



City of Chula Vista

Staff Report

File#: 14-0479, **Item#:** 15.

CONSIDERATION OF ALL WRITTEN PROTESTS AGAINST THE PROPOSED RATE ADJUSTMENTS AND RATE ADJUSTMENT FORMULA FOR GENERAL SERVICE RATES FOR SOLID WASTE SERVICES AND THE MARKET ADJUSTMENT FORMULA FOR LARGE QUANTITY GENERATOR TRASH, RECYCLING AND GREEN WASTE RATES

RESOLUTION NO. 2014-177 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ACCEPTING THE RESULTS OF THE MAJORITY PUBLIC PROTEST PROCESS FOR SOLID WASTE GENERAL SERVICE RATES AND APPROVING THE SOLID WASTE SERVICE RATE ADJUSTMENTS FOR A FIVE YEAR PERIOD, BEGINNING IN 2014, PURSUANT TO THE APPROVED CONTRACT FORMULAS

RECOMMENDED ACTION

Council conduct the public hearing, receive the results of the public protest process, and if written protests have not been submitted for a majority of the parcels, adopt the resolution accepting the results and approving the rate adjustments.

SUMMARY

The purpose of the public hearing is to consider all written protests against the proposed rate adjustments for Solid Waste General Service Rates. All protests must be in writing to the City Clerk, prior to the close of the public hearing, signed by the property owner or customer of record and include a description of the property (address or Assessor Parcel Number). Oral comments at the public hearing will not qualify as formal protests unless accompanied by a written protest as described. If a majority protest is not received, the proposed fees will be implemented.

ENVIRONMENTAL REVIEW

The Development Services Director has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because the proposed action consists of a governmental fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. Therefore, pursuant to Section 15378 (b)(4) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

BOARD/COMMISSION RECOMMENDATION

Not Applicable

DISCUSSION

The City of Chula Vista is renewing the franchise agreement with Republic Services to provide waste hauling services within the City. That agreement sets forth the terms of annual solid waste service rates adjustments tied to the San Diego Area Consumer Price Index (CPI). The rates are scheduled

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to increase annually - July 1, for Large Quantity Generators (commercial and industrial bin service customers) and September 1, for Small Quantity Generators (residential cart service customers).

The new rates are being implemented as a result of the franchise renewal, which includes a change in the formula for the rate adjustment and an adjustment in the governmental fee. Out of an abundance of caution, the City is complying with the Prop 218 majority protest process (California Constitution Article XIID, Section 6). A majority protest exists if written protests against the proposed on behalf of a majority of the identified parcels. If a majority protest is not received, the rates may be implemented.

City staff began the majority hearing process on July 25, 2014.

- July 25, 2014, Public Notices were mailed to 65,998 property owners or customers of record in Chula Vista (see attachment). The Public Notice serves as communication of the annual rate adjustment formula, governmental fee adjustment and market rate adjustment for the solid waste service rates to property owners or customers of record. The notice contained some of the most common service levels projected rates with information on how to access the entire projected rate schedule on the City website www.chulavistaca.gov/clean <<http://www.chulavistaca.gov/clean>>, by emailing EnvironmentalServices@chulavistaca.gov <<mailto:EnvironmentalServices@chulavistaca.gov>>, calling the Environmental Services hotline at (619) 691-5122 or through the City Clerk's office.
- The mailing started a 45 day comment period for property owners to protest the rate adjustment formulas and the adjustment in the governmental fee. All written protests are required to be signed by the property owner or customer of record and describe the property either by address or Assessor's Parcel Number. All written protests must be received by the City Clerk before the close of the majority protest public hearing on September 9, 2014, at 2 pm.
- At the majority hearing City Council will receive final tabulations of the written protests received by the City Clerk. If a majority of the written protests from property owners is not received (32,999 + 1= 33,000), the rate adjustment formula and rate adjustments for the five year period beginning in 2014 shall be approved.

Per the renewed franchise agreement solid waste services rates will adjust as follows:

The annual adjustment amount for General Service Rates does not exceed 100 percent of the increase in the San Diego Area Consumer Price Index (CPI) for all Urban Consumers (all items) published by the U.S. Department of Labor, Bureau of Labor Statistics for the previous twelve-month period (calendar year) for which statistics are available.

$$\text{CPI X 100\%} = \% \text{ of rate adjustment}$$

Notwithstanding the foregoing, at no time shall the Small Quantity Generator Rates (SQG - cart service) exceed ninety percent (90%) of the average for the County of San Diego for the

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same level of service after subtracting any pass-through fees or local subsidies. This limitation is to be applied only to determine whether the Contractor is entitled to the full 100% CPI adjustment on SQG rates, as described above.

Mean County Average Rate X 90% = Maximum rate for SQG

In accompaniment to the above limiting factors on annual rate adjustments, Republic is eligible for a market adjustment of the Large Quantity Generator General Service Rates every four years. Beginning July 1, 2015, the maximum market adjustments applicable to Large Quantity Generator service rates (excluding three yard bin or smaller/once per week service) will be ninety-five percent (95%) of the corresponding mean county average.

Rate adjustments are effective July 1, for Large Quantity Generators (commercial and industrial bin service customers) and September 1, for all Small Quantity Generators (residential cart service customers), annually.

The City Manager or designee annually reviews the rates for compliance with the contractual terms. If the proposed rate adjustments meet the contract conditions, the annual rate adjustments will be implemented upon a 30-day notice to the rate payers.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site specific and consequently, the 500-foot rule found in California Code of Regulations section 18704.2 (a)(1), is not applicable to this decision. Staff is not independently aware, and has not been informed by any Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

LINK TO STRATEGIC GOALS

Performing the public protest process for the solid waste rates supports the City's Operational Excellence and Economic Vitality by ensuring compliance with the California Constitution and promoting good service for competitive prices that are sustainable over the term of the agreement.

CURRENT YEAR FISCAL IMPACT

Impact to the City

If written protests have not been submitted for a majority of the parcels, the City governmental fees (franchise fees) will increase from 10% to 20% of the gross receipts effective November 1, 2014, generating approximately \$1.2 million in additional discretionary General Fund revenues in the first year.

Impact to the Rate Payer

If written protests have not been submitted for a majority of the parcels, the rate payers will see an increase of 12% on their solid waste bills as a result of the renewed franchise agreement. Under the previous agreement, Republic Services paid the City 10% of gross receipts to the City in Franchise Fees. Of this amount, Republic passed through 8% to the customer, and 2% was paid by Republic. The renewed franchise agreement increased the Franchise Fee to 20%, and allows Republic to pass the entire 20% through to the customer. Rate payers will see an increase of 12% on their solid waste

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bills as a result of the renewal, effective November 1, 2014. For Small Quantity Generators (cart customers) this will equate to approximately \$2.00 per month. For Large Quantity Generators (bin customers) this will equate to approximately \$4.25 per month for a three cubic yard bin, serviced one time per week.

ONGOING FISCAL IMPACT

The adjusted governmental fees (franchise fees) at 20% of gross receipts will generate additional discretionary revenues to the City of approximately \$2.1 million annually through the term of the agreement (2023).

In subsequent years the franchise agreement allows for the franchised hauler to adjust the solid waste rates to a maximum of 100% of the Consumer Price Index, annually, with periodic market adjustments and limiting factors.

ATTACHMENTS

Public Notice Mailer

Staff Contact: Lynn France, Environmental Services Program Manager, Public Works Department, ext. 5790