

Agenda Report

TO: CITY COUNCIL

DATE: February 11, 2008

THROUGH: FINANCE COMMITTEE

FROM: CITY MANAGER

SUBJECT: DIRECT THE CITY ATTORNEY TO PREPARE AMENDMENTS TO CHAPTER 8.61 OF THE PASADENA MUNICIPAL CODE ("SOLID WASTE COLLECTION FRANCHISE SYSTEM") TO REFLECT CHANGES AND DEVELOPMENTS IN THE INDUSTRY

RECOMMENDATION

It is recommended that the City Council approve the proposed changes to the Solid Waste Franchise Ordinance and direct the City Attorney to restructure chapter 8.61 of the Pasadena Municipal Code ("Solid Waste Collection Franchise System") to reflect changes as outlined in the report and return to City Council in 180 days.

ENVIRONMENTAL ADVISORY COMMISSION (EAC)

On November 13, 2007, the EAC reviewed the suggested amendments and directed this onto the Waste Reduction Subcommittee for further review. On December 18, 2007, this document was presented to the subcommittee at which time they agreed with staff's recommendation to require 60% recycling for trash and 75% for construction and demolition debris. They also concurred with a proposal to require franchise haulers to provide the outreach literature. These changes have been incorporated into the recommendation. This item went back to the EAC on January 15th and they concurred with the staff recommendations.

BACKGROUND

On November 3, 1992, the City Council adopted the Solid Waste Collection Franchise System. The ordinance provides standards and procedures for the granting of non-exclusive franchises for solid waste collection and the generation of revenue for 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 by private refuse haulers. The current system grants non-exclusive franchise renewals that permit the haulers to collect, transport, dispose of, and/or recycle solid

waste accumulated or produced by City businesses and multiple-family residential units containing five or more units. All multiple-family residential units containing four or fewer units are handled exclusively by the City. The terms and conditions on franchises include a franchise fee of 16 percent of gross monthly receipts in conformance with generally accepted accounting principles and requirements for reporting collection, disposal, waste reduction, and recycling activities. On November 18, 2002, the City Council amended chapter 8.61 of the Pasadena Municipal Code "Solid Waste Collection Franchise System" adding recycling requirements for the collection of solid waste and related amendments. Also on September 10, 2007, the Solid Waste Franchise Collection ordinance 8.61 was amended to close the system to new applications (Ordinance No. 7110).

Several sections of this chapter need revising in order to make administrative changes that clarify issues and reflect developments in community priorities.

These administrative changes will take City Attorney's office 180 days to prepare before returning to Council with the changes as described below.

The administrative changes include:

- A. Clarify franchise fee calculations by defining "gross receipts."
- B. Establish standards for annual financial audits whenever an audit determines that franchise fees were underpaid by 5% or more. The franchisee shall remit an underpaid fee, in addition to the actual cost of the audit, up to a maximum of five times the amount of the underpaid franchise fees;
- C. Haulers shall submit and maintain a minimum deposit of either \$10,000 or an amount equal to average of three months' worth of franchise fees as the Director of Public Works may determine, whichever amount is higher, to the City to secure any owed fees;
- D. Implement the Green City Action Plan policy that will require franchise haulers to increase the recycling diversion rate from the current 50 percent to 60 percent of the material they collect or be subject to revocation of their franchise agreement. Construction and demolition recycling requirements shall be increased from the existing 50% to 75%. Currently, 76% of the haulers report diversion rates of 60% or higher and 90% of the haulers who haul C&D material are reporting 75% diversion rates or higher. Based on these existing diversion rates, the new higher diversion rates of 60% and 75% are achievable. See Attachment A and B for current diversion percentages per hauler.
- E. Improve emission standards and reduce pollutants by requiring proof from haulers that they are in compliance with the Air Resource Board (ARB) particulate control measure for on-road heavy-duty residential and commercial solid waste collection vehicles. This regulation seeks to reduce public exposure to particulate matter from the exhaust of diesel-fueled heavy-duty residential and commercial solid waste collection vehicles by using best available control technology (BACT), which is defined in the proposed rule to reduce air pollution. The proposed regulation supports the Diesel Risk Reduction Plan, which was adopted by the California Protection Agency Air Resources Board on September 30, 2000;

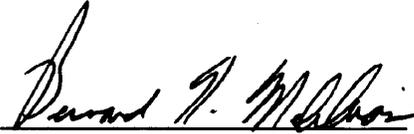
- F. Franchisee shall at intervals of twice per contract year provide to each customer on-call curbside bulky good pick ups of up to four bulky items each time as part of the basic commercial solid waste service at no additional cost. Franchisee shall provide their customers outreach literature regarding bulky items, abandoned items, household hazardous waste, including medical waste, universal waste and electronic waste, no less than twice per year.
- G. Limit third-party tonnage recycling exceptions to 25% per month of total tonnage reported by franchisee with the exception of food waste. Currently there are no limits to the amount of recycling a hauler can claim was picked up by a third party (i.e., scavengers, community groups, recycling centers, etc.) in order to meet the existing 50% diversion rate;
- H. Modify the definition of exempted haulers to include self-hauled waste generated solely from its own operations and using its own equipment, including but not limited to landscape, arborist, roofer or gardener as well as construction and demolition debris. The existing ordinance limits exempt haulers to five tons per month and requires a franchise license for those that haul more than five tons. The Construction and Demolition Ordinance requires all contractors to submit plans for recycling the debris, thus those who self-haul shall still be required to meet the diversion requirements;
- I. Provide the Director of Public Works the ability to act as the enforcement official to issue a compliance order or administrative citation;
- J. Provide the Director of Public Works the authority to impound any unlawful container;
- K. Provide exemption to allow licensed contractors to self-haul inert material as an incidental part of a total construction, remodeling, or demolition service offered by such contractor;
- L. Maintain every trash container and roll-off box clean and painted with the franchise name and telephone number on both sides (front and back) of said equipment;
- M. Provide for the termination or suspension of a non-exclusive franchise for failure to pay all franchise fees for three or more months, receive three or more noncompliance notices and/or receive three or more collection notices within the contract year;
- N. Provide the Director of Public Works the authority to temporarily suspend a franchise for failure to submit reports or payments more than three times within the contract year.

The proposed changes were discussed with franchise haulers at a meeting held on September 6, 2007, and many of their comments have been incorporated into these recommendations.

FISCAL IMPACT

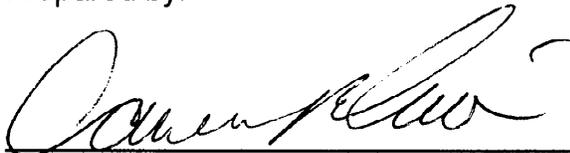
Approving the preparation of an amendment to Chapter 8.61 of the Pasadena Municipal Code will add defined guidelines, and franchisees will have a better understanding of the franchise ordinance requirements. As a result there will be limited fiscal impact due to enforcement of the proposed changes.

Respectfully submitted,



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Approved by:



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