



**HUMBOLDT WASTE
MANAGEMENT AUTHORITY**

BOARD OF DIRECTORS

Mark Lovelace, County of Humboldt, **Vice Chair**
Shane Brinton, City of Arcata
Sherman Schapiro, City of Blue Lake
Lance Madsen, City of Eureka
John Maxwell, City of Ferndale, **Chair**
Jack Thompson, City of Rio Dell

MINUTES

Thursday, June 14, 2012, 6:30 PM

Eureka City Council Chambers

531 K Street, Eureka, CA

Present: Mark Lovelace, Shane Brinton, Sherman Schapiro, Lance Madsen, John Maxwell, Jack Thompson
Staff: Patrick Owen, Tyler Egerer
Legal Counsel: Nancy Diamond

1) Call to Order and Roll Call

Chairman Maxwell called the meeting to order at 6:32 p.m. A quorum was present and acting.

2) Approve the Agenda

Interim Executive Director Owen would like to switch the order of Items 12a and 12b.

Chairman Maxwell Opened the Floor to Public Comment. No one spoke.

Chairman Maxwell Closed the Floor to Public Comment.

Motion Schapiro/Brinton to Approve the Agenda with Items 12a) and 12b) switched
6 Ayes/0 Nays & Abstentions/0 Absent.

3) Board Member Reports

Boardmember Thompson reported that the City of Rio Dell's new sewer plant is moving along very well. The City is presently waiting for approval of the elections and they are four votes short of the bond issue. Currently, they are at 63% and need to obtain 66.6% for approval. The plan for landscaping downtown was approved and is going to engineering and funding.

Boardmember Schapiro asked for the actual numbers for voting turnout.

Boardmember Thompson stated that turnout was very low, about 33%, estimated to be about 245 voters.

Boardmember Brinton would like to report that the City of Arcata has voted to approve \$10,000 to hire an architect for the restroom project. The energy use tax, which would apply to users consuming over 300%, 400% or 500% of baseline limits depending on what the council approves, is headed to the polls in November. Boardmember Brinton would like to thank everyone who voted to renew the abandoned vehicle abatement fee.

Boardmember Schapiro asked whether there are other jurisdictions within the state with an energy use tax similar to what Arcata would like to impose.

Boardmember Brinton stated that Arcata is unique in imposing a tax for high energy consumption. There are areas which choose to charge different rates for residential and commercial customers, but none that have different tax rates for use.

Chairman Maxwell updated the Board on the Executive Director recruitment. May 1st, 2012 was the closing date for this recruitment. Approximately 57 individuals submitted materials indicating an interest in the position. He reported that the search committee

members are very engaged and working hard, and is pleased to announce that Executive Committee member David Tyson will join Randy Mendosa, Phillip Smith-Hanes, Boardmember Lovelace and Chairman Maxwell in selecting the finalists to bring before the full Board. Because of the engagement of all involved, the process has taken longer than Mr. Test had envisioned; Chairman Maxwell asks for the patience of all involved while they make the final decision.

Chairman Maxwell addressed the lengthy postponement of the JPA amendments, noting that a number of conversations have taken place to help smooth out the process in the interim. He urged review of the JPA and the proposed changes in assisting with discussion of Closed Session items between Boardmembers and their Alternates, and a number of edits meant to clean up out-of-date language.

Chairman Maxwell also thanked all those who voted for the abandoned car abatement fee. He noted that this is his last meeting as Board Chair and thanked the public for their participation and engagement, staff for all of their help provided and his colleagues as members of the Board.

Boardmember Schapiro asked for an estimate as to when Executive Director interviews and hiring will take place. Chairman Maxwell clarified that the interviews are on June 30th and that there may be a new Director in place by September 1st.

4) Oral and Written Communications

Interim Executive Director Owen brought to the attention of the Board two letters from Zero Waste Humboldt concerning Strategic Planning and the Plastic Bag Ban.

Boardmember Schapiro drew attention to the communication included in the packet, thanking the Authority for their help with local cleanup efforts and thanking Program Manager Whitener for his educational efforts.

Chairman Maxwell Opened the Floor to Public Comment. No comment made.

Chairman Maxwell Closed the Floor to Public Comment.

5) Consent Calendar

Boardmember Schapiro would like to pull item 5e).

Boardmember Brinton would like to pull item 5a).

Boardmember Thompson would like to pull item 5f).

Chairman Maxwell Opened the Floor to Public Comment. No comment made.

Chairman Maxwell Closed the Floor to Public Comment.

Motion Madsen/Lovelace to Approve the Balance of the Consent Calendar 6/0/0.

a) Approve Minutes from the May 10, 2012 HWMA Board of Directors Meeting.

