

Agenda Report

June 4, 2012

TO: Honorable Mayor and City Council

FROM: Department of Public Works

SUBJECT: PUBLIC HEARING: AMENDMENT TO THE GENERAL FEE SCHEDULE TO INCREASE REFUSE COLLECTION FEES AND SOLID WASTE FRANCHISE FEE

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the proposed increases to the Refuse Collection Fees and the Solid Waste Franchise Fee are statutorily exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15273 (Rates, Tolls, Fares, and Charges) and State CEQA Guidelines Section 15061(b)(3) (General Rule);
2. Adopt a resolution amending the FY 2013 General Fee Schedule to increase the Refuse Collection Fees and add new fees to become effectively immediately;
3. Adopt a resolution increasing the Solid Waste Franchise Fee per Section 8.61 of the Pasadena Municipal Code (PMC) from the current 19.515 percent to 23.066 percent to become effective immediately;
4. Adopt a resolution authorizing an inflation related pass through type increase to the Refuse Collection Fees, for a period of five years, to the extent of any actual inflation related increase in landfill costs by the Sanitation Districts of Los Angeles County; and
5. Direct the City Attorney to prepare an amendment to Section 8.60.210(E) of the PMC to allow the City Council to waive once per year, the refuse "change out fee" for any customer who downsizes their mixed waste container. Presently, the PMC waives the fee for the month of November; this amendment would also remove the November waiver.

EXECUTIVE SUMMARY:

The Department of Public Works recommends that the City Council amend the rates for the Refuse Collection Fees and the Solid Waste Franchise Fee. Residential refuse fees are subject to the procedural and substantive requirements of voter-approved Proposition 218. On April 16, 2012, the City Council set a public hearing date for June 4, 2012 and approved the initiation of the Proposition 218-required public hearing process to increase residential refuse fees.

On June 21, 2010, the City Council approved the 2010 Integrated Waste Management (IWM) Operations Plan which included six major goals to be achieved over the following two years. One of the goals is to "Ensure ongoing financial stability of the Refuse Fund." To help implement this goal, the City hired a consultant to perform a rate study. The consultant's study determined the refuse rates are not sufficient to recover the costs of providing refuse services and as a result the Refuse Fund is operating with a negative balance. The recommended new rates will enable the Refuse Fund to operate with a positive balance and achieve the City's goal of reducing waste from the landfills. Staff, working closely with the Municipal Services Committee, is also identifying and implementing operational efficiencies to reduce costs, lessen the amount of the increase requested now, and mitigate future increases. Staff also recommends an increase in the Franchise Fee from the existing 19.515 percent to 23.066 percent. The increased revenue will go toward providing services and meeting the goals of the IWM Plan.

Currently the PMC requires the City to charge a service change fee when customers request a change in the type or service level of their solid waste collection, except during the month of November which is Environmental Awareness Month. To incentivize customers to recycle and reduce the amount of mixed waste generation, staff recommends that the PMC be amended to remove the waiver for the month of November and instead waive the fee once per year for customers who downsize their mixed waste container size and/or reduce their number of mixed waste containers.

BACKGROUND:

Residential refuse fees and all property-related fee increases are subject to the procedural and substantive requirements of voter-approved Proposition 218. Proposition 218 requires that for residential refuse fee increases, a written notice must be mailed to the owner or utility account holder of each parcel upon which the fee will be imposed, and a public hearing must be conducted not less than 45 days after mailing the notice.

On April 18, 2012, a notice of public hearing was mailed, advising affected property owners and customers of proposed Residential Refuse Collection Fee increases. To answer questions residents might have about the fee increases, staff developed and posted a fact sheet on the City's website and held two community meetings. The first meeting was held on May 3, 2012 at Jackie Robinson Center and the second on May

10, 2012 at Victory Park Center. Further, the Director of Public Works met with the City Council Field Representatives on April 26, 2012.

On May 7, 2012 commercial haulers were notified that the proposed increase to the Solid Waste Franchise Fee would be considered at the June 4, 2012 City Council meeting. The Department of Public Works held an informational meeting with the commercial haulers on May 16, 2012 to discuss the proposed increase and respond to questions.

