

MARIN COUNTY HAZARDOUS & SOLID WASTE
JOINT POWERS AUTHORITY

Board of Directors Meeting

Thursday, October 29, 2009
Marin Municipal Water District
220 Nellen Avenue, Corte Madera

9:00 -10:00 AM

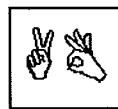
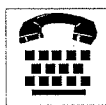
AGENDA

Call to Order.

- 1) Report on JPA Household Hazardous Waste Facility. (Information/Action)
 - A. Status Report of CIWMB Facility Improvement Grant.
 - B. Amendment to Operating Agreement.
- 2) Open Time.
- 3) Adjourn.

The full agenda including staff reports can be viewed at
www.marinrecycles.org/mins_agendas.cfm

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Contact the County's Waste Management Division, at 499-6647 for more information.

MARIN COUNTY HAZARDOUS AND SOLID WASTE MANAGEMENT JOINT POWERS AUTHORITY

Belvedere:
George Rodericks

October 29, 2009

Corte Madera:
David Bracken

To: JPA Board

County of Marin:
Matthew Hymel

From: Michael Frost

Fairfax:
Michael Rock

Re: Report on JPA Household Hazardous Waste Facility and CIWMB Facility Grant and Amendment to Operating Agreement

Larkspur:
Jean Bonander

The JPA has funded a Household Hazardous Waste Facility (HHWF) in San Rafael for the past 15 years. Marin's citizens can take their household hazardous waste to the facility, except Novato who operates their own facility. To encourage community use of the HHWF and keep hazardous material out of the landfill, the JPA has purposefully not charged people for dropping off their hazardous waste. The facility has been very successful and usage has remained high. (AB939) disposal fees have been established to pay for HHW program operations and administrative oversight.

Mill Valley:
Ann Montgomery

Novato:
Michael Frank

Ross:
Gary Broad

Over this past year, the JPA Board approved a CIWMB facility improvement grant. Recent issues about the CIWMB grant compliance have highlighted the need to establish the appropriate agreements for this facility improvement, as well as identify the needs and steps to update the existing JPA operating agreement for the HHW program. This report is to bring the Board up to date, report on the outcome of the JPA Executive Committee meeting and obtain direction.

San Anselmo:
Debbie Stutsman

San Rafael:
Ken Nordhoff

Sausalito:
Adam Politzer

History

Tiburon:
Margaret Curran

- In October of 1993, the City of San Rafael sought and received authorization from the California Department of Toxic Substance Control a permit to establish a Household Hazardous Waste facility at 565 Jacoby Street in San Rafael to be operated by Marin Recycling and Resource Recovery Association (MRRRA).
- On September 19, 1995, the City of San Rafael, and MRRRA entered into an operating agreement to operate the HHWF.
- In July 1, 1996, the City of San Rafael and the JPA (with the exception of the City of Novato) entered into an agreement to allow all the citizens of Marin (except Novato) to bring their hazardous waste to the permitted facility in consideration for the JPA's assumption of liabilities, closure and operational costs. The City's has served as the permit holder agency on behalf of the JPA, and assigned the daily program oversight to the San Rafael Fire Department.

- In April 2007, the JPA approved application of a \$300,000 CIWMB HHW facility Improvement grant.
- In October 2007, the CIWMB awarded the JPA \$300,000 to improve the HHW facility, with all work, payments and compliance to be completed by March 31, 2010. Per the CIWMB staff, no time extensions would be granted. The purpose of the grant was to expand the footprint of the HHWF, paint and stripe the floors, reconfigure the existing collection area, add a receiving kiosk, bathroom, break room and related office improvements for HHWF staff. All improvements in the work plan were clearly to be constructed at the existing facility.
- On June 25, 2009, the CIWMB approved the JPA's progress report, as the project had experienced delays and in kind, work at the facility had been modified. The list of specific HHW facility improvements is attached (labeled Attachment A).

Current Issues

In the process of determining CIWMB compliance requirements, problems arose with the grant language that states the JPA must own title to real and personal property funded by the grant (securitization of the public funds). This issue has become significant because the grant work plan approved by the CIWMB always stated the improvements would be made on private property at the existing facility.

In subsequent negotiations and correspondence with all parties (MRRRA, City of San Rafael and JPA staff), the CIWMB has recently agreed in principal to waive this ownership requirement if the JPA is willing to commit to keep the HHWF open for 10 years. If the HHWF closes before 10 years, the JPA would refund to the CIWMB a pro-rata amount based on number of years.

October 21, 2009 JPA Executive Committee Meeting.

Part I – Grant compliance

Getting to this point has pushed the grant deadline of March 31, 2010 to the edge, and staff sought direction from your Executive Committee at their October 21, 2009 meeting. The Executive Committee recognized the JPA is obligated to meet this ten year provision of the grant, and if the grant is accepted and used for a new HHWF, the amortization of the grant funds is our liability. Satisfying the States commitment can be accomplished by a side letter agreement to the grant. This side letter would be binding between the JPA and CIWMB. The Executive Committee was rightly concerned about how the JAP could be indemnified if the HHWF were to close or cease operations prior to the end of the ten year grant cycle.

Patty Garbarino, the President of MRRRA, stated in order to satisfy the grant, her company (MSS) would commit to an agreement in which MRRRA would be obligated to repay (indemnify) any grant funds required by the State should the JPA and/or MRRRA discontinue operating the facility. The purpose of this offer was to eliminate any liability to the JPA for repaying the grant. The step needed to make this offer happen is the creation of an indemnification for the grant funds between MRRRA and the Solid Waste JPA.

Part II – Operating Agreement

The age of the existing operating agreement warrants and update to this documents. Changes in law, HHW program materials, environmental compliance and the recently released draft of the Zero Waste Study point to a need to modernize and improve two agreements. The current contract with MRRRA needs to be revised to reflect modern HHW Programs, practices and requirements., The City of San Rafael has been functioning for many years as the oversight (permittee) for the HHW Program. At the Executive Committee meeting San Rafael Fire Chief Gray reported because of staffing issues and increased State regulations, his department would have difficulty in committing to adequate oversight of the HHWF.

JPA staff is recommending that a sub-committee of the JPA Board work with staff and other experts (e.g. Fire Chiefs) to develop a new operating agreement for HHW Programs and services. This would be presented to MRRRA as the

Your Executive Committee directed staff to put this item on your agenda today to update your Board on the HHWF. The JPA staff needs the Board to take the following actions:

1. Authorize Michael Frost to sign a side letter agreement with CIWMB to reflect an acceptable amortization of the \$300,000 CIWMB HHW Facility Improvement Grant, subject to final review and approval of the JPA and CIWMB attorneys.
2. Once this side agreement is completed and in place, the JPA staff will need to amend the existing CIWMB grant agreement to elimination the securitization provisions currently contained in this grant. Authorize Michael Frost to sign the required grant amendments necessary to accommodate CIWMB approval that the JPA does not have to take title to property funded by the grant.
3. Authorize Michael Frost to sign an indemnification agreement with MRRRA to indemnify the JPA for the acceptable amortization of the \$300,000 CIWMB HHW Facility Improvement Grant, subject to final review and approval of the JPA and CIWMB attorneys.
4. Appoint a sub-committee of JPA Board members and direct staff to work with the City of San Rafael to update the current operating agreement with MRRRA for operation of the HHW, as well as updating the existing agreement for HHW program oversight and administration. These documents would be prepared for Executive Committee consideration early next year.