Boardmember Schapiro would like to note that he was listed in the minutes as Chairman instead of Boardmember on page 6 under 5a).

Chairman Maxwell Opened the Floor to Public Comment. No comment made.

Chairman Maxwell Closed the Floor to Public Comment.

Motion Brinton/Lovelace to Approve Minutes from the May 10, 2012 HWMA Board of Directors Meeting with Changes 6/0/0.

e) Receive an Update on the Cummings Road Landfill Closure Project.

Boardmember Schapiro asked about the delays caused by the recent rains. Special Project Manager Test stated that 2.46 inches of rain fell in one day up at the Landfill; current efforts involve turning the dirt to dry it out. There are four to six areas of the Landfill that will require digging out and replacing with fresh dirt. Cost for completion of Phase I has increased \$100,000 to \$180,000 due to the rain; four days have been added to the contract termination date to allow for rain days, but September 30th continues to be

the deadline for erosion control. There will be a meeting in August to discuss what can be completed by the end of September.

Boardmember Schapiro asked for clarification on the total amount of time lost due to rain. Special Project Manager Test indicated that the contractors have lost roughly one week, though much of that depends on how long it will take for the place to dry out.

Chairman Maxwell Opened the Floor to Public Comment. No comment made.

Chairman Maxwell Closed the Floor to Public Comment.

Motion Schapiro/Thompson to Receive Update on Cummings Road Landfill Closure Project 6/0/0.

f) **Receive an Update on Strategic Planning Activities.**

Senior Programs Analyst Sherman would like to let the board know that there is a meeting scheduled with R3 for the end of June.

Boardmember Schapiro asked if this will be the first time R3 is coming to Humboldt County formally since they made their proposal and who exactly would be in attendance from the consulting firm. Ms. Sherman confirmed that this would be R3's first official visit, and that Richard Tagor-Erwin, William Schoen and Terry Supahen would be in attendance. The meeting should be conducted over a two day period.

Boardmember Thompson expressed significant concern about the possibility of debt owed by the City of Rio Dell. He noted a number of concerns regarding the project site and the potential loss of millions of dollars in the event of a natural disaster. He would like the Board to consider making obtaining earthquake and flood insurance to better protect the Authority's investment and its smaller member agencies.

Boardmember Schapiro asked who this project will benefit; Senior Programs Analyst Sherman responded that the food waste digester project would impact the entire region in a positive way.

Chairman Maxwell discussed recent conversations with Boardmember Thompson, and reiterated that the smaller members of the JPA suffer higher risk than the larger members and asked that the Board consider that issue when deciding on matters regarding the strategic plan.

Boardmember Thompson suggested that if the bed and sales tax earned by the larger members were shared with the City of Rio Dell, they would feel comfortable sharing the potential debt incurred. Without those revenue shares, the City would face certain bankruptcy in the face of a catastrophe.

Boardmember Lovelace appreciated the issue Boardmember Thompson brought up, but suggested that R3 further explore the protections provided by the JPA along with the potential for differential between benefits and liabilities for the member agencies.

Chairman Maxwell Opened the Floor to Public Comment.

Jane Woodward asked the Board at what point in the process the members of the Public Advisory Committee would be chosen.

Chairman Maxwell relayed from Ms. Sherman that this initial meeting with R3 will determine the makeup of the PAC, and how its members will be chosen.

Chairman Maxwell Closed the Floor to Public Comment.

Motion Schapiro/Brinton to Receive Update on Strategic Planning Activities 6/0/0.

6) **Review and Approve Edits and Updates to JPA Agreement.**

Legal Counsel Diamond briefly reviewed the history of the revisions, which have been brought up a number of times in the recent past. The seven categories of changes recommended are entirely housekeeping updates, and comprise the following:

- Update to reference the HWMA now operates with an Executive Director as opposed to a General Manager as its highest official;
- Pledge of revenue definition contains an out of date site to the code of regulations;
- Cummings Road Landfill changes since the JPA agreement was created in 1999. The Landfill does not accept waste and the Authority will not be setting rates, requiring an update to the definition of “Member”;
- It has been some time since HWMA functioned solely out of the Hawthorne Street facility and HWMA has been accepting member agency solid waste at satellite facilities for some time, so there is an attempt to update the language to acknowledge the satellite facilities;
- The Executive Director holds the personnel function for the agency;
- Update the list of designated facilities at which HWMA accepts solid waste;
- Update to the Brown Act which allows a Boardmember and their Alternate to share information obtained during closed session.

Boardmember Schapiro suggested the pledge of revenues section should read “as currently defined and subsequently amended,” because it could very well change again. Legal Counsel Diamond agreed.

