

Facility and Plan Review Subcommittee
Los Angeles County Solid Waste Management Committee/
Integrated Waste Management Task Force

Minutes of March 20, 2008

County of Los Angeles Department of Public Works
Conference Room C
900 South Fremont Avenue
Alhambra, California

SUBCOMMITTEE MEMBERS PRESENT:

Paul Alva, County of Los Angeles Department of Public Works
Betsey Landis, Environmental Organization Representative
Mike Mohajer, General Public Representative
Christopher Salomon, County Sanitation Districts of Los Angeles County
Gerry Villalobos, County of Los Angeles Department of Public Health

SUBCOMMITTEE MEMBERS NOT PRESENT:

John McTaggart, General Public Representative
Mike Miller, League of California Cities
Charles Modica, City of Los Angeles

OTHERS PRESENT:

Chuk Agu, County of Los Angeles Department of Public Works
Joe Bartolata, County of Los Angeles Department of Public Works
Russell Bukoff, County of Los Angeles Department of Public Works
Linda Lee, County of Los Angeles Department of Public Works
Carl Pederson, County of Los Angeles Department of Public Works
Peter Zorba, City of Lancaster

I. CALL TO ORDER

The meeting was called to order at 10:42 a.m.

II. APPROVAL OF MINUTES FOR MEETING OF JANUARY 24, 2008

A motion to approve the Minutes of the January 24, 2008, meeting was unanimously approved with following changes.

The Subcommittee instructed staff to revise the last bullet on page 3 of the Minutes to read "Provide quarterly status reports on the activities for both of the City and County Landfills, and the Combined City/County Landfill."

III. APPROVAL OF MINUTES FOR MEETING OF FEBRUARY 28, 2008

A motion to approve the Minutes of the February 28, 2008, was approved with following changes, with Mr. Mike Mohajer dissenting.

The Subcommittee instructed staff to revise the third paragraph on page 2 of the Minutes to read "For the January 24, 2008 meeting, the Subcommittee further instructed (1) staff to clarify whether the project area for this FOC includes the air space above the horizontal phasing areas, and is consistent with Condition No. 18 of the Replacement Conditional Use Permit, and (2) BFI to provide quarterly status reports on the activities for both the City-side and County-side of the Landfill, and the Combined City/County Landfill."

The Subcommittee instructed staff to revise the fourth paragraph on page 2 of the Minutes to read "Mr. Chuk Agu gave a Power Point presentation on Chapter 10 (Finding of Conformance (FOC)) of the Countywide Siting Element (CSE), including the FOC process and the related documents provided to the Subcommittee. Mr. Agu noted that the purpose of the presentation is to provide the Subcommittee with background information for use in subsequent discussions on Chapter 10 revisions."

The Subcommittee also instructed staff to revise the third paragraph on page 3 of the Minutes to read "Staff presented to the Subcommittee the following points for discussion: (1) the CSE FOC process is authorized and required by law, (2) the California Integrated Waste Management Board's (Waste Board) "dot-on-the map" approach to conformance finding and its ruling to neither approve nor deny the CSE FOC process are inconsistent with the current regulatory/statutory framework, (3) a County legal interpretation of

the scope and requirement of the FOC process will be needed, and (4) a modified/streamlined alternative process may be needed to ensure that the purpose of the FOC is met, and (5) the alternative process would be presented to the Waste Board for approval.”

The Subcommittee instructed staff to revise the fourth paragraph on page 3 of the Minutes to read “The Subcommittee discussed the matter at length. The chairperson, Ms. Betsy Landis noted that “a dot-on-the-map” does not ensure that the term “location” is correctly defined, or that the public has a place for participation in the facility siting process. Mr. Mohajer emphasized that what is currently referred to as the “waste board position” by staff does not clearly present the Waste Board’s formal position on the FOC. In 1999, as a part of its approval of the CSE, the Waste Board discussed the issue, and it was their position that the issue was a local function and therefore voted for a neutral position, i.e., neither approving nor disapproving the CSE FOC process. Mr. Mohajer also noted that Los Angeles County has a unique and complex solid waste management system, and therefore has different needs than other Counties in the State (e.g., the existing CSE FOC process). Mr. Chris Salomon remarked that the process should take into account review and approval deadlines where required by law in the facility permit process.”

In addition, the Subcommittee instructed staff to revise the first full paragraph on page 4 of the Minutes to read “The Subcommittee directed staff to continue to explore all options on strengthening the effectiveness and enforcement of the FOC Process, and Mr. Agu stated that staff will present possible options at the March 20, 2008, meeting, for discussion and further direction on this issue.”

IV. UPDATE ON THE CONSIDERATION OF FINDING OF CONFORMANCE FOR SUNSHINE CANYON LANDFILL (COUNTY PROJECT)

Ms. Linda Lee provided the Subcommittee with an update on the consideration of Finding of Conformance (FOC) for Sunshine Canyon Landfill (County Project). Ms. Lee indicated that staff is working with BFI to address all comments made by the Subcommittee, and it is staff’s intention to bring this item back for discussion at the April 17, 2008 Subcommittee meeting.

