



COUNCIL AGENDA: 03-27-07

ITEM: 2.12

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** WASTE TIRE  
ENFORCEMENT GRANT

**DATE:** March 23, 2007

Approved

*Deanna Palma*

Date

*3/23/07*

**COUNCIL DISTRICT:** Citywide

## REASON FOR ADDENDUM

To clarify Council action that was taken on March 13, 2007 related to the Waste Tire Enforcement Grant. In order to execute the grant agreement, the City Council needs to add this item under Orders of the Day under the following exceptions to the 10-day memo distribution rule:

- Grant application memos where the Administration needs Council authority to submit applications and grant deadlines do not allow conformance with the 10 day requirement;
- Items where Council action is required to satisfy legal deadline.

On March 13, 2007, the City Council adopted Resolution No. 73684 to authorize the City Manager to execute a grant for a Waste Tire Enforcement Program. The California Integrated Waste Management Board (CIWMB) advised that Resolution No. 73684 should reflect the fiscal year in which the CIWMB awarded the grant, which is FY 2006-2007 instead of the year the City would use the grant, FY 2007-2008. In addition, the person signing the City's application should be the same person authorized by the City to execute the grant and all subsequent documents. CIWMB requested that the City adopt a new resolution reflecting these changes and indicated that such changes were necessary to execute the grant.

## RECOMMENDATION

Adoption of a new resolution authorizing the City Manager or a designee to execute, upon receipt, a grant agreement with the California Integrated Waste Management Board (CIWMB) for a waste tire enforcement program, of approximately \$230,670 for FY 2006-2007 and authorizing the City Manager or a designee to apply for, and execute upon receipt, a grant agreement with the CIWMB for the subsequent four fiscal years, FY 2007-2008 through FY 2010-2011.

## **OUTCOME**

If the City receives funding from the CIWMB to establish a waste tire enforcement program, the City would establish a program to (1) perform initial and follow-up inspections for haulers, waste tire facilities, and waste tire generators such as tire dealers and auto dismantlers, (2) identify illegal waste tire dumping sites, and (3) refer non-complying businesses to the CIWMB.

This recommended action is being brought to Council within less than the regular ten (10) days notice because the adoption of a new resolution is a legally required action in order to execute the grant.

## **BACKGROUND**

As stated above, on March 13, 2007, the City Council adopted Resolution No. 73684 to authorize the City Manager to execute a grant for a Waste Tire Enforcement Program. The California Integrated Waste Management Board (CIWMB) advised that Resolution No. 73684 should reflect the fiscal year in which the CIWMB awarded the grant, which is FY 2006-2007 instead of the year the City would use the grant, FY 2007-2008. In addition, the person signing the City's application should be the same person authorized by the City to execute the grant and all subsequent documents. CIWMB requested that the City adopt a new resolution reflecting these changes and indicated that such changes were necessary to execute the grant.

## **ANALYSIS**

This is to provide the opportunity to replace the previously adopted Council Resolution No. 73684 to meet the State Requirements. A memorandum from Planning, Building, and Code Enforcement, dated February 21, 2007, explains the purpose and scope of the program. (Attachment A)

## **POLICY ALTERNATIVES**

### ***Alternative: Do not seek grant funding from State***

**Pros:** The State CIWMB would continue to be responsible for inspection of all waste tire facilities within the jurisdiction of the City of San Jose.

**Cons:** Loss of local control and opportunity to add Environmental Inspector at no cost to the General Fund. Waste Tire fees collected by the State in San Jose would not provide direct local benefit.

**Reason for not recommending:** Does not promote local control and alternative funding opportunity.

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**PUBLIC OUTREACH/INTEREST**

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
- 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.
- 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.

This report does not meet any of the Public Outreach Criteria above.

**COORDINATION**

This memorandum has been coordinated with the City Attorney's Office, City Manager's Office and the CIWMB.

**COST SUMMARY/IMPLICATIONS**

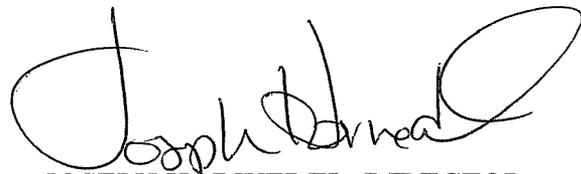
The Waste Tire Enforcement Grant will cover the cost of the Waste Tire Enforcement Program. The Waste Tire Enforcement Program is anticipated to be 100% cost recoverable with no General Fund impact.

**BUDGET REFERENCE**

The Waste Tire Enforcement Program is currently not identified in the budget.

**CEQA**

Exempt, File No. PP07-023.



JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

For questions, please contact Michael Hannon, Deputy Director, at 277-4703.

COUNCIL AGENDA: 03-13-07  
ITEM: 2.12



## Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** WASTE TIRE  
ENFORCEMENT GRANT

**DATE:** February 21, 2007

Approved

*Kay Wmner*

Date

*2/28/07*

**COUNCIL DISTRICT:** Citywide

### RECOMMENDATION

Adoption of a resolution authorizing the City Manager to execute, upon receipt, a grant agreement with the California Integrated Waste Management Board (CIWMB) for a waste tire enforcement program, in the amount of \$230,670 for FY 2007-2008 and authorizing the City Manager to apply for, and execute upon receipt, a grant agreement with the CIWMB for the subsequent four fiscal years, FY 2008-2009 through FY 2011-2012.