Boardmember Schapiro noted that mailing addresses are referenced in the JPA, but physical addresses are listed on page 51 and 52. He asked if, since some Cities have separate physical and mailing addresses, it might be worthwhile to include both. Counsel agreed, suggesting that email addresses might also be prudent. Boardmember Schapiro also noted necessary edits to clean up addresses in Exhibit A of the JPA.

Boardmember Brinton asked for clarification regarding the Brown Act, such that if he perceives a direct risk to the City of Arcata he is permitted to discuss closed session information with Arcata counsel. Legal Counsel specified that it is a perceived financial impact (not risk) as defined by the member agency’s attorney. She further noted that the JPA was written to shield member agencies from debt and liability.

Boardmember Thompson would like to add indemnified to the definitions as contained in the JPA agreement. Legal Counsel briefly reviewed the various definitions of indemnity, and offered to further define indemnify and present it for board approval.

Boardmember Lovelace suggested more appropriate language under Section 8.5(a), regarding closed session discussion, replacing “will be” with “shall be”. He further noted that section 8.5(c) seemed more appropriate as a subsection of 8.5(b). During public comment, Legal Counsel confirmed that 8.5(c) should in fact be 8.5(b)(3).

Chairman Maxwell Opened the Floor to Public Comment.

Jane Woodward would like to state that if pending legislation is not a sufficient financial interest for a particular counsel to have to address, it should be defined what is sufficient. Also, to what extent is HWMA indemnified in insurance against lawsuits, failures or earthquakes?

Chairman Maxwell Closed the Floor to Public Comment.

Boardmember Lovelace followed up on public comment by questioning whether implications of financial liability could be as general as those incurring staff, legal, or fiscal impacts to a member agency. Legal Counsel noted the language was verbatim from the Brown Act, her reluctance to comment on the intention of the language without some input from the State, and that she had restructured the flow of the language to a better format for the JPA agreement. She also confirmed the need to change the section labels as pointed out earlier by Boardmember Schapiro.

Jane Woodward, Arcata resident, questioned whether case law existed to guide Boardmembers and their alternates in knowing when discussion of these types of issues

would be appropriate. The Board turned the question to Legal Counsel, who indicated that no litigation existed to her knowledge that would give guidance on this issue. She indicated willingness to further research the topic.

Chairman Maxwell indicated that the changes recommended allow the Board a number of new pathways to sharing and exchanging information with their alternates and councils, and that, regardless of the details, the change would provide much needed benefit to the Board on a regular basis.

Boardmember Schapiro noted language regarding insurance provisions required of the Authority seemed vague, and in light of Boardmember Thompson's comments might indicate a lack of coverage for buildings and property owned by the Authority. Legal Counsel reviewed the section, and noted that the Authority does maintain property and liability insurance. While the section could potentially use some updating, the language is sound, and the member agencies are also covered by the provisions of the JPA agreement.

Boardmember Thompson questioned the language in the JPA that indicated other counties could join the JPA. Legal Counsel indicated that the language mirrored state law; such a thing could occur if other counties gave flow control of their solid waste over to the Authority.

Boardmember Brinton indicated that such an agreement would have to be at the consent of all current members of the JPA, and thus would not be something that could be forced on the current Board.

Boardmember Lovelace reviewed the specific changes noted by the Board; Section 8.5(a) will be cleaned up to read "shall be" or "will be", depending on Legal Counsel's determination of the more appropriate wording; Section 8.5(c) will be moved to Section 8.5(b)(3); the contact information for the City of Blue Lake will be updated; a definition of "indemnity" or "indemnify" will be included in the list of definitions.

Boardmember Schapiro and Chairman Maxwell further suggested contact information for all members be updated, and that the section regarding pledge of revenue be updated to note that California Code of Regulations as "currently" defined are in effect. Legal Counsel noted a need to clean up Exhibit A of the document, and received confirmation to approve the JPA pending the definition of indemnity on next meeting's consent calendar.

Motion Lovelace/Brinton to Approve Resolution 2012-02, Second Amendment to HWMA Joint Exercise of Powers Agreement, with Edits as Noted, Pending Approval of "Indemnity" Language to be Added to Definitions.

Ayes: Maxwell, Lovelace, Schapiro, Thompson, Brinton, Madsen.

Nays: None.

Abstentions: None. The motion passes unanimously.