Fee Increases

On June 21, 2010, the City Council approved the 2010 IWM Plan. The IWM Plan includes six major goals to be achieved over the following two years. Goal Six of the Plan is to "Ensure ongoing financial stability of the Refuse Fund." To achieve this goal, the Plan proposed the following:

- Establish rates that are equitable for each customer group, encourage recycling and provide for appropriate cash reserve levels.
- Secure City Council and customer approval to allow for adjustments of refuse rates when landfill disposal costs increase.
- Maintain required cash reserves (1/12 of the prior year's operating expenses).

Since the last Refuse Collection Fee increase in 2009, operating costs have increased, due in part to external costs such as landfill expenses and fuel. For example, landfill fees levied by the Sanitation Districts of Los Angeles County, which operates the Scholl Canyon Landfill, increased 9.28 percent (\$4.17 per ton) in February 2010 and 0.39 percent (\$0.19 per ton) in January 2012.

To implement the IWM Plan, staff hired the firm R3 Consulting Group in July 2010 to perform a rate study. The study concluded in early 2011 that current fees do not generate the required funding levels necessary given the operational expenses and capital purchases required for the Refuse Program.

Subsequent to the completion of the rate study, on November 30 and December 1, 2011, windstorms assaulted Pasadena resulting in more than 1,500 downed trees, power outages and more than 50,000 tons of debris littering every City street. Largely as a result of windstorm clean-up, the City experienced a significant increase in the amount of green waste produced (from an estimated 16,900 tons to a projected 64,900 tons collected, or a 284 percent increase) and a correlating increase in associated costs. To ensure that future revenues are sufficient to cover all expenses and that the City continues to meet the goals of the IWM Plan, the cost of this green waste collection is included in the proposed refuse fee increase.

In early 2012, staff initiated an analysis of the refuse expenses to identify ways in which best practices could be implemented as well as changes that would increase efficiencies and reduce on-going expenses. These items can be found in Attachment A.

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Due to the implementation of the efficiencies, staff is recommending rates lower than what the consultant calculated.

The following table shows the proposed rates for the most common residential refuse services. The proposed rates do not exceed 10 percent for the City's three most commonly used services.

| Refuse Collection Fees | Current Rate | Proposed Rate beg 06/05/12 | \$ Change | % Change |
|-------------------------------|---------------------|-----------------------------------|------------------|-----------------|
| 32 Gallon Mixed Waste | \$14.84 | \$16.29 | \$1.45 | 9.77% |
| 60 Gallon Mixed Waste | \$24.08 | \$26.44 | \$2.36 | 9.80% |
| 100 Gallon Mixed Waste | \$37.27 | \$40.99 | \$3.72 | 9.98% |

A complete list of existing and new Refuse Collection Fees to be added to the FY 2013 General Fee Schedule can be found in Attachment B. These include residential rates which are subject to Proposition 218 requirements and were listed in the Notice of Public Hearing, as well as the City's commercial and municipal fees which are not subject to Proposition 218 requirements. On June 4, 2012 the City Council will consider adopting the City's FY 2013 General Fee Schedule. In its current format, none of the Refuse Collection Fees are included. If the City Council approves the recommendations in this report, the Refuse Collection Fees in Attachment B will be added to the FY 2013 General Fee Schedule. All residential fees subject to the Proposition 218 requirements have been shaded in Attachment B. If approved, all Refuse Collection Fees will become effective on June 5, 2012.

Waive Fee for Downsizing Mixed Waste Service Level

Currently the PMC requires the City to charge a service change fee when customers request a change in the type or service level of their solid waste collection, except during the month of November which is Environmental Awareness Month. Staff recommends that the PMC be amended to remove the waiver for the month of November and instead waive the fee once per year for customers who downsize their mixed waste container size and/or reduce their number of mixed waste containers. Any additional downsize changes within the same 12 month period would incur the change out fee. The fee would remain in effect for customers who request a larger mixed waste container or additional containers. This change would incentivize customers to recycle more while reducing their mixed waste.

