

MINUTES OF THE
MARICOPA ASSOCIATION OF GOVERNMENTS
SOLID WASTE ADVISORY COMMITTEE MEETING

Tuesday, January 25, 2005
MAG Office Building
Phoenix, Arizona

MEMBERS ATTENDING

Bruce Henning, Phoenix, Chair
Avondale: Cindy Blackmore
#Chandler: Shereen Sepulveda
*El Mirage: Lucky Roberts
#Gila River Indian Community:
Candice Bell
Gilbert: Bill Hancock
#Glendale: Norm Gumenik
#Goodyear: John Acosta
*Litchfield Park: Luke Gutierrez
Mesa: Will Black
Peoria: Jesse Duarte
Paradise Valley: Andrew Cooper
Salt River Pima Maricopa Indian
Community: Randal Watkins
for B. Bobby Ramirez
Scottsdale: James Livingston

*Surprise: Janet Ramsay
#Tempe: Ron Lipinsky for Oliver Ncube
Tolleson: Jason Earp for Mark Berrelez
*Wickenburg: Harry Parsi
*Maricopa County: Ash Madhok
*Arizona Public Service: Martin Eroh for
Barbara Lockwood
*Salt River Project: Dan Casiraro
Solid Waste Association of North America:
Mark Powell
*Valley Forward Association: Don Cassano
*Arizona Clean and Beautiful:
Leandra Lewis
#Arizona Chamber of Commerce:
David Wallis

*Those members neither present nor represented by proxy.
#Attended by telephone conference call.

OTHERS PRESENT

#Town of Queen Creek: Mark Young
City of Mesa: Craig Smith

Maricopa Association of Governments:
Julie Hoffman
Maricopa Association of Governments:
Brenda Day

1. Call to Order

A meeting of the MAG Solid Waste Advisory Committee was conducted on Tuesday, January 25, 2005 at 10:00 a.m. Bruce Henning, Chair, City of Phoenix, called the meeting to order.

2. Agenda Announcements

Chair Henning provided an opportunity for members to share announcements with the group. No announcements were provided.

3. Call to the Audience

Chair Henning noted that no members of the public were present for a call to the audience and no public requests to address the Committee were received.

4. Approval of the January 11, 2005 Meeting Minutes

The Committee reviewed the draft minutes from the January 11, 2005 meeting. James Livingston, City of Scottsdale, moved and Bill Hancock, Town of Gilbert, seconded and it was unanimously carried to approve the minutes.

6. Draft Revision of the MAG Regional Solid Waste Management Plan

This item was taken out of order since the item five speaker was not yet present. Brenda Day, MAG staff, indicated that, in July 2004, the Solid Waste Advisory Committee and MAG Management Committee had reviewed the Draft Revision of the MAG Regional Solid Waste Management Plan and comments received were incorporated. On November 3, 2004, the Committee authorized that a public hearing on the draft plan be conducted. The Committee conducted the public hearing on January 11, 1005, and a copy of the hearing transcript was distributed to the Committee. No public comments on the draft plan were received.

Ms. Day indicated that the Committee is requested to recommend approval of the draft plan. If plan approval is recommended, the MAG Management Committee is anticipated to consider the recommendation and possibly concur on February 9, 2005. It is anticipated that the MAG Regional Council may take official action to approve the plan on February 23, 2005. A copy of the Draft Resolution to Adopt the MAG Regional Solid Waste Management Plan was distributed to the Committee. The final plan would be transmitted to the Arizona Department of Environmental Quality (ADEQ) and the U.S. Environmental Protection Agency.

Chair Henning inquired when the next plan update would occur and indicated that too much time had passed between the 1993 plan and the current major revision.

Ms. Day indicated that the MAG member agencies developed a continual plan evaluation process which is identified in the plan that includes annual consideration of the plan by the Solid Waste Advisory Committee to determine whether an update is needed. She indicated that, prior to the current major plan revision, updates to the tables containing information on solid waste facilities, plans and programs had been conducted.

Mr. Livingston moved and Will Black, City of Mesa, seconded and it was unanimously carried through a roll call vote by the Committee to recommend approval of the Draft Revision of the MAG Regional Solid Waste Management Plan.

5. ADEQ Update on Solid Waste Management Legislation

Chair Henning indicated that the item five speaker was now present. Jim Buster, ADEQ Legislative Consultant, provided an update on solid waste management legislation. He indicated that ADEQ

would be busy this session since the Department is criticized during the Sunset Review. ADEQ wishes to resolve any issues and be in good standing at the Legislature. ADEQ has been challenged by budget cuts during three of the last four sessions. ADEQ anticipated that Senator Allen would be the Environmental Committee Chair and sponsor environmental bills in the House this session. However, Senator Allen did not become a Chair or member of the Environmental Committee, and both Environmental Committee Chairs are new to the Committee.

Mr. Buster indicated that he would address three House Bills which each have correlating Senate Bills. House Bill 2358 is an omnibus solid waste program reform bill intended for general clarification of definitions and consensus language corrections from a broad group of stakeholders. More stakeholder meetings are planned, beginning this Thursday.

House Bill 2359 is doer bill intended to increase the landfill tipping fee by 15 cents per ton. ADEQ proposed a doer bill for a 15 cent per ton fee increase last year which would have increased the average homeowner's cost by 3 cents per month. However, the bill failed due to late opposition by the County Board of Supervisors. Upon failure of the bill, a portion of the existing tipping fees were diverted from the Recycling Fund and used for ADEQ inspection & compliance operations, although this was not the ADEQ Director's preferred option.