7) **Review Model Plastic Bag Ordinance and Discuss Possible CEQA Strategies.**

Programs Manager Whitener provided a brief update on carpet recycling activities, which have resulted in the first trailer being filled and shipped. Regarding the Plastic Bag Ordinance, Mr. Whitener intends to present a tool for local governments to use in order to tailor what works for their specific jurisdiction. Staff has visited each jurisdiction and spoken with City Councils and Boards of Supervisors, giving him an idea of what each is looking for. With that information, and assistance from HWMA staff, a model has been assembled for distribution to member agencies. This model is purely to open discussion and provides further detail to allow for educated decision making by the councils and boards. Because of progress made in other jurisdictions, HWMA staff is suggesting that there are two possibilities. First, Approval has been granted for hiring a qualified

consultant to develop a CEQA initial study and then use those results to develop a CEQA document that would support a model ordinance. Mr. Whitener noted that this is not something that the Authority can provide on a regional level; each member agency that opts in must have a separate CEQA document that supports the ordinance that they wish to adopt. The second option involves using HWMA staff time to move forward and produce a model CEQA environmental impact report that would be sufficient in scope to accompany a model ordinance on behalf of each jurisdiction while standing the test of legal challenge.

Boardmember Schapiro asked what would happen if an agency passes an ordinance without a CEQA document, and what the timeframe would be to challenge that ordinance. Legal Counsel indicated that it depends on how the ordinance was passed. Under CEQA there are methods for reducing the statute of limitations. If the member agency releases a notice, then the statute of limitations is 90 days.

Boardmember Brinton asked whether the price for either hiring a consultant or using HWMA staff to produce the report included the initial report and the EIR. Mr. Whitener responded that it was estimated that the cost for an initial report would cost around \$20,000, while the \$50,000 to \$100,000 included the EIR. In response to further questioning from Boardmember Brinton, Mr. Whitener indicated that staff would perform the initial study in-house.

Boardmember Brinton asked whether the initial study would determine whether an EIR is necessary. Legal Counsel indicated that an initial study is not necessary if the member agency knows that they are moving forward with an EIR.

Boardmember Lovelace wondered if some of the work involved in the creation of an initial study would reduce the work – and cost – of an EIR. Mr. Whitener noted that, with the several successful documents being accepted throughout the State, 70% of the information necessary for the EIR is available online, much of it in template form, significantly reducing the cost of completion of the document. In regards to the cost for a Negative Declaration, Mr. Whitener indicated he would need more time to arrive at a clear estimate.

Boardmember Lovelace would like to know if the EIR would be for the jurisdictions to pull information from, or if there would be an EIR for each individual jurisdiction. Mr. Whitener reiterated the need for separate reports for each member agency.

Boardmember Schapiro discussed the costs as originally set forth to perform the EIR for each of the member agencies, and wondered if the original estimate of \$55,000-\$100,000 was per entity. Mr. Whitener indicated that at the time, that estimate indicated a total cost for everyone, and that the number might have changed significantly over the past year.

Boardmember Brinton questioned whether or not the EIR performed for the City of Arcata – most likely to be the most encompassing EIR – would work as a basis for each of the other member agencies, provided none went above and beyond the scope of the original. Mr. Whitener indicated that the biggest difference would be to model each EIR to best fit the wording and intent of the ordinance to be derived from it.

Boardmember Brinton asked of Counsel her opinion on whether or not the effort for further EIR's would be necessary. Legal Counsel indicated that one of the largest factors of an EIR is the geographical aspect, but further noted that much of the language in these documents is beginning to be formulaic. Were the study to be done county-wide, agencies within the County would still point to specifics about their jurisdiction in their own EIR work.

Chairman Maxwell Opened the Floor to Public Comment.

Jane Woodward, of Zero Waste Humboldt, introduced a letter from ZWH endorsing the Authority's work. That letter is attached to and made part of these minutes. Ms. Woodward further indicated the skill of staff to create the CEQA documents necessary to move this effort forward.

Chuck Schager, of Eel River Disposal, recognized Mr. Whitener for his work. He noted the alternatives to banning plastic bag use; first, that the provision of plastic film require offering a drop-off for that film for disposal; second, he urged that ordinances provide for the recycling of plastic film, since outlets exist to recycle that material.

John Mason, Willow Creek resident, expressed his concern for the effect plastics are having on the ocean and its wildlife. He feels that, although there may be some political and legal problems in banning plastic bag use, the problems that will be left to future generations if plastics aren't banned will be far greater. He urged the Board make the right choice and ban plastic bags.

Vanessa Vasquez, of Humboldt Baykeeper, provided some feedback from local retailers that have been working to reduce plastic bag use. Westwood Murphy's Market in Arcata, and Ray's in McKinleyville, have both eliminated plastic bag use in their stores and are receiving a positive response from their customers for doing so. She thanked Mr. Whitener for his efforts, and spoke highly of Authority staff, urging the Board to produce EIR documentation in house.