If the City Council directs the City Attorney to prepare an amendment to the PMC for this purpose, the first reading of the ordinance would be on June 11, 2012 and the second reading on June 18, 2012. The ordinance would become effective on June 19, 2012.

Franchise Fee

On November 3, 1992, the City Council adopted Ordinance 6509 which requires all private haulers collecting solid waste, construction and demolition debris, and recycling within the City of Pasadena to obtain a waste hauling franchise permit. A condition of the franchise requires franchisees to pay the City a monthly franchise fee of 19.515 percent of gross receipts associated with collection, transportation, disposal and recycling services in the City of Pasadena. The Franchise Fee was last increased in April 2009 from 16 percent to the current 19.515 percent.

Staff recommends an increase in the Franchise Fee from the existing 19.515 percent to 23.066 percent. The proposed fee increase reflects increased costs over the last three years. The increased revenue realized will go toward providing services and meeting the goals of the 2010 IWM Plan. Specifically, Goal 3 of the IWM Plan states, "Maximize diversion of waste from landfills and minimize generation of disposable products by collecting 100,000 tons of curbside recycling; 10,000 from City and 90,000 tons from franchisees." If approved, the revised Franchise Fee would become effective on June 5, 2012.

Pass Through of Inflation Related Fee Increases

Finally, in January 2009, Proposition 218 was legislatively clarified (Proposition 218 Omnibus Implementation Act) to allow for the adoption of inflation related pass through type increases for a period of five years. To ensure timely adjustments to refuse rates resulting from any actual inflation related increases in landfill costs by the Sanitation Districts of Los Angeles County, staff seeks the City Council's approval of a resolution authorizing the pass through of any such increases. Such inflation related pass through increases by the Sanitation Districts will be implemented and calculated separate from any other City related increases.

COUNCIL POLICY CONSIDERATION:

The proposed actions are consistent with the City Council's strategic planning goals, "Maintain fiscal responsibility and stability" and "Increase conservation and sustainability."

ENVIRONMENTAL ANALYSIS:

The proposed increase to the Refuse Collection Fees and the Franchise Fee are determined to be statutorily exempt from CEQA per Section 15273 (Rates, Tolls, Fares, and Charges). Under Section 15273, CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of:

1. Meeting operating expenses, including employee wage rates and fringe benefits;
2. Purchasing or leasing supplies, equipment, or materials;

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3. Meeting financial reserve needs and requirements;
4. Obtaining funds for capital projects, necessary to maintain service within existing services areas; or
5. Obtaining funds necessary to maintain such intra-city transfers as are authorized by city charter.

The proposed amendment to the General Fee Schedule is an administrative function that meets requirements 1 and 3 of the statutory exemption as listed above.

Further, the proposed increase to Refuse Collection Fees and the Franchise Fee do not commit the City of Pasadena to a definitive course of action, and no construction activities will be undertaken pursuant to this amendment. Accordingly, this amendment is also exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15061(b)(3); the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

FISCAL IMPACT:

If approved, the increased Refuse Collection Fees are projected to generate \$560,547 and the increased Franchise Fee, an additional \$499,483 in FY 2013. These fees will become effective on June 5, 2012.

This action is needed to bring Refuse Fund revenues back in line with expenses, ensuring a positive fund balance and maintenance of the required cash reserves. The following table shows the Refuse Fund is operating at a deficit in FY 2012.

| | FY 2012 Est Actuals | FY 2013 Proposed | FY 2014 Proposed | FY 2015 Proposed |
|---|--------------------------------|-----------------------------|-----------------------------|-----------------------------|
| Beginning Amount Available for Appropriations | 1,992,137 | (1,847,006) | (628,935) | 124,139 |
| Revenues | 14,193,659 | 15,443,030 | 15,626,414 | 15,884,318 |
| Expenses | 18,032,802 | 14,215,020 | 14,873,339 | 13,905,030 |
| Net Income | (3,839,143) | 1,218,070 | 753,074 | 1,979,288 |
| Ending Amount Available for Appropriations | (1,847,006) | (628,935) | 124,139 | 2,103,427 |

| | | | | |
|--------------------------------------|-----------|-----------|-----------|-----------|
| Operating Reserve Requirement | 1,238,563 | 1,502,733 | 1,184,585 | 1,239,445 |
|--------------------------------------|-----------|-----------|-----------|-----------|

