



Legislation Text

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Report to Mayor and City Council

Tuesday, August 02, 2016

Special Orders of the Day

SUBJECT:

**PUBLIC HEARING TO CONSIDER A REQUEST TO INCREASE THE INTEGRATED
COMMERCIAL WASTE MANAGEMENT SERVICES RATE BY 6.29% (CITY COUNCIL)**

I. SUMMARY

One of the City's commercial waste haulers is USA Waste of California, Inc., dba Waste Management of Los Angeles (WM). WM submitted a rate adjustment for 22.25% for the commercial waste management services for FY 2016/17. The 6.29% adjustment reflects a rate change that is dramatically lower than what was originally proposed by WM, and was negotiated down per Council direction to better tailor the rates to reflect only inflationary and service cost increases.

II. RECOMMENDATION

TAKE the following actions:

1. OPEN the Public Hearing, TAKE public testimony, ACCEPT any additional written protests, CLOSE the Public Hearing and the Mayor shall ask the City Clerk to provide a count of all protests received.
2. CONSIDER AND DISCUSS the 6.29% increase to the FY16/17 integrated commercial waste management services rate proposed by Waste Management.

III. ALTERNATIVES

1. APPROVE the increase of 6.29% for the FY16/17 commercial integrated waste management services rate following the majority protest hearing.

WAIVE further reading and ADOPT Resolution No. 16-097, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA TO CONSIDER AND APPROVE A COMMERCIAL WASTE MANAGEMENT SERVICES RATE ADJUSTMENT FOLLOWING NOTICED MAJORITY PROTEST HEARING". (Exhibit No. 1)

2. DO NOT APPROVE the increase of 6.29% for the FY16/17 commercial integrated waste management services rate.
3. TAKE another action that the City Council deems appropriate and consistent with the requirements of the law.

IV. BACKGROUND

History and Negotiations

On July 15, 2003, the City and WM entered into an Integrated Commercial Waste Management Services agreement, "Franchise Agreement" for the collection of solid waste, which includes recyclable materials, construction and demolition debris, special waste and green waste.

In 2010, WM paid a \$2,000,000 franchise extension fee, and on July 20, 2010, the City and WM executed the First Amendment to the Integrated Commercial Waste Management Services agreement, extending the contract to 2018 with five additional one year extensions.

According to the Franchise Agreement with the City, WM is entitled to submit data for a rate adjustment each year in April to be applied and effective in July of the same year. All proposed rate adjustments are considered for approval by the City.

On March 31, 2016, WM submitted a request for a 22.25% rate adjustment for commercial integrated waste management services. (Exhibit No. 2)

Under the direction of Council, the proposed rates were negotiated down dramatically from those originally proposed by WM in order to better tailor the rates to reflect only inflationary and service cost increases. On May 6, 2016, WM submitted a revised request for a 6.29% rate adjustment for commercial waste hauling services (Exhibit 3).

Section 6.3 of the Franchise Agreement states that future adjustments shall be adjusted to changes in the CPI for "All Urban Consumers, for the Los Angeles-Anaheim-Riverside Area, as published by the United States Department of Labor, Bureau of Labor Statistics" (Exhibit No. 4). The annual CPI for 2014 was 242.434 and the annual CPI for 2015 is 244.632 which results in a .91% increase in CPI (Exhibit No. 5).

Furthermore, Section 6.6 of the First Amendment to the Franchise Agreement, "Disposal Price Adjustment", indicates that WM be compensated for the average tipping fee per ton charged by the Los Angeles County Landfill/Materials recovery Facility at Puente Hills and Downey Area Recycling & Transfer Facility (DART) in Downey (Exhibit No. 6).

The .91% CPI adjustment and the 5.38% disposal adjustment equates to an overall increase of 6.29% to all commercial rates. The new proposed rate for one 3 cubic yard bin container to be serviced one time per week would be \$172.91 per month.

The rate adjustment must comply with Proposition 218.

