

Agenda Report

TO: CITY COUNCIL

December 4, 2000

FROM: CITY MANAGER

SUBJECT: Suspension/termination of Non-exclusive Solid Waste Franchises for Failure to Comply with Recycling Provisions

RECOMMENDATION

It is recommended that City Council hold a public hearing on February 5, 2001, at 8:00 p.m. to consider termination of non-exclusive solid waste franchise agreements with all refuse companies that have not submitted a recycling action plan by December 31, 2000, and are thus failing to comply with Sections 5.2 and 5.4 of the Franchise Agreement and Pasadena Municipal Code Section 8.61.170.B.

BACKGROUND

On November 3, 1992, City Council adopted the solid waste collection franchise system. The purpose of that ordinance was to provide standards and procedures for granting non-exclusive franchise agreements for solid waste collection. In January of 1993, City Council Resolution #6851 resolved that any person or entity operating a solid waste franchise in the city must ensure that recycling services are provided to their customers in multi-family and commercial buildings. It also required them to use best efforts to divert from the landfill 25 percent of the refuse collected by 1995 and 50 percent by the year 2000. Furthermore, the existing franchise agreement approved by City Council in April of 1999 states that "franchisee(s) shall be required to ensure that recycling services are made available for all of its customers" for all materials either directly or by arrangement with another franchisee and shall be collected at least a minimum of once a month.

In October 1999, each City approved franchised hauler was sent a letter (attached), requesting copies of all educational and informational literature distributed to customers as required by the franchise agreement. Haulers were also reminded that their franchise agreement requires them to use best efforts to divert 50 percent of the total volume of solid waste collected in the City from the landfill by 2000 to assist the City in meeting its AB939 mandated 50 percent diversion goal. Only American Waste, Athens, Burrtec Waste Industries, Excell Waste Services and Recycling, Klistoff & Sons Disposal, Valley Vista Service, and Ware Disposal submitted the requested information. This represents 8 percent of all the franchise haulers. Since the initial request, staff has been in contact with the franchise haulers on a one-on-one basis in order to ensure that they understood the requirement to provide recycling information to their customers. The lack of information being provided by the haulers to their customers and the multiple calls received by the City has led staff to determine which franchise haulers are not acting in good faith.

On August 3, 2000, Public Works staff sent a letter to each franchisee requesting a specific plan of action outlining what efforts they proposed or were undertaking to provide recycling service to all their customers as well as how they were to reach the 50 percent diversion mandate. They were informed that this plan was to be submitted to the City by September 1, 2000, or their franchise agreement could be terminated or suspended. Only 53 percent of the haulers submitted the requested plan of action.

A follow-up meeting with all 46 franchised haulers was held on November 30, 2000, to discuss compliance with the City Ordinance, resolutions, and franchise agreements. In this meeting, staff conducted a detailed review of 5.2 and 5.4 of the franchise agreement and 8.61.170.B of the Municipal Code in terms of the standards set for providing recycling to every multi-family and commercial customer and also diverting 50 percent of the materials collected.

At this meeting, franchised haulers were also notified that those companies that do not submit a recycling plan of action by December 31, 2000, will receive a letter of intent to terminate the franchise. Staff recommends that the terminations then be reviewed at a public hearing of the City Council on February 5, 2001. Those companies that do submit a recycling plan of action but fail to fully implement that plan or meet the expected goals by July 1, 2001, will be recommended for suspension or termination to City Council in August 2001.

Staff will continue to track franchised haulers to assure compliance with the municipal code and the requirements of the franchise agreements. Staff will review the recycling plan of action individually with each company, work with them to establish timelines for implementation, and follow up with their customers to make sure recycling services are

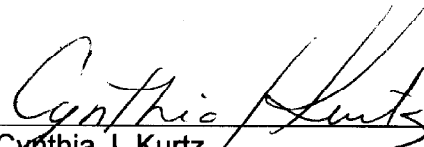
available and that education and outreach is being provided. Enforcement of the franchise agreements will be fair but strict.

Although it is staff's expectation that Pasadena can reach the 50 percent mandate primarily with increased recycling at single-family residences participating in the Pay-As-You-Throw curbside recycling program, it is also important to require franchisees and their customers to share the responsibility for participating in reaching that goal. This proposal attempts to change the disposal behaviors of those firms holding a franchise agreement and servicing multi-family residents and commercial businesses in Pasadena to assist the City of Pasadena in meeting the State mandated AB939 goals.

FISCAL IMPACT

There are no anticipated fiscal impacts as a result of this recommendation. Since franchise fees are calculated on monthly gross customer receipts, the fees will be passed on to the remaining franchise haulers, not affecting the revenue stream.

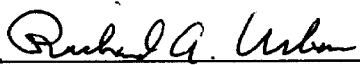
Respectfully submitted,


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