Mr. Buster indicated that ADEQ needs more funding for solid waste facility inspections and compliance. There are 19 landfills in Arizona, and ADEQ is concerned that some may be Superfund sites waiting to happen.

Mr. Buster indicated that House Bill 2360 proposes to lift the penalty cap for solid waste enforcement violations. Currently, solid waste violations are limited by a \$1,000 per day cap and a cumulative cap of \$15,000. Other divisions generally do not have a cumulative penalty cap. The Department wishes to lift the cumulative cap due to concern that it may encourage bad actors to continue to violate because they know the penalty will top out at \$15,000. Consensus has not been reached on what defines a bad actor. The bills are sponsored by Representative Barnes and Senator Allen in the House. He indicated that ADEQ had a good meeting with Senator Flake and hopes to work through the issues.

Andrew Cooper, Town of Paradise Valley, inquired why the County Board of Supervisors opposed the bill to increase tipping fees during the previous session.

Mr. Buster indicated that he had previously been a member of the County Board of Supervisors. He indicated that the Board was concerned that they would have to absorb the costs because their constituents would not want to pay the fee increase, and the Board was reluctant to give the regulator more money for facility inspections. He indicated that ADEQ wants to be proactive and help landfills comply with regulations and monitoring requirements to prevent more Superfund sites.

Mr. Cooper inquired how much revenue would be generated with a 15 cent per ton increase in the tipping fee.

Mr. Buster indicated that, based on estimates prepared for Supervisor Andrew Kunasek last session, approximately \$1.2 million would be generated statewide, with about \$500,000 to \$600,000 of the

total in Maricopa County.

Mr. Black inquired whether successful passing of the bill to increase tipping fees would result in the termination of funneling of the Recycling Fund.

Mr. Buster indicated that ADEQ is not proposing to funnel from the Recycling Fund again this year, and the ADEQ Director is dead set against taking from the Recycling Fund. He indicated that last year's revenue diversion from the Recycling Fund is set to go away after one year.

Shereen Sepulveda, City of Chandler, inquired what the Recycling Fund monies were used for this year.

Mr. Buster indicated that the Recycling Fund monies passed through to municipalities and Counties for public education on recycling and funded overhead for the ADEQ recycling program.

Ms. Sepulveda indicated that there is concern that when sales tax is given away and used for a different purpose for one year, it is hard to get it back.

Mr. Buster indicated that, at the Legislature, the Recycling Fund revenue diversion for solid waste facility inspections and compliance was designed to end after one year.

Chair Henning inquired how soon ADEQ would request another tipping fee increase if the 15 cent per ton tipping fee increase bill were passed to generate \$1.2 million.

Mr. Buster indicated that ADEQ needs to fund the program at an adequate level. The Department does not want to ask for another increase soon after obtaining the proposed 15 percent increase, although such items are always subject to legislative appropriation, even with comfort language in the bill. He indicated that a concern regarding the possibility of future ADEQ requests for increased fees should not prevent the passing of the current proposed fee increase bill. The best solution is to go forward and ask the Legislature for more funding now. He indicated that it appears that most of the funding is going toward the Arizona Department of Water Resources this year.

David Wallis, Arizona Department of Commerce, indicated that the Counties have concerns regarding the timing of passing the bill with a 15 cent per ton fee increase. He indicated that the bill contains a proposal for cities to develop an ordinance to pass the fee increase onto the citizens, but it is not clear how Counties would deal with the increase. He inquired whether the bill would become effective immediately upon signing.

Mr. Buster indicated that statutory requirements would be in effect the first of the next Fiscal Year. He indicated that ADEQ did not propose a fee increase through rules, because rules take much longer.

Mr. Wallis indicated that it appears that the bill would become effective when signed. He inquired how many full time employee positions ADEQ would fund if the 15 cent per ton fee increase bill were passed, and whether all positions would be for landfill inspections and compliance.

Mr. Buster indicated that most of the increased funding would go toward compliance. At the end of

the Fiscal Year, the diverted Recycling Funds go away and the full time employees will only be able to do half the inspections that they should. He indicated that the ADEQ Director wishes to be proactive and the Department is concerned that landfills should be checked in a more timely fashion, which is difficult with limited staff.

Mr. Black inquired what would happen if the bill dies and ADEQ does not get the 15 cent per ton tipping fee increase.

Mr. Buster indicated that ADEQ would likely lose the couple of full time employee positions that were hired with the diverted Recycling Funds. The ADEQ solid waste inspection and compliance staff has decreased from 49 full time employees to about 20. He indicated that, unlike air quality and water quality divisions, the solid waste division is dependent on the General Fund.

Mark Powell, Solid Waste Association of North America, inquired who gets the increased penalty monies if the cumulative penalty cap is lifted.

Mr. Buster indicated that the penalty monies go directly to the General Fund and ADEQ is prohibited from taking those monies. He indicated that ADEQ has never had a motive to enact penalties just for the purpose of generating revenue for the Department.

Mr. Cooper inquired what percent of the solid waste budget is subsidized by the General Fund.

Mr. Buster indicated that he is not sure of the exact percent, although he knows it is a large portion of the overall budget. He indicated that he could find out and report back to Mr. Cooper.

Chair Henning thanked the participants for attending and called for adjournment of the meeting.