Protest Hearing Process

California Constitution Article XIID, § 2 (“Proposition 218”) defines “fee” or “charge” as “including a user fee or charge for a property related service.” It is fairly settled that waste hauling qualifies as a property-related service; thus the rates for waste hauling are subject to Proposition 218. Proposition 218 requires mailed notices to ratepayers of new or increased property-related fees and creates a means for ratepayers to reject such fees via a “majority protest” at a public hearing. The Proposition 218 majority protest procedures to impose or increase a “fee or charge” are as follows:

- Identify the parcels upon which a fee or charge is proposed for imposition.
- Calculate the amount of the fee proposed to be imposed on each parcel.
- Provide written notice by mail to the “record owner of each identified parcel.”
- Conduct a public hearing on the proposed fee not less than 45 days after the mailing.
- Consider “all protests against the proposed fee or charge.”
- If written protests against the fee are presented by a “majority of owners of the identified parcels,” the fee cannot be imposed.

The City mailed notices of public hearing/majority protest out to commercial ratepayers in WM’s service areas on June 8, 2016, which is more than 45-days prior to the public hearing now pending before the Council. These notices presented the calculated rates proposed for each parcel, noticed tonight’s public hearing, and provided detailed instructions for the submission of written protests.

Only one written protest per parcel in WM’s service area will be counted. Protests to the proposed refuse rates must be submitted in writing. Written protests must be received prior to the close of the public hearing. Any written protests received following the close of the public hearing will not be counted. Written protests by electronic mail (e-mail) will not be accepted.

The Mayor shall ask the City Clerk to provide a count of all protests received following the close of public hearing. If written protests against the proposed rates are presented by a “majority of owners of the identified parcels,” the rates cannot be imposed.

Agreement and CMC Requirements

On June 8, 2016, 1,095 Notices of Public Hearing regarding the rate adjustment to the commercial integrated waste management services were mailed by the United States Postal Services (Exhibit 7).

In accordance with the Carson Municipal Code (CMC) Section 5229 of Article V, Chapter 2-Collection of Charges, "Every commercial/industrial collector shall be solely responsible for collecting the charges for such collector's services for providing commercial/industrial collections pursuant to this Chapter, and the City shall have no liability or responsibility therefore" (Exhibit 8).

Currently an extensive rate study is being conducted by a consultant. Details will be available later in the calendar year, however, staff performed a cursory survey to assess the commercial refuse rates for a standard 3 cubic yard bin, serviced one time a week. Following are the results:

Local Jurisdiction	Hauler	Commercial Rate (once a week pick-up)	3 cubic yard commercial bin per week
City of Lawndale	<i>Consolidated Disposal Service, Republic Services Company</i>	Yes	\$102.17
City of Inglewood	<i>Consolidated Disposal Service, Republic Services Company</i>	Yes	\$165.36
City of Redondo Beach	<i>Athens Services</i>	Yes	\$95.23
City of Carson (Proposed)	<i>Waste Management</i>	Yes	\$172.91

V. FISCAL IMPACT

The Integrated Commercial / Industrial Waste Management Services adjustment will result in a minor increase in City Franchise Fees.

VI. EXHIBITS

1. Resolution No. 16-098, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, TO CONSIDER AND APPROVE A COMMERCIAL WASTE MANAGEMENT SERVICES RATE ADJUSTMENT FOLLOWING NOTICED MAJORITY PROTEST HEARING (pgs. 6-11)
2. Waste Management Commercial rate adjustment letter, March 31, 2016. (pgs.12-17)

3. Waste Management Revised Commercial rate adjustment letter, May 16, 2016. (pgs.18-19)
4. Integrated Commercial Waste Management Services agreement, Section 6.3 (pgs. 20-21)
5. Consumer Price Index (CPI), All Urban Consumers, for the Los Angeles-Anaheim-Riverside Area, as published by the United States Department of Labor, Bureau of Labor Statistics. (pg. 22)
6. Integrated Commercial Waste Management Services agreement, Section 6.6 (pgs. 23-24)
7. Certificate of Posting and Notice of Public hearing dated June 8, 2016. (pgs. 25-27)
8. Carson Municipal Code Article V, Chapter 2, Section 5229 (pg. 28)

1.

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