COUNCIL AGENDA: 01-12-10
ITEM: 2.8

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Lee Price, MMC
City Clerk

SUBJECT: **AB 222 (ADAMS), ENERGY: BIOFUELS**

DATE: 01-06-10

RECOMMENDATION

As recommended by the Rules and Open Government Committee on January 6, 2010 and outlined in the attached memo previously submitted to the Rules and Open Government Committee, adopt a support position for AB 222 (Adams), Energy: Biofuels.

RULES COMMITTEE: 01-6-10
ITEM: D.1a

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: RULES AND OPEN GOVERNMENT COMMITTEE

FROM: John Stufflebean

SUBJECT: **ASSEMBLY BILL 222 (ADAMS), ENERGY: BIOFUELS**

DATE: 12-22-09

Approved

Date 12/17/09

RECOMMENDATION

It is recommended that:

1. The City Council support AB 222 (Adams).

2. The Committee provide a one-week turnaround for Mayor and City Council review.

OUTCOME

The City's support for AB 222 (Adams) would facilitate the adoption of legislation to make renewable energy and diversion credit accessible to facilities that convert waste to energy or biofuels, thus, creating economic incentives for the development of these conversion technologies in California. If the Rules and Open Government Committee and the City Council accept staff's recommendation, the City lobbyist could begin seeking support for AB 222 (Adams).

BACKGROUND

Council adopted the City's Zero Waste Strategic Plan in 2008 as the guiding document for achieving 100 percent waste diversion from our landfills, converting waste to energy (Goal 5 of the Green Vision), reaching 75 percent waste diversion by 2013, and zero waste by 2022 (Zero Waste Resolution). While the City is committed to diverting waste to its highest and best uses through recycling and composting, the City cannot meet its zero waste goals with these strategies alone. Thus, the City must consider greater source reduction efforts at the front end, and innovative technical solutions at the back end.

One such back-end solution is the conversion of organic waste to energy. Conversion technologies use carbon-based waste to produce clean burning fuel to generate electricity or a renewable fuel. These technologies recover more energy than the capture of landfill gas, while

diverting the residual carbon-based waste resulting from recycling and composting processes from landfills.

ANALYSIS

A fact sheet and analysis of AB 222 is attached.

PUBLIC OUTREACH/INTEREST

- ☐ **Criteria 1:** Requires Council action on the use of public funds equal to $1 million or greater. **(Required: Website Posting)**
- ☐ Criteria 2: Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This legislative item does not meet any of the above criteria.

COORDINATION

This memorandum was coordinated with the City Attorney's Office, Intergovernmental Relations Director in the City Manager's Office, and the City's Legislative Representative in Sacramento.

POLICY ALIGNMENT

The attached analysis is consistent with the Council-adopted 2009 Legislative Guiding Principles, and the Council-adopted guidelines.

JOHN STUFFLEBEAN
Director, Environmental Service

For questions please contact Jaqui Guzmán, Management Fellow, at (408) 975-2512.

Attachment

ATTACHMENT

AB 222 (ADAMS), AN ACT TO AMEND THE PUBLIC RESOURCES CODE, RELATING TO ENERGY.

What issue is the bill trying to resolve?
Under the state's Renewable Portfolio Standard (RPS), retail sellers of electricity are required to meet 20 percent of sales from eligible renewable resources. While municipal solid waste (MSW) conversion facilities are considered renewable electricity generation facilities eligible for RPS credit, the current definition of MSW conversion facilities restricts the availability of RPS credit only to those conversion facilities that produce zero air emissions, zero discharges to surface or groundwaters, and zero hazardous wastes. These restrictions, which do not apply to any other eligible renewable electricity generation facility, have hindered the development of conversion facilities in the state because they increase the cost of operating in California compared to other states with fewer restrictions.

At the same time, the California Integrated Waste Management Act requires municipalities to divert 50 percent of solid waste from landfill disposal or "transformation" (usually mass burn waste-to-energy facilities) through source reduction, recycling, and composting activities. While conversion technologies can help municipalities divert MSW that currently cannot be captured through recycling and composting efforts from landfill disposal, this diversion option does not currently qualify as diversion under the Act.

AB 222 (Adams) would level the playing field by allowing conversion facilities (or biorefineries) to obtain RPS renewable energy credit for the carbon-based portion of the MSW they convert to energy. To be eligible, these facilities would be required to meet standard environmental requirements equal to those requirements imposed on other renewable electricity generation facilities. The bill also would allow solid waste going to a conversion facility to count as diversion for purposes of meeting the state's diversion target, but only if the state target increases to more than 50 percent. Thus, this legislation would eliminate the comparative advantage other renewable energy and waste diversion methods currently have over conversion technologies in California.

How would the passage of this bill affect San José?
As part of the City's Zero Waste Goal, San José aims to reach 75 percent waste diversion by 2013 and zero waste by 2022. The City is committed to diverting waste to its highest and best uses through recycling and composting. However, as the City tries to increase the portions of its waste stream that are recycled and composted, the materials become harder to capture and process. Moreover, not all MSW can be recycled and composted. This creates the need to consider source reduction efforts at the front end, and innovative technical solutions at the back end. One such back-end solution is the conversion of organic waste to energy, which staff believes is vital for achieving the City's zero waste goals.
The City is exploring conversion technologies that reduce the volume of hard-to-capture materials and prepare organic waste feedstock for further processing, while recovering energy in the process. By holding these conversion technologies to the same standard as other renewable energy facilities, AB 222 (Adams) will increase the economic incentive for these facilities to

locate in California. This can potentially help San José attract conversion technology vendors that otherwise would locate outside of the state.