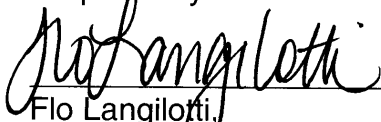
The FY 2013, 2014 and 2015 columns show the fund health with the rate increases of Refuse Collection Fees and the Franchise Fee. The positive ending fund balance reflected beginning in FY 2015 allows the City to meet all Refuse Fund operational obligations and also allows the purchase of capital equipment totaling approximately \$5.3 million over the next five fiscal years with cash rather than issuing debt. Funding for this action will be addressed by an increase in estimated revenues in accounts 7136-406-764120, 7136-406-764130 and 6106-406-764100.

Respectfully submitted,



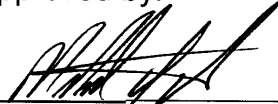
SIOBHAN FOSTER, Director
Department of Public Works

Prepared by:



Flo Langilotti,
Management Analyst V

Approved by:



MICHAEL J. BECK
City Manager

Attachment A – Implemented/Proposed Operational Efficiencies
Attachment B – Refuse Collection Fees in General Fee Schedule

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA
AMENDING THE GENERAL FEE SCHEDULE TO INCREASE THE RESIDENTIAL
REFUSE COLLECTION FEES LEVIED PURSUANT TO SECTION 8.60 OF THE
PASADENA MUNICIPAL CODE**

WHEREAS, on June 10, 2010, the 2010 Integrated Waste Operations Plan ("Plan") was adopted by the City Council which outlined goals for the City's Integrated Waste Management Section and one of the goals was to improve the financial stability of the Refuse Fund; and

WHEREAS, the Sanitation Districts of Los Angeles County, which operate the Scholl Canyon Landfill where Pasadena's refuse is disposed, increased their landfill dumping charges in February 2010 by \$4.17 per ton, which equates to a 9.28 percent increase, and in January 2012 by \$0.19 per ton, which equates to a 0.39 percent increase to the Refuse Fees; and

WHEREAS, the Refuse Fees are subject to the procedural and substantive requirements of Proposition 218 which requires that a written notice be provide to owners of all identified parcels and to the customer list upon which the Refuse Fees will be imposed, and that a public hearing be conducted not less than forty-five (45) days after mailing the written notice; and

WHEREAS, if written protests against an increase in Refuse Fees are presented by a majority of parcels, the City may not impose the proposed Refuse Fees increase; and

WHEREAS, written notice was mailed on or by April 18, 2012 to the owners of the identified parcels and to the customer list on which the proposed increased Refuse Fees will be imposed providing in excess of forty-five (45) days to submit written protests and which explained the basis and amount of the proposed increase; and

WHEREAS, a public hearing was noticed for June 4, 2012, and written protests against the Refuse Fee increase were not presented by a majority of parcels.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Pasadena, that the Refuse Fees shall be increased as outlined in Attachment B - General Fee Schedule, with the increase to take effect immediately upon the adoption of this Resolution.

Adopted at the regular meeting of the City Council on the _____ day of _____, 2012, by the following vote:

AYES:


NOES:

ABSENT:

ABSTAIN:

Mark Jomsky
City Clerk

APPROVED AS TO FORM:

 5/29/12

Nicholas George Rodriguez
Chief Assistant City Attorney

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA TO
INCREASE THE NON-EXCLUSIVE SOLID WASTE FRANCHISE FEE**

WHEREAS, the City Council has approved a non-exclusive Franchise Fee System and established a new fee entitled "Solid Waste Non-Exclusive Franchise Fee" to provide standards and procedures for the granting of non-exclusive franchises for solid waste collection and a mechanism to generate and distribute revenue between the preparation and implementation of an Integrated Waste Management Plan and the repair and maintenance of the City's infrastructure due to operation of heavy duty collection vehicles; and