Boardmember Schapiro asked Ms. Vasquez if the markets that have stopped using plastic bags have seen a rise in paper bag or cloth bag use. Ms. Vasquez indicated that reusable bags seem to be on the rise, but that the benefits of using paper bags to carry more groceries outweighs the one-time nature of those bags.

Colleen Clifford, of Surfrider Humboldt, spoke of her organization's efforts in the community and with the Authority to see plastic bag bans enacted through the County, and provided written comments from MJ Mazurek, the Volunteer Coordinator and Rise above Plastics co-Coordinator for Surfrider. In addition, a letter from the Vice Mayor of Fort Bragg to local businesses was introduced. Those letters are attached to and made part of these minutes. She noted the work done in Mendocino County, and the potential resource Mike Sweeney, of Mendocino County, could provide in finalizing the work being done in Humboldt. Ms. Clifford indicated some statistics and tools to better understand the total impact plastic bags have on the environment. She urged the Board to move as fast as possible in enacting these bans for the safety of the environment.

Chairman Maxwell Closed the Floor to Public Comment.

Chairman Maxwell provided a brief history of how work on the plastic bag ordinance came to the Authority, noting primarily the work of the City of Arcata and the County in bringing attention to the issue.

Boardmember Brinton confirmed Mr. Maxwell's statement, and noted the effort of community groups in assisting with initial awareness of the issue. He spoke of much of the Arcata City Council's sense of urgency in completing this project, and their continued willingness to see a regional model is enacted. He urged, however, that decisive action be made to perform a study at this evening's meeting.

Boardmember Brinton asked of Legal Counsel what differences there were in the decision of other agencies to perform EIR's as compared to an initial study and some form of negative declaration, and if those differences were substantive or the will of the Board overseeing each. He preferred to do the work that best protected the separate member agencies, and thanked Mr. Whitener for his work thus far to do so.

Legal Counsel reviewed the actions of other agencies in creating their ordinances. She noted LA County, which chose to do a full EIR and thus provided its cities with a

template from which to draft their ordinances. The Manhattan Beach decision by the Supreme Court has made it easier for smaller entities to perform mitigated negative declarations, which works well for the Humboldt Bay area, as both communities are small, coastal regions with similar environmental impacts. She continued by noting that much of the danger of litigation stems from organizations willing to create litigation, and that the feel from her colleagues in other areas of the state indicate that the Save the Plastic Bag coalition is losing steam, as more jurisdictions successfully enact ordinances. She noted the legal means by which an initial study could be forced to become an EIR.

Chairman Maxwell noted his preference to bypass the initial study and perform an EIR. He urged against categorical exemption, which seems to be agreed to be a poor method by most all agencies seeking to ban plastic bags. In speaking of size, he noted the difference between Manhattan Beach as a city and the County of Humboldt as a whole, and that an area as small as Fort Bragg also received a letter from the Save the Bag coalition. He noted a website keeping track of the status of plastic bag bans across the State, and that to date the only ones overturned have not performed at least an initial study. He believed that the work of Mr. Sweeney in Mendocino has paved the way for an EIR to be completed easily, providing for the path of least resistance to enacting a ban.

Boardmember Thompson stated his pleasure that plastic bags are not an issue in the City of Rio Dell. He stated that Rio Dell would not be enacting any type of ordinance on plastic bag use in Rio Dell. In discussing the efforts of Authority staff, he noted the inability of the Authority to enact any type of ban itself and urged the other member agencies to perform their own studies independently in an effort to save the Authority money on performing the work for each agency. He continued by discussing some of the effects of banning items in the past, and the potential litigation tied to the issue at hand. He urged the Board to consider using the money being put aside to perform these studies to offer incentives to the public to recycle plastic bags and get them out of the waste stream. He finished by reiterating his City's intent not to enact a plastic bag ordinance, and suggested that if the Authority moves forward, the City of Rio Dell would suggest receiving a pro-rated portion of the funds being used to perform these studies.

Boardmember Lovelace discussed the reasons for performing this work under the umbrella of the Authority, noting the benefits of pooling funds and effort for the good of the community as a whole. He noted the ability of each jurisdiction to choose whether or not to enact a ban, but cautioned against requesting money in place of a study as such payments have the effect of turning waste management fees into taxes, which the Authority is not capable of doing at this point in time.

Boardmember Schapiro discussed the benefits to Blue Lake of enacting a ban for the sake of the other Member Agencies. As more of an importer than a creator, his City has little need of a ban for itself; the show of a unified statement is important, however.

Boardmember Madsen expressed his support for beginning the ban process.

Chairman Maxwell Called a Break at 8:56 p.m.

Chairman Maxwell Called the Meeting to Order at 9:08 p.m.

