchamber of Community Conservation Center (CCC); Dan Knapp of Urban Ore; David Tucker of Waste Management.

**2. Approve Agenda: M/S/C Saborio/Schultze-Allen to approve the agenda 8/0/0**

**3. Remembering Tania Levy:** Tania Levy, long-time Solid Waste Division staff member and Zero Waste Champion, passed away on September 1, 2011. Commissioners and members of the public were asked to share a remembrance of Tania's enthusiastic approach to resource management. All comments were heartfelt and appreciative of Tania's efforts. Martin Bourque summed it up by stating that "Tania was the heart and soul of recycling in Berkeley". The September 20, 2011 City Council meeting was adjourned in Tania's memory.

**4. Comments from the Public:** Martin Bourque reported on the CRRA conference he attended in Southern California and that the 2012 conference will be held in Oakland in early August. Bourque agreed to update the Commission on the 2011 conference at the October Commission meeting. Dan Knapp reported that Mary Lou Van Deventer is in Southern California at a waste to energy conference where she is acting as an environmental reporter via a NCRA grant. A preliminary report is that there is a new focus on clean fuels rather than mixed MSP burning. Van Deventer's report will be posted on NCRA News. Sara MacKusick reported that material sales revenue continue to hold strong.

**5. Announcements and Commissioner Comments:** Tam provided a legislative update on AB 1178 which removes the power for local Governments to regulate inexpensive landfills. Tam also updated on AB 818 and AB 341 mandates commercial and multi-family recycling, and other current bills which provide truth in plastics marketing and domestic plastics market development. Tam provided an update on the 10 year contract awarded to Recology for rail haul of San Francisco waste to Yuba County and Waste Management's lawsuit against it as unfair competition. Loss of Import Mitigation funding to the City of Berkeley was also discussed. Tam

reminded that Mini-grants for recycling are available from ALSA EAB. David Tucker provided an update on Waste Management's recent projects, like the new Davis Street composting facility.

**6. Approve Meeting Minutes of August 22, 2011:** Kalil clarified that U.S. lumber mill industry and outsourcing of jobs to **China**. She added that the Chair will present on the outcome of her meeting with the City Attorney and that Tania Levy will present on her 218 presentation at the September Commission meeting.

**M/S/C Halperin/Kirkpatrick to approve the August 22, 2011 minutes as amended 8/0/1, Jensen abstains.**

**7. Sustainable Rate Subcommittee Report on Meeting with City Attorney:** Kalil reported on a productive meeting with Ken Etherington and Berkeley City Attorney Zach Cowan. She appreciated Mr. Cowan's awareness and understanding of the Commission's mission as well as our current rate and budget situation. Future mandatory legislation, our ability to raise rates or develop fees in light of Proposition 218, and the legality of use of franchise fees for street sweeping were all discussed at the meeting. A confirmation was given that the 5 year franchise hauler notices will be sent. As a result of the Subcommittee work and the meeting with the City Attorney, Kalil made a motion to propose an alternate funding mechanism for street sweeping, thus restoring franchise fees to the refuse fund for use in diversion programs. The Commission voted and unanimously approved the attached resolution for Council at their November 8, 2011 City Council Meeting. (Attachment 1)

**8. Zero Waste Strategic Plan Discussion – Revisiting the Vision:** Kalil reported that Andrew Clough, Director of the Department of Public Works, is ready to begin development of the Strategic Plan for effective resource management programs.

**9. Division Update:**

**RFP & Contract Update:** Etherington thanked Chair Kalil for her assistance in reviewing landfill and C&D facilities and reported that the Council date for vendor selection has been moved to November 8<sup>th</sup>.

**City Response to StopWaste.Org Mandatory Recycling & Bag Reduction DEIR:** Schneider reported on preparation for mandatory recycling requirements for multi-family and commercial. Draft County ordinances will be released for review in October.

**Progress Report on Multi-Family recycling to 4x4 Committee scheduled for September 29:** Deferred  
**Refuse Rates Follow-up Info Item to Council scheduled for November 8:** Kalil stated that we will have discussion at the October Commission meeting.

**10. Future Agenda Items and Meeting Dates:** Bourque to present on CRRRA Conference. Review and discussion of mandatory and bag draft ordinances.

**11. Adjourn:** M/S/C Schultze-Allen/Jensen to adjourn at 9:05 9/0/0

**Attachment 1:**

**ZWC Resolution – Clean Cities Fee & Franchise Fee Restoration 9/26/11**

We, the Zero Waste Commission, having formed a Subcommittee of its members in March of this year to study the mandates, costs, and funding of necessary services of the Division, have defined our mission statement as:

**"To create a fiscally sound, zero waste-based rate policy and structure."**

In order to best advance the City's Zero Waste Goals and provide optimum services to citizens and businesses, we must first reduce the structural deficit and review the use of Refuse Fund monies, including those used for non-core uses, eg: the Clean City Program. As a part of our analysis, the Zero Waste Commission finds that:

1. Currently, Franchise Fee monies that are paid annually to the City's Refuse Fund by private haulers are diverted from core zero waste activities to fund elements of the Clean Cities Program (\$874,366 in 2010).

2. The Clean City Street Sweeping Program serves to meet clean storm water discharge requirements to the Bay and, as an environmentally required program based upon State and County regulations, the Program should be sustainably funded by a proposed regulatory fee which would provide funds to the Streets Division of the Public Works Department and be overseen by the Public Works Commission.

3. Franchise Fees paid to the Refuse Fund each year, once restored to the Fund, must be used to meet core Zero Waste activities in the following proportion:

- a. 45% to fund 1) the expansion of recycling and diversion programs with necessary Zero Waste program education and outreach activities by Division staff, 2) new staff needed for analysis and multi-family programs, and 3) consultant services for creation of a sustainable rate structure, reinvestment in the Transfer Station, and other necessary studies, to meet our Zero Waste Goal by 2020;
- b. 15% to fund Green Waste Program needs, thus restoring to their intended uses the Measure D monies currently used for the Green Waste Program;
- c. 15% to fund currently necessary, but underfunded, recycling service capital expenses; and,
- d. 25% to fund debt service or, when no longer necessary for that purpose, be kept in a Reserve Account for the Refuse Fund.

4. The Zero Waste Commission and City Council reserve the right to review and amend the disposition of Franchise Fees annually in conjunction with annual Division budget analysis and reports. The City of Berkeley Zero Waste Commission recommends this proposed Clean City regulatory fee to meet environmental goals be studied and advanced immediately to the City Council for approval. The Commission further recommends that the City advance its study of the possibility of increasing the commercial franchise fee, with a cost-benefit analysis of commercial business alternatives, in order to meet current needs and expand support for necessary Zero Waste programs and activities.

**Commissioners M/S/C (Halperin/Kirkpatrick) to approve Zero Waste Commission Resolution for Council: Ayes: Kalil, Bartlett, Tam, Jensen, Schultze-Allen, Halperin, Kirkpatrick, Saborio, Blachman. Noes: None; Abstain: None; Absent: None.**