WHEREAS, the reasons for enacting such a fee are contained in an agenda report dated October 20, 1992, entitled "Franchise Grants for Use of the Public Ways. Establishment of Solid Waste Collection Franchise System"; and

WHEREAS, that portion of the total franchise fee which is a fee for services must be increased to pay for those services, and the revenue generated as a result of that 3.551 percent increase will go directly toward the increased cost of providing those services outlined in the City's 2010 Integrated Waste Management Plan.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PASADENA THAT:

The fee entitled "Solid Waste Non-Exclusive Franchise Fee" is increased from 19.515 percent to 23.066 percent, effective immediately.

Each franchise with a non-exclusive Solid Waste Collection Franchise granted pursuant to Chapter 8.61 of the Pasadena Municipal Code shall pay a franchise fee to the City during the term of such franchise in the following amount: 23.066 percent of any and all gross monthly receipts resulting from the operation of business in the City.

- I. For the purpose of calculation of such franchise fee, "gross monthly receipts" means any and all compensation received by the franchise in connection with collection, transportation, disposing, and/or recycling of solid waste kept, accumulated, or produced in the City plus any and all such compensation received by the franchisee or franchisee's subcontractors in connection with collecting, transporting, disposing, and/or recycling of solid waste produced, kept, or accumulated in the City, with the exception of compensation received from sale of material recovered through recycling.
- II. Each monthly franchise fee payment shall be calculated as 23.066 percent of the gross monthly receipts received in the preceding calendar month. Revenue from the franchise fee

shall be divided as follows: 5.5 percent of the gross monthly receipts shall be paid to the City general fund (to a maximum of \$420,000 annually) and 17.566 percent of the gross monthly receipts shall be placed in a special fund account to be used only for costs stated in Public Revenue Code Section 41901 or any successor provision for preparing, adopting, and implementing an Integrated Waste Management Plan.

ADOPTED at the regular meeting of the City Council on the _____ day of _____, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mark Jomsky
City Clerk

APPROVED AS TO FORM:

 5/29/12

Nicholas George Rodriguez
Chief Assistant City Attorney

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA
APPROVING THE AUTOMATIC ADJUSTMENT OF REFUSE COLLECTION FEES
PURSUANT TO GOVERNMENT CODE SECTION 53756.**

WHEREAS, in January 2009, Proposition 218 was legislatively clarified (Proposition 218 Omnibus Implementation Act) to allow for the adoption of a schedule of fees or charges authorizing adjustments for inflation related increases for a period of five (5) years; and

WHEREAS, the County Sanitation Districts of Los Angeles County notifies the City of any planned inflation related landfill rate adjustments (“Inflation Related Landfill Rate Changes”), and these increased costs are to be passed through to refuse customers; and

WHEREAS, a notice of any adjustment to the Inflation Related Landfill Rate Changes shall be mailed to the address to which the billing statement for refuse services is normally sent at least thirty (30) days prior to the effective date of the adjustment;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Pasadena as follows:

Section 1. The Proposition 218 Omnibus Implementation Act authorizes the City to adjust the Refuse Collection Fees to reflect future Inflation Related Landfill Rate Changes for a period of five (5) years from the date of adoption of the schedule of fees or charges; and

Section 2. During the five (5) year adjustment period, Refuse Collection Fees shall automatically be increased each year by the Inflation Related Landfill Rate Changes; and

Section 3. A notice of any adjustment for Inflation Related Landfill Rate Changes shall be mailed to the address to which the billing statement for refuse services is normally sent at least thirty (30) days prior to the effective date of the adjustment.

Adopted at the regular meeting of the City Council on the _____ day of _____, 2012, by the following vote:

AYES:


NOES:

ABSENT:

ABSTAIN:

Mark Jomsky
City Clerk

APPROVED AS TO FORM:

 5/29/12

Nicholas George Rodriguez
Chief Assistant City Attorney