Boardmember Madsen reiterated his support, and noted that discussions with his staff indicate the City of Eureka would prefer an Initial Study approach. Boardmembers Schapiro and Thompson agreed to this approach.

Chairman Maxwell spoke in favor of moving forward. He provided a brief history of his thoughts on the subject, moving from reluctance to a strong desire to lead the effort in enacting a bag ban. He noted the potential costs that could burden ratepayers, but stated the beneficial effect on the environment was too necessary to pass up. He urged focus on the elimination of single-use plastic bags.

Motion Lovelace/Brinton to Direct Staff to Perform Work In-House Produce Initial Study for Environmental Scope and Geographical Broadness 6/0/0.

Motion Brinton/Schapiro to Continue Meeting per Board Policy 1100 6/0/0.

8) Proposed Amendment to Integrated Waste Collection Fee Resolution, to Include New Fee and Definition for “Designated Divertible Materials,” and to reduce Franchise Greenwaste Tip Fee .

Interim Executive Director Owen explained the reason for the new rate; with a number of new materials becoming available for diversion, staff feels that the Executive Director should have the flexibility to establish rates in the middle of a fiscal year to better promote diversion of those materials. In addition, Mr. Owen has been able to negotiate more favorable rates for Greenwaste processing of franchise Greenwaste, and intends to reduce the rate back to 2012 levels.

Boardmember Schapiro indicated some minor edits to the Resolution document, and suggested that language in Section 4 read “... is adopted for Fiscal Year 2013, or until a new Fee Schedule is put in place.”

The Board briefly discussed the method by which this modification to the Resolution adopted by the Board in May would take effect. Legal Counsel clarified that the former resolution would go into effect on July 1, and that the rates as introduced in the modification would go into effect one month from the date of the June meeting. Staff clarified that that date should be July 14, not August 14 as previously indicated.

Chairman Maxwell Opened the Floor to Public Comment.

Chairman Maxwell Closed the Floor to Public Comment.

Motion Lovelace/Thompson to Approve Resolution 2013-02 as Amended, with Edits 6/0/0.

9) Elect Authority Officers for Fiscal Year 2012/2013 and Appoint/Confirm Subcommittee Members for Executive Director Hiring and Strategic Planning.

Administrative Services Manager Egerer provided a brief review of the process, and turned voting discussion over to the Board with a reminder to either appoint or confirm members to the Hiring and Strategic Planning subcommittees.

Chairman Maxwell Opened the Floor to Public Comment. No comment made.

Chairman Maxwell Closed the Floor to Public Comment.

Motion Brinton/Schapiro to Appoint Boardmember Lovelace as Chair of the Board 6/0/0.

Boardmember Lovelace suggested that the members of each subcommittee – Boardmembers Maxwell and Lovelace for Hiring, and Boardmembers Maxwell and Brinton for Strategic Planning – be reconfirmed for the sake of continuity.

Chairman Maxwell Opened the Floor to Public Comment. No comment made.

Chairman Maxwell Closed the Floor to Public Comment.

Motion Lovelace/Maxwell to Appoint Boardmember Brinton as Vice Chair of the Board and to Confirm Members of Executive Director Hiring and Strategic Planning Committees 6/0/0.

Boardmember Brinton thanked Chairman Maxwell for his service and hard work during a very difficult year for the Board.

10) Review FY 2012/13 Board Calendar.

Administrative Services Manager Egerer reviewed the calendar dates, noting that no changes had been made; barring the need for a special meeting, the Board would not meet in August or December. He briefly revisited a suggestion by a former Boardmember that no breaks be taken if a new Executive Director were hired.

Interim Executive Director Owen indicated that staff may need to establish a special meeting to move strategic planning forward in the next couple months.

Boardmember Schapiro asked Legal Counsel if special meetings required for Executive Director hiring would be noticed and made into Closed Session meetings. Legal Counsel confirmed.

Chairman Maxwell Opened the Floor to Public Comment. No one spoke.

Chairman Maxwell Closed the Floor to Public Comment.

Boardmember Schapiro asked if Access Humboldt would continue to record each meeting. Mr. Egerer confirmed.

Motion Schapiro/Lovelace to Accept the FY 2012/13 Board Calendar 6/0/0.

11) Executive Director's Report

Interim Executive Director Owen reviewed some of the key points of his report, highlighting attendance by members of staff at a one-day SWANA meeting. Topics focused on the 75% diversion mandate, and the problems with the bill as presented.

Staff has submitted a revision to the Transfer Station operation plan to potentially allow the food waste digester program to come back online.

Mr. Owen intends to bring a presentation before the Board in July to potentially refinance the Authority's bonds, with significant potential savings over the life of each.

