



CITY COUNCIL AGENDA STATEMENT



June 18, 2019

File ID: 19-0303

TITLE

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING A REQUEST BY THE CITY'S FRANCHISED WASTE COLLECTION SERVICES PROVIDER, REPUBLIC SERVICES, TO INCREASE SERVICE FEES FOR SOLID WASTE AND RECYCLING SERVICES, BASED ON EXCEPTIONAL CIRCUMSTANCES

RECOMMENDED ACTION

Council adopt the resolution.

SUMMARY

The City has received a request for a special rate adjustment from the City's franchise solid waste hauler, Republic Services. Recycling materials markets have experienced a significant shift in the past few years due to changes in Chinese government policy that restricts imported recyclables. Due to these market conditions, Republic Services requests a rate adjustment on residential, commercial and industrial recycling service accounts in accordance with Section 7.7 of the City of Chula Vista Franchise Agreement (approved by Resolution no. 2014-129) that allows Republic Services to request rate increases based on extraordinary circumstances that are beyond Republic's reasonable control, such as the current recyclable market downturn. Republic Services is requesting a rate adjustment increase of 6.1% per ratepayer account based on the City of Chula Vista's recyclable material current commodity pricing and increased processing costs. The proposed increase is subject to City Council approval, and a public hearing pursuant to Proposition 218.

ENVIRONMENTAL REVIEW

The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required. Notwithstanding the foregoing, the activity qualifies for an Exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act State Guidelines.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

Background

The current amended and restated solid waste collection, recycling and disposal franchise agreement (contract) between the City of Chula Vista (City) and Allied Waste Systems, Inc., doing business as Republic Services of Chula Vista, and also doing business as Allied Waste Services of Chula Vista (Republic) was approved by the Chula Vista City Council in September 2014. This contract grants Republic the exclusive rights to collect and dispose of solid waste and recyclable material from residential and commercial sites within the City's jurisdictional boundaries. The contract allows Republic to benefit from the sale of the collected recyclable material from Chula Vista but is required to share revenues if material shows an average net of \$60 per ton.

The contract permits Republic to charge fees for its service, subject to maximum rates established in the contract. It also requires Republic to pay the City a 20% franchise fee and an additional 5% AB939 fee that is used for recycling and waste reduction programs and education, both of which Republic may pass-through to customers. Operationally, Republic provides Chula Vista single family residents additional collection services as part of their service and at no additional cost.

These services include:

- weekly large and bulky collection for up to 10 items,
- four (4) landfill passes per year,
- missed collection service,
- special-rate service for seniors, and
- cart or bin replacements.

Additionally, the contract requires Republic to provide the following services at no costs:

- trash and recyclable materials collection for all City facilities,
- disposal for all public works-type projects,
- collection service for designated public place containers, and
- trash and recycling collection services for two large-venue public events of the City's choosing.

Republic is also required to maintain equipment in optimal and assigned conditions, respond to requests and complaints in an assigned timely period and assure that the City always complies with all disposal and waste diversion directives required by law. The term of the current contract is ten years, which terminates on June 30, 2024, and then provides the right to Republic to extend the contract an additional seven (7) years on the same terms and conditions.

Recycling Impact on Republic Services Operations

Since the 1990s, China has been the world's leading importer of recycled materials such as plastic, cardboard and paper from the United States. *Resource Recycling*, a leading trade publication, reports that from 1990 to 2015, exports of recyclable material to China increased six-fold, an increase of 16 million metric tons. The same reports indicate that before 2017, the United States was sending 4,000 shipping containers per day of recyclables to China, which included two-thirds of California's recyclable materials. In recent years, China has pushed back on these imports and implemented policies known as the Green Fence

and Operation National Sword which severely restrict the amount of recyclable material their country will accept. Most recently, Operation National Sword became effective in 2017 and under its implementation banned 24 types of scrap material, added much stricter and more rigorous contamination standards.

The Chinese policies now require all inbound loads of recyclables to contain no more than 0.5 percent contamination (trash) and imports of all recyclable paper (e.g. mixed paper, magazines, office paper, etc.) are banned. Following the implementation of China's new recycling policies, foreign exports of mixed paper fell from 400,000 tons in the first quarter of 2017 to 136,000 tons in the first quarter of 2018. Correlatively, the price of mixed paper fell from ninety-five dollars (\$95) per ton to ten dollars (\$10) per ton. Imports of plastics, a once profitable and stable commodity, have also been greatly affected. China went from receiving 33.4% of recycled plastic exported from the United States in 2017 to just 4.5% in 2018, a decrease of over 86%.