In response to Mr. Mohajer’s question regarding the status of obtaining an FOC in areas of Phase V-A and V-B of the County Project, Ms. Lee stated that BFI has begun construction in these areas without receiving an FOC. The Replacement Conditional Use Permit fully permits the County Project, which includes Exhibit A-1 plus the Phase V area as approved by Public Works.

Ms. Lee also noted that BFI is seeking a Solid Waste Facility Permit (SWFP) from the Waste Board for the Combined City and County Project and

essentially asking the Waste Board to function as the Local Enforcement Agency (LEA). BFI and the Waste Board contend that neither the City nor County LEA has jurisdiction over the Combined Project. The Waste Board has accepted the application as complete and must act on the application within 120 days from the filing date of March 7, 2008. Mr. Mohajer also stated that the Waste Board will be holding a public information meeting on March 25, 2008, to discuss the Combined Project.

Mr. Mohajer indicated that he would like the Task Force to authorize him to speak on behalf of the Task Force at the March 25, 2008, meeting since the Waste Board has not followed its own regulations by not allowing the LEA's to process the application pursuant to Section 18756 of California Code of Regulations (CCR). Mr. Mohajer emphasized that certain conditions on the City- and County-sides of the Landfill must be met before the Landfill can be combined.

Mr. Paul Alva added that, at the same Waste Board public information meeting, the County would also restate its objection to the acceptance of the application for a number of reasons (both legal and political). Mr. Alva further indicated that the Task Force had already expressed its position on this matter (and supported AB 2415) to require the Waste Board to seek LEA approval first before accepting a SWFP application.

A motion was made to request the Task Force to authorize Mr. Mohajer to speak at the March 25, 2008, Waste Board public information meeting and (1) present the Task Force's position that acceptance of the SWFP application by the Waste Board fails to comply with requirements of Section 18756 of CCR, (2) support the County's position against accepting the application, and (3) restate the Task Force's previous support of AB 2415. The motion was approved, with Mr. Christopher Salomon dissenting.

V. DISCUSSION ON FINDING OF CONFORMANCE PROCESS (COUNTYWIDE SITING ELEMENT CHAPTER 10 REVISIONS)

Mr. Chuk Agu gave a Powerpoint presentation ([see Attachment 1](#)) on potential options ([see Attachment 2](#)) to strengthen the effectiveness and enforcement of the current Countywide Siting Element (CSE) Finding of Conformance (FOC) process, and sought further direction from the Subcommittee.

The potential options to strengthen the effectiveness of the CSE FOC process were to: require FOC approval as a condition of the Land Use Permit/ Conditional Use Permit (Option No. 1); provide FOC requirements to project lead agency early in the facility permitting process (Option No. 2); and include FOC requirements in the comments on the CEQA documents (Option No. 3).

The potential options to strengthen the enforcement of the FOC process were to: implement the FOC process under a Joint Powers Authority or a Memorandum of Understanding (Option No. 4); establish FOC process as a local permit approval process (Option No. 5); enforce FOC requirement as a General Plan requirement (Option No. 6); and request State Attorney General to enforce FOC requirements (Option No. 7).

The Subcommittee provided the following comments and instructions regarding the various options, and asked Staff to bring the item back for further consideration.

Option No. 1: The Subcommittee found this option viable but noted that the probability of persuading other jurisdictions to require FOC approval as a condition of a Land Use Permit (LUP)/Conditional Use Permit (CUP) would be low.

Mr. Mohajer also noted that a similar process is used (and is working well) for landfill projects located in the unincorporated areas of the County. However, since there is no specific timeframe in which the LUP/CUP conditions need to be accomplished, applicants may drag out the FOC process. Mr. Mohajer noted that there might be instances where a LUP/CUP or SWFP may not be required for a project.

The Subcommittee instructed staff to investigate and explore: (1) how to make project applicants comply with the CUP conditions regarding FOC within a specific timeframe, (2) mechanisms to achieve the objectives of Option No. 1 in situations where a LUP/CUP or SWFP is not required, and (3) where to modify the CSE goals and policies to incorporate this option.

Option No. 2: The Subcommittee found this option viable but preferred its implementation as part of Option 3.

Option No. 3: The Subcommittee found this option as the most preferable for strengthening the effectiveness of the FOC process, since compliance with the CEQA process is an integral/material part and requirement of the SWFP application review and approval process.

However, the Subcommittee instructed staff to work with the LEA's in the County to determine other material requirements in the SWFP approval process that could be considered to strengthen the effectiveness and enforceability of the FOC process and requirements.

Options 4 and 5: The Subcommittee found these options less viable since it would be difficult to persuade other jurisdictions to enter into a Joint Powers Authority with the County to implement these options. Therefore, staff was instructed not to further explore these options.

Option No. 6: The Subcommittee found this option viable. However, since the revised County General Plan is only applicable to unincorporated areas of the County, this option would be more difficult to implement even when incorporated into the CSE goals and policies as in Option No. 1.

Option No. 7: The Subcommittee found this option legally viable but may not be practical since it is unclear and unlikely if and when the State Attorney General would enforce these requirements.

VI. OPEN DISCUSSION/PUBLIC COMMENT

None

VII. NEXT MEETING DATE

To be announced at a later date.

VIII. ADJOURNMENT

The meeting adjourned at 12:29 p.m.