Mr. Owen also recounted a trip to Dry Creek Landfill in the previous week to meet with members of the landfill's staff and owners, in a continuing effort to advance work on procuring new landfill contracts in the coming year.

Chairman Maxwell Opened the Floor to Public Comment. No one spoke.

Chairman Maxwell Closed the Floor to Public Comment.

Boardmember Schapiro asked about comments made by Boardmember Thompson at the previous meeting, regarding new law requiring agencies to hold only 5% retention on construction contracts, as opposed to 10%. Legal Counsel confirmed that the 5% retention is in effect for Phase I of the Landfill closure.

12) Closed Session/Report Out

- a) Pursuant to Government Code Section 54956.9(a), ongoing litigation, *ACRC v. HWMA* (Humboldt County Superior Court Case No. DR110811), conference with legal counsel.
- b) Personnel, California Government Code Sec. 54957: Legal Counsel Personnel Evaluation.

Chairman Maxwell Opened the Floor to Public Comment. No one spoke.

Chairman Maxwell Closed the Floor to Public Comment.

Chairman Maxwell Adjourned the Meeting to Closed Session at 9:53 p.m.

Chairman Maxwell Called the Meeting to Order from Closed Session at 10:00 p.m. No report out was made.

13) Adjourn

Chairman Maxwell Adjourned the Meeting at 10:00 p.m.

Next Meeting: July 12, 2012 at 6:30 p.m. at Eureka City Hall Council Chambers.

June 14, 2012

Board of Directors
Humboldt Waste Management Authority
1059 W. Hawthorne St.
Eureka, CA 95501

Subject: June 14 Board Meeting Agenda Item # 7: Review Model Plastic Bag Ordinance and Discuss Possible CEQA Strategies

Dear Board Members:

Zero Waste Humboldt supports HWMA funding and preparation of an EIR. It will be a key action that would facilitate a vast reduction of disposal of single use plastic shopping bags on a county-wide scale. It will move the ban process forward after over a year of delayed action and would enable local cities and the county to catch up with the close to 50 municipal and county governments that have enacted bans throughout California. It will represent the kind of regional leadership, and collaborative and cooperative assistance that HWMA is uniquely in the position to provide its member governments and municipal partners.

We consider this to be a litmus test of HWMA's commitment to a zero waste management approach.

Sincerely,

Jud Ellinwood *for* ZWH Steering Committee
1426 Eighth St. Eureka CA 95501
443-9153
jud@humboldt1.com

"Promoting waste reduction and values-added recycling in Humboldt County"

HWMA June 2012 Meeting Written Comments
MJ Mazurek

This is MJ Mazurek, I reside in Arcata and I am the Volunteer Coordinator and Rise Above Plastics Co-coordinator for Humboldt Surfrider. Board members and staff of the HWMA, I am delighted to see the bag ban ordinance finally back on the HWMA meeting agenda. Surfrider Humboldt has worked hard and long on this issue and it is in this month that we celebrate our 2nd anniversary of the formation of the Humboldt Rise Above Plastics program and our work on a County wide plastic bag ban.

Surfrider Humboldt introduced the concept of a single-use plastic bag ban to the City of Arcata in October 2010 and to the County Board of Supervisors in November of 2010. At that time both Arcata and the County directed the HWMA to begin working on a comprehensive bag ban. Since that time we and Humboldt Baykeeper, have worked with HWMA staff to provide them with example ordinance language and example environmental documents (EIRs, Negative Declarations, and Categorical Exemptions) that were written by other communities drafting bag bans. We have conducted community outreach, drafting letters to the local grocers asking for support of a ban, and hosting reusable bag making events and free bag giveaways.

The bag ban ordinance first appeared on the HWMA agenda in April of 2011. This month is the 2nd time the ordinance has been on the agenda, a year and 2 months later. We fully understand the need to write an ordinance that will withstand potential attacks and litigation from the Save the Plastic bag Coalition that is backed and funded by the American Chemistry Council and the petroleum industry. However, as we are still deciding the appropriate environmental document to write, our neighbors to the south in Mendocino County have introduced, drafted and written the ordinance, EIRs and passed a bag ban in Ukiah and Fort Bragg last April and in Mendocino County in May. They accomplished this in one year start to finish. I think we need to follow this model and thankfully, can use their documentation as a template for what we need to draft here in Humboldt. Our communities are of similar size and have similar characteristics so that we can use the Mendocino EIR as a template for a Humboldt EIR.