Programs throughout California have felt the impacts of declining recycling markets as they saw revenues drop. The recycling industry publicized these issues through many avenues and so did the California Department of Resources Recycling and Recovery (CalRecycle) who sent a letter statewide to all recycling coordinators (Attachment 2) to validate the recycling markets' decline. Many news outlets were also quick to publicize the declines and their impacts on local programs. In May 2019, the *Los Angeles Times* published an article originally published by the *Orange County Register* which further explains the issue at hand. (Attachment 3).

The loss of markets for recyclable material has added huge costs to local programs. For many jurisdictions and waste haulers, recycling has turned from profitable to cost-prohibitive. Effects are particularly felt in recycling programs in the western United States due to the reliance on Pacific exports.

Republic has not been immune to this downturn and the company began to see declines in revenue from recyclable materials in 2017. Notifications of price decreases were promptly sent by EDCO Recycling and Waste (EDCO) who owns and operates the recyclable materials processing facility that separate and sell recyclables collected in Chula Vista. Republic began to experience a rise in processing costs because material is now required to meet higher standards and contain less contamination. Higher processing costs to sort materials more thoroughly also included higher disposal costs for the additional trash being pulled from recycling loads. The value of material has also declined since less is being purchased by exporters due to the higher thresholds set by the Chinese government and the lack of options in other export markets.

Republic Services Proposed Increase: 7.6% on all ratepayers

In June 2018, Republic began meeting with City staff to report on the impacts the recycling market was having on their company. In October 2018, Republic's Senior Corporate Counsel, formally notified the City of Republic's intention to request a rate increase to offset its losses (Attachment 4). Republic reported that in 2018 their per month processing costs for materials collected in Chula Vista averaged \$141,007; however, the sale of these materials only produced \$64,516 dollars per month. The annual loss on the value of recyclables collected in Chula Vista in 2018 was \$917,892. Republic subsequently provided supporting

information that demonstrated a reduction per ton of their recyclable material sales from a net revenue in March 2017 to a net cost per ton in March 2019 with a cumulative impact to their operations of approximately \$1.9 million.

Republic proposed that a way to recuperate their loss of revenue would be to impose a rate increase of 6.1% on all Chula Vista ratepayers. This rate increase would be subject to the 20% franchise fee and 5% AB939 fee that Republic is required to pay to the City under the contract. Republic proposed that these fees be passed-through to rate payers, making the total proposed rate increase 7.6% on all ratepayers.

The table below illustrates how the proposed 7.6% rate increase would be applied to all single-family ratepayers which comprise 96% of Republic’s total customer base in Chula Vista (55,044 total ratepayers):

Residential container size	Current rate	Proposed new rate	Proposed increase	Yearly increase amount
32-gal cart	\$16.49	\$17.74	\$1.25	\$15.00
64-gal cart	\$21.35	\$22.97	\$1.62	\$19.44
96-gal cart	\$25.14	\$27.05	\$1.91	\$22.92

The table below illustrates an example of how the proposed increase would be applied to commercial ratepayers:

Commercial container size	Current rate	Proposed new rate	Proposed increase	Yearly increase amount
3 cubic-yard trash bin serviced once/week	\$119.71	\$128.81	\$9.10	\$109.20
3 cubic-yard trash bin serviced twice/week	\$253.80	\$273.08	\$19.28	\$231.36
3 cubic-yard trash bin serviced three times/week	\$360.69	\$388.10	\$27.41	\$328.92

City staff and Republic staff met regularly to discuss the data and request. As part of staff’s review, notification was provided to Republic that the City would need time to review the issue to thoroughly understand the impact and proposed rate increase. Staff wanted to avoid inadvertently adding long-term and on-going costs to the community on an issue that may be have been temporary in nature. Unfortunately, the impact is not temporary. Many of the perceived new markets did not have adequate infrastructure to accept the volumes or capabilities to process the actual recyclable materials. Overwhelmed by this, countries in Asia began to enact their own policies to ban recyclables from entering their shores. For instance, Mexico has been slow to develop the processing and is years away from being able to collect a considerable percentage of the recyclables stream that China once did.

Finance and Office of Sustainability staff analyzed and verified the data that Republic provided. Republic also provided verified official notifications from their recyclable materials processor, EDCO and confirmed that increases in processing costs were accurate. The analysis on the lost revenue included a comparison to other local and state programs with verification by EDCO that concluded the loss in revenue by Republic is correct and is impacting operations.

