



Board Agenda Item 8

DATE: January 31, 2017

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Amendment of Fresno County Ordinance Code and Non-Exclusive Waste Hauling Agreement

RECOMMENDED ACTION(S):

1. **Conduct first hearing of a proposed ordinance to amend the Fresno County Ordinance Code, by adding Chapters 8.23 and 8.24 to Title 8 (Health and Safety), regarding the establishment and implementation of a Reporting System for Recycling Haulers and a Non-Exclusive Waste Hauler Agreement program for haulers who collect solid waste amounting to ten (10) cubic yards or more; waive reading of the ordinance in its entirety and set second hearing for February 28, 2017.**
2. **Conduct the first hearing and approve recommended Ordinance to amend the Fresno County Master Schedule of Fees, Charges and Recovered Costs, adding Subsection 2807 (a) related to a Recycling Haulers Registration Administration Fee, and waive reading of Ordinance in its entirety and set the second hearing for February 28, 2017.**
3. **Designate County Counsel to prepare a fair and adequate summary of the proposed ordinance, and direct the Clerk to the Board to post and publish the required summary in accordance with Government Code Section 25124(b)(1).**
4. **Approve and authorize the Director of Public Works and Planning and/or his designee to execute the agreement, including successor agreements with all Non-Exclusive Waste Haulers.**

The first recommended action will start the process to amend the Fresno County Ordinance Code and add Chapters 8.23 and 8.24 to Title 8 (Health and Safety) related to the establishment and implementation of a Reporting System for Recycling Haulers (RSRH) and a Non-Exclusive Waste Hauler Agreement (NEWHA) program with all haulers who provide solid waste collection services in the County amounting to ten (10) cubic yards or more. The recommended action also sets the second hearing for February 28, 2017.

The second recommended action will start the process to change the Fresno County Master Schedule of Fees, Charges, and Recovered Costs and establish a fee to fund the cost associated with the administration and oversight of the RSRH. The third recommended action provides for County Counsel to approve a summary of the proposed ordinance and directs the Clerk to post and publish. The fourth recommended action authorizes the Director of the Public Works and Planning and his designee to execute the Agreement, reducing the number of times staff will need to return to the Board of Supervisors (Board) for approvals. Staff anticipates that approximately 30 or more Agreements will be executed within the first three to six months.

ALTERNATIVE ACTION(S):

There is no alternative action that would be consistent with prior Board direction provided at the November 15, 2016, Board meeting. The Board directed staff to establish a process to document types of waste generated and collected to meet State-mandated reporting requirements, and to develop an ordinance and related agreements to regulate waste collected in ten cubic yard containers. Should the Board elect not to approve the second recommended action, costs associated for the administration and oversight of the RSRH program will need to be funded by the American Avenue Disposal Site general reserves.

FISCAL IMPACT:

There are no Net County Costs associated with the recommended actions. Costs to administer and monitor the RSRH and the NEWHA Programs will be funded by the administrative and service fees that will be remitted to the County by recycling haulers and all NEWHA haulers.

DISCUSSION:

Recommended Action No. 1:

The recommended amendment to the Fresno County Ordinance Code is denoted in Exhibit A. It provides for the addition of Chapters 8.23 and 8.24 to Title 8 (Health and Safety) related to the establishment and implementation of RSRH and NEWHA reporting requirements, and sets the second hearing for February 28, 2017.

The provisions of the ordinance code amendment were drafted to establish a process to document and quantify types of waste generated and collected, by means other than the current ESAP program, in order to meet State-mandated reporting requirements, as well as, to ensure consistency with the proposed Agreement between the County and all NEWHA providers.

The Exclusive Service Area Program (ESAP) regulates haulers that provide solid waste collection services in containers with a volume of up to 10 cubic yards. This amendment addresses recycling haulers and haulers of containers in excess of 10 cubic yards and, together with Chapter 8.21, will enable the County to identify and quantify the various types of waste materials generated and recycled within the unincorporated areas of the County. The proposed amendment also provides for the levying of administrative fines, in accordance with Fresno County Ordinance Code Chapter 1.13 for non-compliance associated with registration, permit, and reporting requirements. The attached NEWHA template agreement (Exhibit B) provides the mechanism to implement the NEWHA program services.

The respective provisions of the Agreement and the ordinance code amendment are mutually inclusive and consistent. Any modification to the ordinance code amendment could alter the meaning of the material term of the Agreement. Accordingly, if the Board should choose to modify the proposed ordinance code amendment, any material inconsistency thereby created may impact the terms of the Agreement.

Recommended Action No. 2:

The recommended amendment to the Fresno County Master Schedule of Fees, Charges, and Recovered Costs (Exhibit C) would allow the County to recover costs associated with the administration of the RSRH program. This annual fee will cover costs associated with the monitoring and reconciliation of reported data, tracking, and administration of registration requirements. Staff anticipates that approximately 20 or more recycling haulers will be required to register, pay the administration fee, and to submit and adhere to reporting requirements.

Recommended Action No. 4:

On November 15, 2016, the Board directed staff to begin the process of developing an ordinance and related agreement for the implementation and monitoring of the NEWHA program throughout the County. The

recommended Agreement includes provisions such as record keeping, reporting, term; permit requirements, default and termination provisions.

Key provisions for the recommended Agreement include:

- Three years, with an option of additional successor Agreements.
- Requires NEWHA haulers to maintain an active permit at all times
- Requires all haulers to submit quarterly reports to the County, which includes information regarding the amount and type of materials collected, diverted and where the materials were deposited. The haulers will be required to remit to the County, on a quarterly basis, a service fee and these funds will be used to administer and monitor the NEWHA program.
- The County will have the ability to determine breach/events of default and to initiate related proceedings due to the hauler's failure to provide accurate and reliable reports. The County will provide the hauler with reasonable opportunities to cure virtually any type of breach that may arise during the term of the Agreement.

It is planned that the implementation of the RSRH and NEWHA reporting requirements will begin in early March 2017.

REFERENCE MATERIAL:

BAI # 8, October 27, 2015

BAI # 6, November 15, 2016

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A

Exhibit B

Exhibit C

CAO ANALYST:

John Hays