I have here a letter that was written by the Vice Mayor of Fort Bragg and sent to the business community. This letter which I have provided copies for the entire Board and staff is a forward thinking, proactive approach that we need to adopt here in Humboldt. This letter explains the how, why and where of the bag ban and why this ban is important for the community. This letter reaches out to the business community and asks for their input to the process but makes clear that a ban is supported by the City for the sake of the environment.

The City of Ukiah and Fort Bragg as well as the County directed Mike Sweeney with the Mendocino Solid Waste Management Authority (MSWMA) to write the EIRs and draft ordinance. Through correspondence with Mr. Sweeney I learned that the EIR was written 'in house', taking only staff time and the only additional cost was the purchase of a flash drive to store the documents. The HWMA has previously stated that potential

costs of an EIR would be from 50-250 thousand dollars if a consulting firm was hired to write the EIR. We think the HWMA should follow the Mendocino example and write the EIR in house and save the cities and County money. Mr. Sweeney used sample ordinances from the cities of San Jose and stated "It was relatively easy: I took the San Jose, Santa Monica and LA County EIRs and copied the best analysis, added some local info, and there it is. But for small jurisdictions, a full EIR isn't necessary per the Manhattan Beach decision of the California Supreme Court.....you can do a Negative Declaration, but support it with an extensive "Initial Study" that would have essentially all the info and analysis of an EIR. Our process was to closely watch what was going on in San Jose, San Francisco and elsewhere, and move ahead as soon as the big jurisdictions showed the way, particularly in preparing the EIRs and winning various lawsuits against the Save the Plastic Bag Coalition. We've done hardly anything that's original.....we just studied and adapted from the leading cities elsewhere."

An EIR though more time consuming, may be the appropriate document for Eureka given the size of the population and perhaps Arcata as well. An EIR is the most defensible document that will alleviate the fears of litigation. The communities of Blue Lake, Rio Dell and Ferndale most likely only need a Neg. Dec. based on population size.

It is time to get this ordinance finished and passed. Over 40 cities and Counties in California have already passed bans. Mendocino did it in a year. I urge the Board and member cities to make this a priority and to move the ordinance forward.



CITY OF FORT BRAGG

Incorporated August 5, 1889

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May, 2011

Dear City Business Owner,

The City of Fort Bragg is intending to bring forward an ordinance that will ban the use of carry-out plastic bags.

Why Ban the Bag?

The single use plastic bag is one of the main sources of pollution world wide. Plastic never goes away, but only breaks down into smaller and smaller pieces attracting toxic chemicals, being ingested by wildlife on land and in the ocean, endangering sea creatures, and working it's way into the food chain causing harm to human health.

What's Wrong with Recycling the Bags?

Recycling plastic bags is not a sustainable solution. Less than 5% of plastic bags actually get recycled. Plastic is a petroleum product, a non-renewable resource, and bags which do not escape into the environment are landfilled or exported to other countries where they are burned, creating polluted air. Ultimately there is great cost to the public - world wide.

I Understand There Will Be a Charge For Paper Bags?

The proposed ordinance is intended to encourage a **changeover to reusable shopping bags**. In addition to banning plastic bags, it requires stores to recover the cost of any paper bags they give out in the form of a charge to the customer. The minimum charge is 10 cents per bag. (Small bags are exempted.) The 10 cent charge to be imposed on paper bags goes directly back to the shopkeeper. **This is not a tax.** This charge applies only to paper bags at **point of purchase only** of 250 cubic inches or greater and of 440 cubic inches or greater for public eating establishments.

I Still Don't Get It. Why the Charge?

Believe it or not the Chemistry Council (aka the plastics industry) has sued other cities in California that have passed a ban ordinance. They claim an Environmental Impact Report (EIR) needs to be implemented to account for the damage created to the environment by switching to paper. This end-run by the plastics industry has been averted by doing an EIR and by **charging** for the paper bags. This charge also reminds the customer to **bring their own bags**.

So What Other Cities and Counties in California Have Banned the Bag?

Other cities and counties in California that have successfully banned the bag are: San Francisco, Oakland, Manhattan Beach, Los Angeles County, Palo Alto, Santa Monica, San Jose, Fairfax and Santa Clara County. AND, In Europe and many other countries one simply do not go shopping without their own reusable bag!

When Will This Ordinance Go Into Effect?

We understand that our business owners and the public need to adjust to this new process so we are allowing ample time - between 6 to 18 months (depending on the type of store) between the time the ordinance is passed and when it goes into effect.

The City of Ukiah and County of Mendocino are both in the process of creating their own bag ordinances. We are attempting have the same ordinance county-wide for the sake of conformity. We hope you will join with us in eliminating the scourge of the plastic bag from our precious environment! Please call me if you have any questions. Vice Mayor Meg Courtney 961-6163

*Agenda Item No. 3
(06/13/2011)*