



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Stufflebean
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: 09-27-10

Approved

Date

10/1/10

COUNCIL DISTRICT: N/A

SUBJECT: AMENDMENT OF SOLID WASTE FEES

RECOMMENDATION

It is recommended that City Council adopt the following resolutions to:

1. Amend the 2010-2011 Schedule of Fees and Charges (Resolution No. 72737, as amended) to clarify the City's existing Landfill AB939 Fee; and
2. Amend the Franchise Fee Resolution No. 74907 to establish a franchise fee for franchises issued based on geographic collection districts.

OUTCOME

Approval of the recommendation will ensure that the City has the necessary authority to collect existing fees and maintain current fee revenues. There will be no change to the revenue generated from these fees as a result of this recommendation in 2010-2011.

BACKGROUND

Commercial Solid Waste Franchise Fee

The City currently issues franchises for the collection of mixed recyclables, organics and garbage from the commercial sector. The commercial sector includes all commercial, industrial, and institutional waste generators. Franchised haulers pay Commercial Solid Waste Franchise Fees to the City based on the volume of garbage collected for the privilege of using the public street in connection with the business of collecting and transporting the commercial solid waste. The City received approximately \$10 million in revenue to the General Fund in 2009-2010 from franchise fees. On March 24, 2009, City Council directed staff to develop a Request for Proposals to solicit and award franchises for commercial solid waste and recycling material

collection in each of two service districts. Recognizing that under the current Commercial Solid Waste Franchise Fee structure, declining garbage volumes result in reduced revenue for the City, the Administration included an alternative funding structure in the Request for Proposals issued on April 16, 2010. The new fee structure includes a Commercial Solid Waste Franchise fee of \$5 million per year for a franchise issued based on geographic collection districts. Service based upon these franchises is expected to begin in summer 2012.

Landfill AB939 Fee

The California Integrated Waste Management Act of 1989 (AB939) authorizes local jurisdictions to impose fees on solid waste handling and disposal to recover the costs of implementing and administering source reduction and recycling programs. This includes implementing portions of the City's Source Reduction and Recycling Element and Household Hazardous Waste Element, which are components of the Santa Clara County Integrated Waste Management Plan. The City established the Disposal Facility Operator Integrated Waste Management Fee in 1991 (Landfill AB939 Fee). The City collected this fee before executing an agreement in 1992 with the County of Santa Clara to share revenue from this fee for program implementation.

The County currently collects a Countywide AB939 Implementation Fee on behalf of all jurisdictions within the County. The Countywide AB939 Implementation Fee is currently \$4.10 per ton of disposed waste. Pursuant to agreement, \$1.50 per ton of the fee is distributed to the cities and unincorporated County area for activities related to recycling, and \$2.60 is used by the County and participating jurisdictions for Household Hazardous Waste (HHW) programs. To comply with state law and local needs, the County of Santa Clara and fourteen cities cooperated in the creation of the HHW Program. Since 1992, all cities except for the City of Palo Alto have contracted with the County to provide HHW services through an Agency Agreement for Countywide Household Hazardous Waste Collection Program. The HHW Program provides the only legal means for residents to dispose of most of these types of wastes. The County administers all operational aspects of the HHW Program and is responsible for recycling and waste disposal. The Countywide Program also provides drop-off service for small businesses on a cost-recovery basis and is far less expensive than if businesses were required to contract out for their service. Distribution of the County fee and allocation of HHW services is based on each jurisdiction's share of the disposed waste.

ANALYSIS

To provide the City the necessary authority to maintain the current revenues from existing solid waste fees, staff recommends amending 2010-2011 Schedule of Fees and Charges and Franchise Fee Resolution.

In order to be able to assess the Commercial Solid Waste Franchise Fee at \$5 million annually for any franchise issued based on geographic collection districts starting in 2012, the existing Franchise Fee resolution must be modified. The franchise fees based on geographic collection districts may be adjusted annually using a methodology based on indices published by the

Bureau of Labor Statistics that reflect changes in costs for labor, fuel, vehicle, and other expenses. The fees for franchises that are not based on geographic districts will remain in effect.

Revenue from the Countywide AB939 Implementation Fee has been declining in recent years, in part due to the decline in business activity, especially construction. While significant long-term declines are certain as the City and other jurisdictions implement new diversion programs to achieve Zero Waste goals, the City will continue to incur costs associated with the programs, including the cost of additional household hazardous waste service at the City's new facility. The proposed amendment to the Schedule of Fees and Charges would clarify that the City continues to have the authority to collect the Landfill AB939 fee if and when the City does not participate in the Countywide agreement and irrespective of whether the County continues to collect on behalf of other jurisdictions.

EVALUATION AND FOLLOW-UP

Evaluation and follow-up will take place through the regular annual budget development process.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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. **(Required: E-mail and Website Posting)**
- Criterion 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. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item does not meet any of the above criteria.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, and the Finance Department.

FISCAL/POLICY ALIGNMENT

There are no cost implications to the General Fund or the Integrated Waste Management Fund as a result of this action in 2010-2011. This recommendation meets the general principles of the 2010-2011 Mayor's June Budget Message of providing essential public services while valuing financial sustainability and cost recovery.

COST SUMMARY/IMPLICATIONS

There are no cost implications as a result of this action.

BUDGET REFERENCE

N/A

CEQA

Statutorily Exempt, File No. PP10-067 (a), CEQA Guidelines Section 15273, Rates Tolls, Fares, and Charges.

/s/

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For questions please contact Jo Zientek, Deputy Director, Environmental Services Department, at (408) 535-8557.