Opponents of the legislation worry that the development of conversion technologies may negatively impact recycling and composting as well as thwart source reduction efforts. San José, however, is committed to further developing the recycling market, expanding the City's compositing program, and advocating for greater source reduction through extended producer responsibility, as stipulated in the City's Zero Waste Strategic Plan. Additionally, San José would only consider diverting the residual materials from our recycling and composting systems to conversion facilities. Opponents also resist changing the current zero emission requirements imposed on conversion technologies that seek renewable energy and diversion credit. Staff, on the other hand, feels comfortable holding conversion technology vendors to the same standards as other renewable energy providers and diversion facilities. There is no clear rationale for holding these technologies to higher standards.

The benefits of having clean conversion technologies in San José are many. The development of these facilities in San José could:

- Significantly reduce the volume of processing residuals currently landfilled, helping move the City's diversion rate towards 100 percent diversion.
- Increase the local availability of renewable energy, which could move the City towards its goal of receiving 100 percent of its electrical power from clean renewable sources.
- Further bolster San José's reputation as a hub for green technology innovation.
- Help the City towards its goal of creating 25,000 new green jobs.
- Reduce carbon emissions by reducing or eliminating the need to transport the City's waste outside of the City for processing.

Without the legislation, the state would continue to hold conversion technology vendors to higher standards than other renewable energy providers and diversion facilities, thus, reducing the economic incentive for locating in San José. To the extent that the City cannot effectively employ other strategies for reducing the amount of processing residuals currently being landfilled, it also would hinder the City's ability to achieve its zero waste goals.

What is staff's proposed position?
Staff recommends that the City support AB 222.

Who are the bill's supporters and opponents?
(As reported in the analysis prepared for the July 13, 2009, Senate Committee on Environmental Quality)

<u>Registered Support:</u>
AdaptiveARC
Alternative Resources, Inc.
Balboa Pacific Corporation
Card Construction
Clean Cities Coalition

Clements Environmental
Energy Companies: Pacific Gas and Electric Company, Sempra Energy, and Southern California Edison
Enerkem
Fulcrum BioEnergy, Inc.
Global Energy, Inc.
Government Entities and Associations: California Energy Commission; California State Association of Counties; Cities of Azusa, Bell, Glendale (Public Works Dept.), Hawthorne, Long Beach, Los Angeles, Pico Rivera, San Diego (Environmental Services Dept.), and Vernon; County Sanitation Districts of Los Angeles County; Department of the Navy; League of California Cities; Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force; Los Angeles County Board of Supervisors; Orange County Board of Supervisors; Redwood City Planning Commission; Regional Council of Rural Counties; Sacramento Municipal Utility District; San Bernardino County Board of Supervisors; San Luis Obispo County Integrated Waste Management Authority; Solid Waste Association of North America; Solid Waste Association of Orange County; Yolo County Board of Supervisors
ICM, Inc.
INEOS Bio
Innovative Logistics Solutions, Inc.
International Environmental Solutions
Interstate Waste Technologies
Labor Organizations: California Association of Professional Employees; California State Association of Electrical Workers; Western States Council of Sheet Metal Workers; International Union of Operating Engineers
Long Beach Coalition for a Safe Environment
Miller De Wulf Corporation
New Planet Energy, LLC
North Valley Coalition of Concerned Citizens, Inc.
Phoenix Biomass Energy, Inc.
Remediation Earth, Inc.
San Gabriel Valley Economic Partnership
Sustainable Conservation
Ternion Bio Industries
ThermoChem Recovery International, Inc. (TRI)
Theroux Environmental
Trade Associations: Agricultural Council of California; American Council on Renewable Energy/Biomass Coordinating Council; Biomass Coordinating Council; California Chamber of Commerce; California Farm Bureau Federation; California Manufacturers and Technology Association; California Refuse Recycling Council; California State Pipe Trades Council; Inland Empire Disposal Association; Valley Industry & Commerce Association
UCLA Recycling and Municipal Solid Waste Management Certificate Training Program
Waste Disposal Companies: Athens Services; Blue Line Transfer, Inc.; Commercial Industrial Waste Applications, Inc.; Consolidated Disposal Service; Desert Valley Disposal Services; Marin Sanitary Service, Marin Resource Recovery; Mid State Solid Waste & Recycling;

Palm Springs Disposal Services; Pena's Disposal, Inc.; Rainbow Disposal Co., Inc.; Republic Services, Inc.; Waste to Energy, LLC
2 individuals

Registered Opposition:
American Lung Association
Breathe California
California League of Conservation Voters
California Resource Recovery Association
Californians against Waste
Center for Biological Diversity
Central Valley Air Quality Coalition; Legislative Committee
Clean Water Action
Coalition for Clean Air
Environment California
Environmental Defense Fund
Global Anti-Incinerator Alliance
Government Entities: Alameda County Waste Management Authority and Recycling Board (StopWaste.org); City and County of San Francisco, Department of the Environment
Greenaction
Natural Resources Defense Council
Planning and Conservation League
Sierra Club California

What is the current status of the measure?
AB 222 passed the Assembly on June 1, 2009. It passed the Senate Energy, Utilities, and Communications Committee on July 7th and was referred to Committee on Environmental Quality where it remains. The bill has been converted into a two-year bill and is scheduled to be heard in the Committee on Environmental Quality in May 2010.