Staff recommends approval of the proposed special rate increase to ensure that Republic continues to provide effective recycling programs to Chula Vista residents and businesses as well as to continue compliance with waste reduction requirements set by State of California legislation. Staff also recommends that the approval be conditioned on continued monitoring of market conditions, quarterly review of the rates in light of then-current market conditions, and the City’s right to adjust the proposed rate increase downward, as appropriate, when market conditions warrant such decrease. Should Council approve, a Proposition 218 hearing process will be conducted before the proposed rate increase goes into effect. That process will include sending notice of the proposed increase to all property owners and Republic’s customers of record in Chula Vista and conducting a public “majority protest” hearing at least 45 days later, pursuant to the requirements of Proposition 218. If less than a majority of affected property owners protest the increase, it will go into effect.

Consumer Price Index Increase

It is important to mention that Republic is entitled to annual rate increases for both types of ratepayers (commercial and residential) without Council approval based on terms and conditions of section 7.4 of the contract. These increases are based on the factors described below.

Commercial ratepayers

For commercial ratepayers the increase is based on the regional Consumer Price Index (CPI). This year the CPI-based increase is expected to be 3.4% per the State Department of Labor Statistics. For Republic to enact the yearly increase they must confer with staff to verify that the data provided by the State is true and accurate. Staff then approves the increase via formal written communication. Combined with the proposed 7.6% and the annual 3.4% CPI increase, commercial ratepayers could see a 11% increase from one year to the next.

Commercial trash bin size	Current monthly rate	Per contract yearly increase of 3.4% as of July 1, 2019	Proposed 7.6% increase post Prop 218 hearing process	Potential new rate at 11% total increase	Total yearly increase amount
3 cubic-yard trash bin serviced once per week	\$119.71	\$4.07	\$9.10	\$132.88	\$158.04
3 cubic-yard trash bin serviced twice per week	\$253.80	\$8.63	\$19.28	\$281.71	\$334.92
3 cubic-yard trash bin serviced three times per week	\$360.69	\$12.26	\$27.41	\$400.36	\$476.04

Residential ratepayers

For residential ratepayers, the annual increase is also based on the CPI. However, it is capped at 90% of the County of San Diego average for the same level of service per section 7.4.1(b) of the contract., Staff will not know the amount of this increase until the official survey is completed in July but based on comparison of current regional rates the residential increase could be as high as 3.1%. The numbers below show the impact of the 7.6% proposed increase combined with the yearly contractually-obligated increase, estimated at 3.1%. Combined, residential ratepayers could see a 10.2% increase from one year to the next as shown below:

Residential cart size	Current monthly rate	Contractually-obligated yearly increase at 3.1% as of September 1st, 2019	Proposed 7.6% increase post prop 218 hearing process	Potential new rate at 10.7% total increase	Total yearly increase amount
32-gal cart	\$16.49	\$.51	\$1.25	\$18.25	\$21.12
64-gal cart	\$21.35	\$.66	\$1.62	\$23.63	\$27.36
96-gal cart	\$25.14	\$.77	\$1.91	\$27.82	\$32.16

Proper recycling and the reduction of contaminants in recycling streams will continue to be paramount to City efforts to reduce the negative impacts on recycling markets. In addition to reducing costs and conserving resources, waste reduction and proper recycling will reduce reliance on foreign markets. Working to help develop local recycled-content manufacturing will be also key to reduce these impacts. Efforts to promote this industry at the local and state level are improving as new incentives are being introduced to encourage processors and manufacturers. Staff will also continue efforts to educate Chula Vista residents and businesses to reduce the generation of waste as key component of zero waste planning efforts by employing marketing strategies such as social media campaigns, community presentations, direct mailings and other face-to-face engagement.

Staff will continue to monitor recycling markets and work with Republic to reduce the 7.6% increase if the regional recycling industry improves. Collection and recyclables sales data from Chula Vista totals will be verified at the start and end of the fiscal year to develop recommendations at the staff level if the surcharge needs to be reduced.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the 500-foot rule found in California Code of Regulations Title 2, section 18702.2(a)(11), is not applicable to this decision for purposes of determining a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware and has not been informed by any Chula Vista City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter

CURRENT-YEAR FISCAL IMPACT

None

ONGOING FISCAL IMPACT

There is a projected positive fiscal impact to the General Fund of approximately \$450,000 per year. If this item is approved, the Finance Department will update the long-term financial forecast accordingly.

ATTACHMENTS

Attachment 1: CalRecycle Letter re: 2018 recycling exports

Attachment 2: May 2019 Los Angeles Times article on recycling market issues

Attachment 3: Letter from Holly Doyle re: Republic's rate increase request

Staff Contact: Manuel Medrano, Environmental Services Manager