



# *CITY COUNCIL AGENDA REPORT*

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MEETING DATE: OCTOBER 4, 2004

ITEM NUMBER:

**SUBJECT: DRAFT ORDINANCE AMENDING TITLE 8 OF THE COSTA MESA MUNICIPAL CODE REGARDING ADOPTION OF A SOLID WASTE HAULING FRANCHISE FEE**

**DATE: SEPTEMBER 23, 2004**

**FROM: FINANCE DEPARTMENT/ADMINISTRATION**

**PRESENTATION BY: MARC R. PUCKETT, DIRECTOR OF FINANCE**

**FOR FURTHER INFORMATION CONTACT: MARC R. PUCKETT (714) 754-5243**

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## **RECOMMENDED ACTION:**

It is recommended that City Council give first reading to the attached ordinance, which amends Title 8 of the Municipal Code by adding section 8-87 adopting a Solid Waste Hauling Franchise Fee.

## **BACKGROUND:**

Staff presented a report regarding consideration of potential new revenue sources at a Council Study Session. These potential new revenue sources were deemed necessary to protect erosion of the City's tax base due to state actions and economic considerations. All potential new revenue sources were proposed as enhancements to the general unrestricted undesignated revenue in the General Fund. After presentation to Council at the study session, the matter was to be brought forward to Council at a future Council meeting for further consideration.

At the April 12, 2004, City Council meeting, Council indicated that they were interested in considering the Sanitation (Solid Waste Hauling) Franchise Fee, Fire-Med Subscription Fee, Business License Tax and Transient Occupancy Tax further. Staff was directed to meet with stakeholders and bring this matter back to Council for further consideration at the July 6, 2004, Council meeting.

Staff met with major stakeholders regarding the revenue increase proposals. Included in these stakeholders meetings were representatives from the Costa Mesa Chamber of Commerce, Costa Mesa Convention and Visitors Bureau, and all waste haulers permitted in Costa Mesa.

At the July 6 City Council meeting, Council directed staff to proceed with implementation of the Fire-Med Subscription Fee program using the "private" model and, at the August 2 City Council meeting, Council directed staff to proceed with implementation of the Sanitation Franchise Fee. Staff was directed to bring both items back to Council for consideration of the implementation actions required within 120 days of adoption.

## **ANALYSIS:**

The Solid Waste Hauling Franchise Fee is summarized herein. A description of the Solid Waste Hauling Franchise Fee, taxing authority, overview of the fee, and estimated revenue collections are included below for informational purposes. The Solid Waste Hauling Franchise Fee can be implemented by City Council by adopting the attached ordinance enabling the fee to be levied and a resolution setting the amount of the fee.

**Description:** The Solid Waste Hauling Franchise Fee is a fee that may be imposed upon exclusive or non-exclusive franchisees for the purpose of residential and commercial solid waste handling services within the City. Generally, a franchise fee is a fee paid to a municipality from a franchisee for “rental” or “toll” for the use of city streets and rights-of-way. Revenues generated from imposition of a Solid Waste Hauling Franchise Fee are unrestricted and may be used for any purpose.

**Authority:** The authority to implement a Solid Waste Hauling Franchise Fee is found within the Public Resources Code sections 49520 through 49523. Further, adoption of a Solid Waste Hauling Franchise Fee Ordinance is necessary to set forth specific requirements for prospective franchisees.

**Overview:** Of the 34 cities in Orange County, 31 have Solid Waste Hauling Franchise Fees. The franchise fee may be levied on either an exclusive or non-exclusive basis.

Staff is proposing a non-exclusive franchise fee. Such a structure for the franchise fee will allow the trash haulers to set their own rates without any controls by the City, thus preserving the free market system. Further, a non-exclusive franchise fee will provide for a means of monitoring the waste hauler rates to determine if in fact, waste hauler rates in Costa Mesa are indeed lower or higher than other communities with Solid Waste Hauling Franchise Fees. A Solid Waste Hauling Franchise Fee may be imposed upon residential, commercial and industrial waste haulers.

Staff will be meeting with the waste haulers currently working in the City to review the proposed Solid Waste Hauling Franchise Fee Ordinance. Subjects of this meeting will include length of the franchise and permit, level of the fee and allocation basis of the fee (i.e. gross sales or tonnage).

In the prior meeting with the waste haulers, the haulers expressed that they understood the reasons why such a fee is being considered at this time and expressed a willingness to cooperate with the City on levying such a fee if it were tied to an increase in the length of the existing permit for refuse collection. At present, the City limits the permits to one year in length.

The attached ordinance will enable the Solid Waste Hauling Franchise Fee to be levied against waste haulers in Costa Mesa. Subsequent to the first reading of the ordinance and the scheduled meeting with the waste haulers, a resolution will be presented to Council setting the fee, allocation basis and length of franchise and/or permit.

## **ALTERNATIVES**

City Council may make specific changes or modifications to the draft ordinance at its discretion. Currently, the City does not levy a Solid Waste Hauling Franchise Fee. The proposed ordinance authorizing a Solid Waste Hauling Franchise Fee is attached.

## **FISCAL REVIEW**

The Solid Waste Hauling Franchise Fee will generate approximately \$500,000 to 1.5 million in new revenue based upon how the fee is structured.

## **CONCLUSION:**

At present, 31 of 34 cities in Orange County currently assess a Solid Waste Hauling Franchise Fee. The City is one of three cities in the County that does not assess a Solid Waste Hauling Franchise Fee.

The Solid Waste Hauling Franchise Fee may be implemented on either an exclusive or non-exclusive basis. The City is proposing a non-exclusive franchise fee. A non-exclusive franchise fee allows the trash haulers to set their own rates without any controls by the City, thus preserving their free market system. A non-exclusive franchise fee would also provide for a means of monitoring the waste hauler rates to determine, if in fact, waste hauler rates in Costa Mesa were indeed higher or lower than other communities with Solid Waste Hauling Franchise Fees.

Taking into account all of the preceding, staff recommends that City Council adopt and give first reading to the attached ordinance, which amends Title 8 of the Municipal Code by adding section 8-87 adopting a Solid Waste Hauling Franchise Fee. This action will bring the subject revenues more into line with level of the Solid Waste Hauling Franchise Fee in the rest of Orange County and provide some needed flexibility to address the budgetary spending gap. Given improvements in the economy and the opportunity of the electorate in November 2004 to discontinue the practices of the State of California in terms of continually taking local revenues, the City should be able to meet normal operating expenditures with some reasonable level of sustained growth in our revenue base.

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Marc R. Puckett  
Director of Finance

Attachment 1: [Draft Solid Waste Hauling Franchise Fee Ordinance](#)

Attachment 2: [Draft Solid Waste Hauling Franchise Fee Ordinance – Redlined Version](#)

Attachment 3: [Sanitation Franchise Fee Survey](#)

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