### OUTCOME

If the City receives funding from the CIWMB to establish a waste tire enforcement program, the City would establish a program to (1) perform initial and follow-up inspections for haulers, waste tire facilities, and waste tire generators such as tire dealers and auto dismantlers, (2) identify illegal waste tire dumping sites, and (3) refer non-complying businesses to the CIWMB.

### BACKGROUND

California is faced with the challenge of diverting or safely managing more than 40 million reusable and waste tires generated in the state each year. California has millions of waste tires stockpiled or illegally dumped. The stockpiles pose potential threats to the environment and public health and safety, particularly when they are improperly maintained or catch fire. Tire fires result in negative environmental effects, including toxic smoke and residues, and contaminated air, water, and soil. Additionally, tire piles can be the source of mosquito-borne diseases such as the West Nile Virus.

From 1998 through 2003, the state experienced devastating waste tire fires costing approximately thirty million dollars in environmental clean up. In order to mitigate against future disasters, the CIWMB administers waste tire programs, adopts technical standards to protect public health and safety, permits waste tire facilities, and adopts technical standards for solid waste facilities, which handle tires for storage and disposal.

Under state law, the CIWMB can designate a city as the enforcement authority for regulations relating to the storage of waste tires and used tires. If the CIWMB does designate a city for this purpose, the CIWMB is to provide sufficient, stable, and noncompetitive funding to the city for this purpose based on available resources as provided in the CIWMB's five-year plan. In May 2005, the CIWMB adopted the Five Year Plan for the Waste Tire Recycling Management Program, which established the program's goals and priorities. The program is funded through a fee on new tires sold in California. The CIWMB has allocated six million dollars (\$6,000,000) for FY 2006-2007, which would fund a waste tire enforcement program for up to three hundred thousand dollars (\$300,000) per jurisdiction annually.

During the most recent grant cycle, which ended in December 1, 2006, the Department of Planning, Building, and Code Enforcement applied for funds to establish a waste tire enforcement program. The City applied for the maximum amount of \$300,000 and the CIWMB recommended \$230,670. The funding would pay for personnel and equipment costs (i.e. surveillance equipment, and computers) associated with carrying out a local waste tire inspection and surveillance program. The resolution is due to the CIWMB by close of business on April 1, 2007. The grant agreements are tentatively scheduled to be executed during May/June 2007. The grant term ends on June 30, 2008. Although the grant is ongoing, an application is required annually.

### ANALYSIS

The City of San Jose does not currently have a program or funding source to regulate the storage of waste tires and used tires. In accepting this grant, the City will obtain funding to begin the inspection, enforcement and surveillance of these facilities on behalf of the state. Pursuant to the CIWMB applicant eligibility requirements, the applicant must have 50 or more waste tire sites in its jurisdiction and must fall into one of the following categories:

- 1) A Local Enforcement Agency (LEA)
- 2) An Environmental Health Agency
- 3) Code Enforcement Agency
- 4) A Grandfathered Existing Waste Tire Enforcement Grantee

If the City were to execute a grant agreement with CIWMB, the City would be required to (1) identify illegal waste tire piles, (2) inspect tire facilities, points of tire generation, haulers, and end-use facilities, (3) investigate referrals and complaints, (4) examine waste tire hauler registration and manifest documents, (5) provide training to waste tire facilities, generators, and haulers, and (6) provide Quarterly Reports and maintain a database of inspections and inspection results.

The City would be required to enforce all applicable laws and regulations, including storage standards, and use of registered tire haulers and the manifest system. The City may issue a Notice of Violation (NOV) to violators, where appropriate. The CIWMB would be responsible for enforcement action after the NOV stage, which may include an action for administrative penalties, revocation or denial of waste tire facility permits or waste tire hauler registration, and/or referrals to the Attorney General or District Attorney for civil and criminal actions. The

City would be required to include in the referrals a chronology of the enforcement history, statement of facts, photographs and inspection documentation. Once a facility has been referred to the CIWMB, all City inspections would be coordinated through the CIWMB until that facility is in compliance.

The CIWMB may also refer inspections, investigations, or other enforcement related activities to the City. The City would be required to conduct the requested activity within 30 days of receiving the referral. The CIWMB referrals may include, but are not limited to (1) inspecting a facility, hauler, business or location of an alleged violation as a result of a further enforcement action or in order to investigate public complaints; (2) conducting aerial (using aerial photographs/programs) or ground surveillance including check points; (3) following-up and/or investigating aerial survey data; and (4) providing further education of the waste tire laws and regulations to the regulated businesses.

### **POLICY ALTERNATIVES**

*Alternative: Do not seek grant funding from State*

**Pros:** The State CIWMB would continue to be responsible for inspection of all waste tire facilities within the jurisdiction of the City of San Jose.

**Cons:** Loss of local control and opportunity to add Environmental Inspector at no cost to the General Fund. Waste Tire fees collected by the State in San Jose would not provide direct local benefit.

**Reason for not recommending:** Does not promote local control and alternative funding opportunity.

### **PUBLIC OUTREACH/INTEREST**

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### **COORDINATION**

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HONORABLE MAYOR AND CITY COUNCIL  
February 21, 2007  
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**COST SUMMARY/IMPLICATIONS**

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**BUDGET REFERENCE**

The Waste Tire Enforcement Program is currently not identified in the budget.

**CEQA**

Exempt, File No. PP07-023.

A handwritten signature in black ink, appearing to read "Joseph Horwedel", is written over a large, faint circular watermark or stamp.

JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

For questions, please contact Michael Hannon, Deputy Director, at 277-4703.