

**DATE:** September 23, 2008

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT:** Amendment to Voting Requirement to Joint Powers Agreement with Alameda County Waste Management Authority

### **RECOMMENDATION**

That Council adopts the attached resolution authorizing the City Manager to execute the Certificate amending the Joint Powers Agreement with the Alameda County Waste Management Authority to retain the current two-thirds vote requirement for actions requiring expenditures of \$500,000 or more, but to allow all other actions to proceed based on a simple majority of the authorized vote.

### **DISCUSSION**

Each of the jurisdictions in Alameda County is a member of the Waste Management Authority Joint Exercise of Powers Agreement (JPA). The JPA defines the voting structure and votes required for various actions. At its May 2008 meeting, Board members asked that options to the current voting requirement be presented at its June 25, 2008, meeting in order to consider an amendment to the JPA to change the voting requirements. The intent of the proposed amendment is to streamline the approval process for some actions and to ensure that major decisions with a fiscal impact of \$500,000 or more continue to require a broad consensus.

Summarized below are three sections of the current JPA relative to voting requirements:

1. Votes Established by Population: Each jurisdiction has one vote with the exceptions of Oakland, which has three votes, and Alameda County, which has two votes, in order to reflect their higher populations.
2. Required Votes: To adopt a resolution or ordinance, a two-thirds majority of the authorized vote is required. A majority vote of those present and voting is required for all other actions. Actions to approve Authority participation in, or financing of, countywide or regional facilities, or countywide systems of subregional facilities, are required to be made by resolution and a vote of two-thirds of the authorized votes.
3. Quorum: A quorum is defined as a majority of the 17 Board members.

A two-thirds majority of the total authorized vote of the Board is required to recommend an amendment to the JPA.

At the June 25th meeting, the Board discussed the following three options, all of which assume a quorum. Each of these options also assumes that, for any expenditures over \$500,000, the existing requirement for a two-thirds majority vote will remain in place.

1. Option 1: Require a Majority Vote of those Present for Board Action: The number of votes required for this option would depend on which jurisdictions were present (authorized votes). For example, if nine members (a quorum) were present, including Alameda County and Oakland, then there would be 12 votes present, so a majority of those authorized votes present would be seven. However, if the nine members present did not include Alameda County and Oakland, then a majority of the 9 votes present would be 5.
2. Option 2: Require a Two-Thirds Vote of those Present for Board Action: The number of votes required for this option would also depend on which jurisdictions were present (authorized votes). For example, if nine members (a quorum) were present, including Alameda County and Oakland, there would be 12 votes, so two-thirds of the votes present would be eight. However, if the nine members present did not include Alameda County and Oakland, then two-thirds of the nine votes present would be six. If all 17 members were present, two-thirds of those 20 votes present would be 14.
3. Option 3: Require a Simple Majority of 11 Votes for Board Action: For this option, the number of votes required for action would not be affected by which members were present. However, if Alameda County (two votes) and Oakland (three votes) were present, seven other members would need to be present to achieve a quorum, but only 11 of the 12 votes present would be required for action. If Alameda County and Oakland were not present, 11 members would need to be present for 11 votes.

Twelve of the jurisdictions approved Option 3. Counting Oakland's three and Alameda County's two votes, the vote was 15 in favor and four opposed. Those in favor of the amendment include Alameda County, the cities of Berkeley, Dublin, Emeryville, Hayward, Livermore, Newark, Oakland, Pleasanton, San Leandro, and Union City, and the Castro Valley Sanitary District. Those opposed include the cities of Albany, Fremont, Piedmont, and the Oro Loma Sanitary District. Those opposed to the amendment cited concern that some projects could be approved or opposed by five or six members due to the multiple votes from Alameda County and Oakland. Two-thirds of the member agencies must adopt the amended JPA, after which an amendment to the Rules of Procedure would be presented to the Board for conformity with the amended JPA.

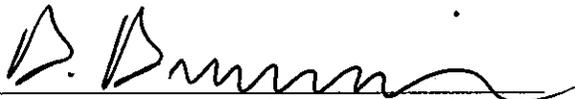
## **FISCAL AND ECONOMIC IMPACT**

There is no known fiscal impact at this time.

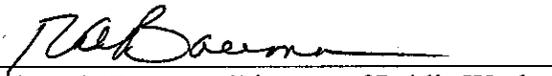
**NEXT STEPS**

Following Council action, staff will complete the Certification of Amendment prepared by the Authority and forward it to the Executive Director, Alameda County Waste Management Authority.

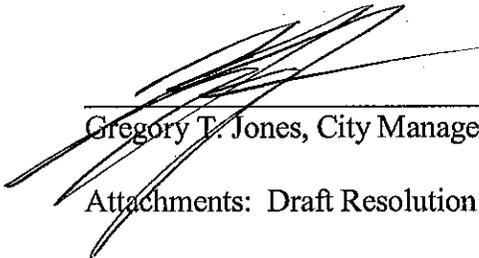
Prepared by:

  
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Alex Ameri, Deputy Director of Public Works

Recommended by:

  
\_\_\_\_\_  
Robert A. Bauman, Director of Public Works

Approved by:

  
\_\_\_\_\_  
Gregory T. Jones, City Manager

Attachments: Draft Resolution



ABSTAIN: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward