

**SANTA FE COUNTY  
SINGLE-USE PLASTICS WORKING GROUP  
Tuesday, July 18, 2023, 5:36 PM  
100 CATRON STREET, SANTA FE, NEW MEXICO**

**I. CALL TO ORDER**

The meeting of the Santa Fe County Single-Use Plastics Working Group was called to order by Sarah Pierpont, Vice Chair, on Tuesday, July 18, 2023 at 5:36 pm, in the Johnson Conference Room, 100 Catron St., Santa Fe, New Mexico.

**II. ROLL CALL**

**MEMBERS PRESENT**

Joseph Eigner  
Gary Stoller  
Karen Sweeney, Vice Chair  
Sara Pierpont, Chair

**MEMBERS ABSENT**

Kim Kelly

**OTHERS PRESENT**

Jacqueline Beam, Sustainability Manager  
Gabriel Bustos, Constituent Services Liaison, D5  
Laura Kaye Jagles, Constituent Services Liaison, D2

**III. APPROVAL OF AGENDA**

**MOTION** A motion was made by Joe Eigner, seconded by Gary Stoller, to approve the agenda as presented.

**VOTE** The motion passed unanimously on a voice vote.

**IV. APPROVAL OF June 27, 2023 MEETING MINUTES**

Approval with corrections to misspellings.

**MOTION** A motion was made by Karen Sweeney, seconded by Joe Eigner, to approve the minutes as amended.

**VOTE** The motion passed unanimously on a voice vote.

## **V. MATTERS FROM THE WORKING GROUP**

### **A. ASSIGNMENTS AND RESEARCH PLANNING**

## **VI. DISCUSSION AND NEXT STEPS**

### **A. Discussing the Draft Ordinance:**

Sarah: Gary sent me definitions. Karen, you had a point regarding consistency. Jacqueline, Legal will correct these changes, correct?

Jacqueline: Yes, they will affirm if what we are even proposing is legal and make necessary changes for us.

Joe: Has the draft been submitted to Legal?

Jacqueline: My supervisor wanted to review it first and make additional corrections. Then my staff will set up a meeting with Legal and the County Manager's Staff.

Karen: We made some misspellings to the proposed ordinance that still haven't been cleaned up, such as "intentional."

Sarah: You had the most thorough review of the draft.

Karen: In retail establishment, should food trucks be included? Should nursing homes and hospitals should be included?

Sarah: They are not commercial businesses, so they should not be included.

Karen: I am having a hard time with this latest draft. Enforcement and effective date of formal written warning. Has it been added?

Jacqueline: I updated the new version.

Karen: Could you put something on the top, such as the date of the most recent draft?

Joe: The first portion needs a citation reference, which Gary sent months ago.

Gary: The numbers are really screwed up. Sarah, I sent you the citation of the new plastics economy report or the World Economic Forum and Report. 1.3 million tons reference is incorrect. It was the Worldwide Wildlife Report. The reference of 1.3 million tons is bogus. This is in the beginning of the first paragraph.

Sarah: Shall we take this part out?

Gary: Yeah, that's what I would suggest. Just my recommendation is to just eliminate 1.3 million tons by 2030 and keep the rest. You know, the important part is that the plastic production will triple by 2050.

Sarah: Okay.

Gary: You know, because I don't know where they got those numbers. I did a lot of research on it enough.

Sarah: I think that's really fair because we don't want to just pull stuff out of the air and not have it properly cited.

Karen: I found my email, so I can speak to it, but in "definitions," the last one is single-use plastic straw, and it says "a" in general. Why does it say A. when there is no B.?

Sarah: Well, that's the stuff we're going to clean up again. That's like the typos you were talking about.

Karen: So, you know, I would really like to see a clean copy of this before it goes.

Sarah: We want to be sure about content, but we will definitely make those changes.

Karen: There's one I don't understand and it's in "prohibitions."

Sarah: Okay, let me go to that part . . . Go ahead. I'm there.

Karen: I don't understand C. It's a violation of this ordinance for any retail establishment to pay or otherwise reimburse a customer.

Sarah: That's from the City of Santa Fe. I don't really understand it either, but it's sort of like, I think their legal counsel added it to avoid any loopholes for stores, basically saying we'll just pay for it for you; you don't have to pay it. We want to make sure when they pass the burden on to the consumers, so the consumers change their behavior. I think that's my understanding.

Jacqueline: A question did come up from my supervisor as well. He felt like there was going to be pushback on that particular item that if stores decide they want to pay, that we shouldn't prohibit that, but, you know, again, that'll be a legal decision.

Sarah: I think the idea is that we want to pass on, you know, we want to make sure the public works to change the behavior with reusables.

Jacqueline: You can also see stores desire to not just let you know, anyway to help in

some way, so that they don't have any complaining from their customers. So yeah, I see both sides.

Karen: Okay, and then beyond that, the next section, the prohibition of subsection (blank of this section number six), I don't understand number six, similar to those exempted by this subsection as determined by the Santa Fe County Commission.

Sarah: It is my understanding it gives the Commission a little bit of a leeway in case someone thinks it's something we didn't think of.

Karen: Oh, okay.

Sarah: How do you see it, Jacqueline? At the legal part?

Jacqueline: Yeah, I think, I mean, no matter what, you're going to have questions about compostable bags. I think you will get pushed around as well. So, just be prepared and this is going to see many different iterations.

Karen: Sure, sure.

Sarah: Okay.

Karen: I think that's all for me.

Sarah: Okay, Jacqueline, what do you think that pushback is going to be for that?

Jacqueline: Well, I didn't have a note for that one in particular, but it did come up that if Reunity accepts certified compostable items, why are we not doing the same thing in this? Or, the other one was number five and the prohibition section. There's no definition of dangerous chemicals, so that came up. We need a definition for what "dangerous" is.

Sarah: Yeah, okay. Basically, everything can be questioned.

Karen: The same with the word "toxic." Any wording could be questioned.

Sarah: Yeah, yeah.

Gary: Anything is going to have a definition of issues.

Karen: But, dangerous seems too general.

Sarah: Should we just take that or how, how can we, how could we reward that?

Gary: I think toxic is better.

Sarah: Toxic is better too. I think that's actually like a definite. Yeah, I like that better.

Jacqueline: And the question around like, definition that came up also in C one C- high liquid content, what's considered high liquid?

Sarah: No, that was put in to make the restaurants happy. I don't really want to define that> I mean, I guess we have to do what? Jacqueline, talk to me about that a little more.

Jacqueline: Well, I mean, if you don't want to define it, our legal department will. They will be the ones to define it. What is considered "high liquid"?

Sarah: So, they really think it has to be defined?

Jacqueline: You are going to want to at least give it some parameters around what that.

Sarah: When the State Legislators wrote their State version of an ordinance, they didn't define it. If a restaurant wanted to pushback, they left room for it to be defined. Because no, but I mean, I agree if we wanted to be really tight.

Sarah: I mean, I think the reason I didn't assign to find it before for the state version was because if a restaurant was going to be really adamantly against this, they could just kind of give themselves a loophole and be like, fine. This is high liquid; this . . . is high liquid; this blah blah . . . , which is high liquid whatever. So, there was . . . that was kind of on purpose, but we could, we could definitely have it defined here when you guys. I mean a really, well written Bill has a million definitions. So, what do you guys think?

Karen: Well, it probably means "To keep it from slurping out of the container," but that doesn't sound very official. Let the Legal Department to define it.

Sarah: Right. I think it's going to be like more than 50 percent water, etc. I don't think we should let the County's Legal Department define it.

Karen: Legal Beagles do it.

Gary: I think someone must have had . . . Did Bernalillo have this in there?

Sarah: No. That was throwing the restaurant association a bone for the state. Okay, do you think that's okay if we just said "if they need to define it, define it." Or, should we just do it?

Jacqueline: I'm totally neutral around this, so I'll just leave you some understanding of

what may be down the road.

Sarah: Thank you, I appreciate that. That's really helpful. Okay, do you want to keep kind of talking it through, Karen?

Karen: Joe tried to explain to me. I still don't quite understand, but it's after "plastic straw." This section does not apply to retail establishments providing food for consumption both outside and offsite, but why does it not apply to them? They shouldn't be assuming this is like Sam's club or something they shouldn't be. . .

Sarah: Karen, tell me. I can't find where you are. Can you tell me which section you're in?

Joe: It's 4. The one I have a problem with is B, but that's been removed.

Karen: It's been removed?

Joe: Yea, on the version I'm looking at.

Sarah: What is your B?

Joe: B said a public, I don't know, "public entities" or something was ill-defined.

Karen: They may provide single use straws, etc. to qualified individuals with disabilities. Why would it be removed?

Joe: I don't know, but I objected to the fact that two concepts were never defined. A place like Sam's Club or many places do not hand out disposable single use items. Okay, they have a rack at the airport, the restaurants there, but have a station which has options like spoons, napkins, condiments, etc.

Karen: No one customer has to ask for them because they're available. The customer picks them up. There's no way for the customer to have to request it that's available. People may take stuff and not use it, but we can't control that. So, that's a reasonable exemption. I think you'll see that in a lot of places.

Sarah: Yeah, and it means the gas stations would be exempt, too. It's reasonable.

I have B on my versions still. We wanted to look into making it ADA compliant. If a person needs a straw, we don't want anyone to be shamed because they need a straw.

Listen to this language: "Public entities may provide single use plastic straws, plastic utensils, and condiment packets to qualified individuals with disabilities."

Joe: What are the qualifications a person with a disability has to show? Focus on the disabled person and her/his need for a straw.

Sarah: Maybe we don't have to deal with it because we say basically, . . .

Joe: Could we say retail establishments providing food for disabled persons may be exempt from this requirement?

Karen: Isn't that what it says? "Retail establishment" is better than "public entity" because we don't have that defined.

Sarah: Yeah, retail establishments. Say that again, Joe, how you worded it.

Joe: "Retail establishments are exempt from this requirement when providing drinks to disabled persons needing straws." This is the change.

Gary: You know, I've only seen this for straws. I haven't seen it for plastic utensils or condiments.

Sarah: We changed it. So now it says number B says or letter B- says the subsection, the provision of subsection blank of this section does not apply to like, we said this self-serve gas stations for number A- and number B, or number B says retail establishments are exempt from this requirement when providing drinks to handicapped persons that need straws. I like that better. I like that better than.

Gary: Better.

Sarah: Having the handicap person have to say, I need.

Joe: Okay.

Laura: Is handicapped right?

Gary: Right, right?

Sarah: Thank you. Okay, right, thank you. Good point Laura. Retail establishments are exempt from this requirement when providing drinks to persons.

Gary: With disabilities.

Sarah: Disabilities, even that sounds bad. Okay, that needs stuff about it though. That means for us. Okay, and I like that better. Thank you, Laura.

Karen: While you are right there, where is #3? There's nothing there. And, it doesn't even follow. It goes through 3 to 4 to . . .

Sarah: I don't see #3.

Karen: You don't?

Joe: In my version, #3 is after #4.

Sarah: Don't worry about the numbers. We'll death with that later. Let's be concerned with the wording. We'll take care of that.

Karen: Regarding "intentionally releasing balloons outdoors:" Just take out "and."

Sarah: Balloons with helium are what we are discussing.

Karen: Helium is the defining factor.

Sarah: Yes.

Karen: What does blue mean? I am confused because I have "pages" and not Word.

Sarah: Blue for you means added language. Gabe, do you think we could take out some language?

Gabe: Language in that section was language from Bernalillo, so the language added is specific to Santa Fe County code. That indicates the nature of the violation, the offending party agrees to remedy the violation and the offending party will have 15 working days to come into compliance. So notice that Notice of Violation is capitalized. That means it's a form and established thing.

Sarah: You have Notice of Violation.

Gabe: It will be a written letter of a violation.

Jacqueline: That'll just be a written letter notifying the property owner of any violation that is there.

Sarah: Quotes the section 14.4 of the SLDC, could you explain that to us?

Gabe: It is the Sustainable Land Development Code.

Sarah: And that already has a fine structure? Is that right?

Gabe: Yes. I wasn't sure if that was something that needed that section to be included in this ordinance.

Sarah: I don't know because is that like a quarter a day per acre? Or, how does that work? Is it still transferable? Is it something that's transferable to what we're doing?

Gabe: That was something I was a little unsure of. I guess it wasn't really clear on what the penalties would be for any retail establishments that are providing someone plastics.

Jacqueline: So, if I could interject, this could come up in my meeting with my supervisor who also had a lot of work with the sustainable land development code. We only have one Hearing Officer who would be qualified for this. We have discussed at length. We do not have the staff to enforce this ordinance. It will be a call with the County Manager with how they will approach Code Enforcement. We really do not have the staff. It will be up to the County Manager Staff and Commissioners.

Sarah: I remember one of our meetings there was someone saying they'll have to hire more or something.

Jacqueline: That would be the County Manager or the Board of County Commissioners that would make that decision.

Sarah: Got it. So, how many Code Enforcement Officers are there for the whole County?

Gabe: We currently have 3 County Enforcement Officers. So, from essentially Edgewood to, you know, northern New Mexico, kind of around Espanola.

Sarah: Okay. I'm totally sorry for my ignorance, but like some of the codes like Land Use?

Jacqueline: It's not business related. So, we really don't have anyone to provide this service.

Sarah: Only one of them would be allowed to do it?

Jacqueline: It's not necessarily one. We just don't have any one officer focused on business licenses, for instance.

Sarah: Okay.

Jacqueline: Or, you know, it needs to be something that's related more to businesses and establishments in retail environments as opposed to construction, right?

Sarah: Was there a recommendation?

Jacqueline: Other than letting the County Manager staff know these are the recommendations from the SUPP.

Sarah: Then we'll just have to move forward.

Jacqueline: Yeah, and that was my biggest fear from the very beginning. So, it's hard when we're coming up with ordinances, and we don't have any teeth or any way to really enforce the ordinance, so that's going to have to be . . . that's above my level, that decision.

Karen: Who is your boss? I mean, in terms of what Department?

Jacqueline: Paul Olafson in Community Development.

Karen: Maybe they do need more code enforcement officers. Joe and I have been around the block on this with Code Enforcement and Recycling, and we know there's no enforcement. I think that's a fundamental problem. Maybe they absolutely need more enforcement officers. Well, I highly recommend it.

Jacqueline: As a part of the presentation, because that's something we haven't gotten to, but we need to, you will need to come up with a presentation right before BCC. Make that clear in your presentation that we need Code Enforcement, but it does need to be related to retail establishments, not construction. You need to request more code enforcement officers. We have a recent position for Environmental Officer position that was approved recently. I don't know if they could staff Code Enforcement because they are focusing on Code Enforcement for environmental issues. We definitely don't have it. I'm down to two people now.

Joe: Currently, the City only responds to complaints.

Jacqueline: You will be dealing with an entirely different culture outside the City. If this gets approved, then it'll be up to the County to figure out how to enforce it, but I can guarantee there will be pushback on this piece. Sorry.

Sarah: You guarantee there might be some pushback around this particular piece?

Karen: Okay, so how do we . . . I think that's important. Let's talk about that. What do we want to do?

Sarah: It might be helpful to have some information in, you know, what we want to have is fines and like, or, you know, how that works after instead of referring to the existing code. What do you guys think?

Karen: Yeah, because there is nothing in here that would tell the business owner what to expect. You know, you would follow a criminal complaint in corporate. What would you be looking at? I guess it's in the SLDC. I think that should be stated because otherwise nobody knows what it is.

