

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 8/16/2016	(3) CONTACT/PHONE Wendy Marie C. Hall, Administrative Division Manager (805) 781-5295	
(4) SUBJECT Introduction of an Ordinance amending Chapter 8.12 of the San Luis Obispo County Code, the Solid Waste Management Ordinance, by amending Section 8.12.735 relating to the maximum term of Solid Waste Collection Franchise Agreements; and find that the project is exempt from Section 21000 et seq. of the California Public Resources Code (CEQA). Hearing date set for September 13, 2016. All Districts.			
(5) RECOMMENDED ACTION It is recommended that the Board: <ol style="list-style-type: none"> 1. Introduce the attached Ordinance amending Chapter 8.12 of the San Luis Obispo County Code, the Solid Waste Management Ordinance, by amending Section 8.12.735 relating to the maximum term of Solid Waste Collection Franchise Agreements; and 2. Find that the project is exempt from Section 21000 et seq. of the California Public Resources Code (CEQA); and 3. Schedule a Public Hearing for September 13, 2016 to consider the approval of the County Code Ordinance change; and 4. Direct the County Clerk-Recorder to publish the proposed Ordinance in a newspaper of general circulation printed and published in the County of San Luis Obispo indicating the general nature of the Ordinance that will be considered for adoption on September 13, 2016 pursuant to Government Code Section 25124(a). 			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT N/A	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? N/A
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ___) <input type="checkbox"/> Board Business (Time Est. ___)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input checked="" type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: 8/12/08; C2	
(17) ADMINISTRATIVE OFFICE REVIEW David E. Grim			
(18) SUPERVISOR DISTRICT(S) All Districts			

Reference: 16AUG16-C-10

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works
Wendy Marie C. Hall, Administrative Division Manager

VIA: John Diodati, Deputy Director of Public Works

DATE: 8/16/2016

SUBJECT: Introduction of an Ordinance amending Chapter 8.12 of the San Luis Obispo County Code, the Solid Waste Management Ordinance, by amending Section 8.12.735 relating to the maximum term of Solid Waste Collection Franchise Agreements; and find that the project is exempt from Section 21000 et seq. of the California Public Resources Code (CEQA). Hearing date set for September 13, 2016. All Districts.

RECOMMENDATION

It is recommended that the Board:

1. Introduce the attached Ordinance amending Chapter 8.12 of the San Luis Obispo County Code, the Solid Waste Management Ordinance, by amending Section 8.12.735 relating to the maximum term of Solid Waste Collection Franchise Agreements; and
2. Find that the project is exempt from Section 21000 et seq. of the California Public Resources Code (CEQA); and
3. Schedule a Public Hearing for September 13, 2016 to consider the approval of the County Code Ordinance change; and
4. Direct the County Clerk-Recorder to publish the proposed Ordinance in a newspaper of general circulation printed and published in the County of San Luis Obispo indicating the general nature of the Ordinance that will be considered for adoption on September 13, 2016 pursuant to Government Code Section 25124(a).

Discussion

Background

Currently, Chapter 8.12.735 of the County Code limits the term of each Solid Waste Collection Franchise Agreement not to exceed fifteen years.

In 1994, the County began to franchise the collection of waste in the unincorporated areas of the County. Due to constraints in State law regarding 'grandfathering' of existing companies, initially those franchises in 1994 were for a five-year period. At that time, the Board recognized that five years was a shorter than typical length, and that future franchises may be longer.

In May 1998, the Board approved an amendment to the Solid Waste Management Ordinance to extend the maximum franchise term from five to ten years, because the Cold Canyon Landfill was preparing for an expansion and the lender required the franchise correspond with the loan period.

Similarly, on August 12, 2008, the Board approved an amendment to the Solid Waste Management Ordinance to extend the maximum franchise term from ten to fifteen years in preparation for another expansion at the Cold Canyon Landfill. The lending bank for the estimated \$9 million expansion required that the tonnage be committed, meaning longer term franchise agreements were necessary.

On December 9, 2008, the County entered into Amended and Restated Solid Waste Collection Franchise Agreements with South County Sanitary Services Inc., San Luis Garbage Company and Mission Country Disposal for the provision of solid waste collection services within unincorporated areas of the County.

On November 20, 2012, the Board approved a conditional use permit for the expansion of the Cold Canyon Landfill (permit No. DRC2005-00170) and entered into a Rate Setting Agreement, whereby the County approved annual increases to the tipping fee charged by Cold Canyon to Franchisees for disposal of solid waste collected under the Franchise Agreement over a nine (9) year period, to allow Cold Canyon to recover the costs of the first two (2) phases of the expansion under the terms and conditions specified therein ("Rate Setting Agreement"). The Rate Setting Agreement sets restrictions on the fees charged by the Franchisees, keeping them in line with the cost of living increases and a cap of a onetime annual corresponding collection rate increase of 1.5%.

Currently, four Franchise Agreements have terms of 15 years, through 2023 with a three-year extension option exercisable by the County that, if exercised, would have required an amendment to County Code Section 8.12.735 at that time.

On December 5, 2013 the Los Osos Community Services District (LOCSO) assigned the Los Osos Community Services District Franchise Agreement between the LOCSO and Waste Connections, Inc. and Mission Country Disposal to the County for the provision of solid waste collection services within the boundaries of the LOCSO (collectively, Franchise Agreements).

Discussion

On September 28, 2014, the Governor approved AB 1826 requiring each jurisdiction, on and after January 1, 2016, to implement an organic waste recycling program to divert organic waste from certain businesses. In conjunction with AB 1826, the local Integrated Regional Waste Management Authority (IRWMA) also required residential organic waste recycling to be added to the Solid Waste Collection Program. In an effort to implement AB 1826 and the IRWMA requirements, the franchisees identified above (collectively, Franchisees) have proposed to enter into a long term agreement with Hitachi Zone Inova U.S.A. LLC (HZI) to construct and operate a facility to compost food and green waste generated within the County. In order to finance the facility, assurances that Franchisees will divert all organic waste within their service areas for twenty years from the facility operation date is required thus necessitating extensions to the Franchise Agreements.

Approval of the recommended action will result in the County's ability to negotiate solid waste franchise agreements with Franchisees in order to finance the facility and provide an organic waste recycling program within the County.

Currently there are nine other governmental agencies that have or are considering executing long-term extensions (twenty years from the facility operations date) for their solid waste collection franchises. Those agencies are:

- Cayucos Community Sanitary District
- City of Morro Bay
- City of Pismo Beach
- City of Arroyo Grande
- City of Grover Beach
- Avila Beach Community Services District
- Oceano Community Services District
- Cambria Community Service District
- Nipomo Community Services District

The Public Works Department supports deleting the locally imposed term limit from Section 8.12.735 of the County Code to permit the County to negotiate terms based on need in particular areas on a case by case basis, consistent with all applicable requirements of the Integrated Waste Management Act (Public Resources Code Section 40000 et seq.), including, without limitation, Public Resources Code Section 49200 through 49205.

In an effort to give the County the flexibility to negotiate terms based on need in particular areas on a case by case basis, it is now being requested that the term limit in Section 8.12.735 of the County Code be deleted. If this ordinance change is approved, staff will return to the Board with extensions to the relevant Franchise Agreements.

OTHER AGENCY INVOLVEMENT/IMPACT

The office of County Counsel has reviewed the text of the code change and approves as to legal form and effect. The offices of the Auditor-Controller and Environmental Health Division of the Health Agency were consulted and have no concerns with the proposed change. The Environmental Coordinator has reviewed the project and determined that it is exempt from CEQA. The IRWMA has been involved setting direction on the implementing of AB 1826 and the IRWMA requirements and is in agreement with this change.

FINANCIAL CONSIDERATIONS

The recommended action deals with an amendment to the County Code amending the term limit of solid waste collection franchise agreements and has no financial impacts.

RESULTS

Adoption of the Ordinance will result in the County's ability to negotiate longer solid waste franchises in order to provide an organic waste recycling program within the County. This will allow for the continued healthy communities and provide for consistency between County-wide governmental agencies.

ATTACHMENTS

1. An Ordinance Amending Chapter 8.12 of the San Luis Obispo County Code, the Solid Waste Management Ordinance, by Amending Section 8.12.735 Relating to the Maximum Term of Solid Waste Collection Franchise Agreements
2. Notice of Exemption

File: SW 500.20 County Code – Solid Waste

Reference: 16AUG16-C-10

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