Jacqueline: We would have to add an amendment to the SLDC that relates to retail establishments. Right now, there's nothing in there.

Sarah: Saying we would add an amendment to the SLDC. So if we, in our ordinance decide to put in, you know, hundred dollars for this two hundred dollars for that. Would we want to put in the details in there for penalties? And it passes, then it would need to be an amendment to the SLDC that includes those. Is that how that works?

Jacqueline: Right, which is the whole process. I'm sure.

Sarah: Let's look up the code.

Jacqueline: A good example is a short term rental because it's not construction but it is business licensing and other items. There are certain processes and penalties associated with it, and that had to be a section that was amended to the SLDC, so this would be similar to that.

Sarah: Okay. It's doable.

Karen: Doesn't the County have a business license when you open a business?

Jacqueline: That's a Growth Management issue also.

Karen: I wonder if this could be related to that.

Sarah: It's like the State. Let's look up the code.

Jacqueline: That makes the most sense to me. It's again, capacity of staffing, so you have to recommend that they increase their capacity.

Sarah: All right. I'm going to put a note in here. If there's a rule on the books and the County has to enforce it, that's on the County has to enforce it, that's on the County to figure out how to do it, right?

Karen: I agree.

Sarah: Is that right, Jacqueline? It's like the State and the Solid Waste Department. They're suffer short staffed, but I guess what they'll still need to permit the landfills because the landfills are still making garbage.

Jacqueline: Right, right, and it does make sense that you as a recommending body, do recommend where this would sit because you're seeing it from a perspective that is a consistent perspective also and how a business might fit into this process.

Jaqueline: Growth Management has business licensing. We have the SLDC (even if it goes with business licensing as far as the Code Enforcement is concerned); we still need to add an amendment to the SLDC.

Sarah: Okay

Jacqueline: And that can be all part of your recommendation and your presentation.

Sarah: We need to amend the code as needed for it for enforcement as it's defined here.

Karen: And, would that then include a fine schedule? Do people have to know what they could be in for?

**HW: Look up the Santa Fe County SLDC of 2016. (We will have them amend the code.)**

Sarah: Look up the SLDC 2016 and figure out if it works with this existing code or do we need to add more details and amend the code?

Karen: Legal will also help us manage it.

Joe: I think this is fine for a draft and now let Legal and the County Manager determine the rest. If they are not willing to enforce it, write something down. If you cannot afford an enforcement officer, then it won't be enforced. We've focused on banning single-use plastics. If they want an enforcement system, the County can establish it.

Sarah: I agree.

Joe: If you really want to see a tough system, look at Brooklyn. They require a description of chemical content of certain things and it goes on and on. They enforce that clearly and have people going around and visiting businesses. There is no appetite for that type of enforcement here.

Sarah: California has an enforcement of 500 or so in their Solid Waste Department.

Karen: So, Sarah, are we going to pass this on to the County Manager at this point?

Sarah: Well that's what I want to talk about. We don't just pass it on. We have to present it, right, Jacqueline? What are the lists? We should talk about that.

Jacqueline: You have to present it. But, the final version; that's where I have to meet with the County Manager and Legal. So, we will still need to have this in writing with a cleaned up copy. That's been discussed, and then you will want, simultaneously, can be working on your presentation, which is a PowerPoint presentation. I have to set that up for the Board of County Commissioners for the last meeting of August. All of this will happen simultaneously. I will need to put a placeholder in there.

Karen: That will be a public meeting, right? We really have to be ready to defend. If we really don't know what Legal is going to say, we need to be able to defend it.

**Jacqueline: I will get Legal's comments prior to that because you'll be finalizing your presentation.**

Karen: From August 19 to early September, I'm out of town.

Sarah: We could do it on August 8<sup>th</sup> because I'm not town on August.

**Jacqueline: They might be able to move it to September 12th.**

Sarah: Can you find out for sure?

Jacqueline: The presentation is about 10 minutes.

Sarah: I'm not worried about the meeting. I just want to be prepared and do a good job.

Karen: Is a meeting like that likely to have any opposition?

Jacqueline: Yes.

Sarah: We just have to have a lot of people there to support it.

Jacqueline: A decision may not even be made at that time. They could table it for further discussion.

Joe: Why were no regulated businesses consulted or represented in the group?

Sarah: You got answers to that.

Jacqueline: That is why all your research and outreach needs to be available in your

presentation.

**HW Sarah: Put together a one-page fact sheet. Then our presentation could be what is our problem we are addressing, how are we addressing it, and frequently asked questions that might be posed at the BCC.**

Sarah: We also voted to not though. We voted to take some parts of it. It would be done with it.

Jacqueline: The forming of this group was to follow the Resolution. So the resolution that was created in order to form this group. You need to look at that and see what you have you done to achieve those obligations.

Sarah: Oh yeah, yeah. We could definitely. I agree we can look at that and talk about it like point by point because there was education about all those things.

**HW Jacqueline: The group also needs to address how the group fulfilled the obligations set forth in the Resolution. I highly recommend you work backwards from there and hammer out these items and maybe you'll need to have a special meeting. I would need to have everything ready by August 29<sup>th</sup>: Draft Ordinance, Presentation, and I will write the Memo.**

**I will also have the draft ordinance back to you in a couple of weeks.**

Karen: Everyone get their thoughts to Sarah.

**Sarah: My HW: I will fine tooth comb the draft and send it out to everyone.**

**PowerPoint Presentation: What's the Problem** (10-minute presentation): **Sarah** (Please send good information and photos, i.e. Slide 1, etc. Main Points of Information.)

**Bullet Points Addressing the Resolution Itself: Joe Eigner** (See Excel Spreadsheet Olivia put together. Someone will need to print it out for him. GoogleDocs possible)

**Draft Ordinance & Solutions: Sarah**

**Frequently Asked Questions, Responses, & Pushback: Karen and Gary**

Jacqueline: I recommend gathering information on Word then transfer to PowerPoint for consistency. Once you've completed the tasks you've been asked to do, I'm willing to polish it up. Add your history also about the committee, how frequently you met, and what your goals were.

***Next Special Meeting: Thursday, July 27<sup>th</sup> at 2 PM (1 hour 30 minutes) –Pending availability of room.***

Jacqueline: I would like to discuss more questions my supervisor had. What about agricultural business such as a Montessori farm school? They are selling retail, but they are agricultural.

Karen: Why do you say we are not dealing with Farmer's Market?

Sarah: It does include the Farmers' Market and Farm Stand. With Camino de Paz, they are outside their school and selling their cheese. Farm Stands are retail establishments according to our ordinance. We are not dealing with plastic packaging; we are dealing with single-use plastics. The main one that would impact them is the plastic bag.

Jacqueline: The fee goes directly to Sustainability, but it should go to whoever is enforcing the code and a portion will then go to Sustainability. If it's business licensing or other code enforcement issues as well. That money should go to wherever it's housed.

Also keep in mind that you were referring to State or Federal government, so they both supersede the County, so I am not sure how Legal will view what's in the ordinance. It's stated in the ordinance, so we probably need to clean it up.

We initially discussed a tiered enforcement, such as 3 months, 6 months, etc. to give folks time to use what they currently have before they change their practices to soften the blow. That's in section G.

My supervisor wasn't sure Legal will keep the public education portion of the ordinance.

Gary: The Public Education Portion is a separate sheet to education the public to inform them of what they can do.

Jacqueline: The section on Public Education is rare that it would be included in an ordinance, so it may be separated and/or included in the County's policies and procedures.

**VII. MATTERS FROM THE PUBLIC**

None.

**VIII. OTHER BUSINESS**

None.

## **IX. ADJOURNMENT**

Moved by Karen Sweeney, Second by Gary Stoller. There being no further business before the Working Group the meeting adjourned at 7:00 pm.

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Sarah Pierpont, Chair

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Laura Kaye Jagles, Constituent Services Liaison, D2