

**November 16, 2011
Special Meeting
AGENDA
HESPERIA CITY COUNCIL ADVISORY COMMITTEE**

CALL TO ORDER

6:00 p.m.

- A. Pledge of Allegiance
- B. Roll Call:
 - Chair Sophie Steeno
 - Vice Chair Eric Schmidt
 - Member Craig Sundgren
 - Member Jim Hasty
 - Member Rosemarie Hellmich

ITEMS FOR CONSIDERATION

- 1. Approval of Minutes from October 5, 2011 meeting.
- 2. Advance Disposal Amended Franchise Agreement and Rate Structure

Recommended Action:

It is recommended that the City Council Advisory Committee recommend approval of the Advance Disposal Solid Waste Franchise Agreement with a preferred service level to the City Council for consideration

- 3. Proposed Spay/Neuter Ordinance

Recommended Action:

It is recommended that the City Council Advisory Committee review the information provided, and determine whether to recommend to the City Council changes to the City's spay/neuter requirements that apply to cats and/or dogs kept in the City.

PUBLIC COMMENTS

Please complete a "Comment Card" and give it to the Secretary. Comments are limited to three (3) minutes per individual. State your name and address for the record before making your presentation. This request is optional, but very helpful for the follow-up process.

Under the provisions of the Brown Act, Members are prohibited from taking action on oral requests. However, Members may respond briefly or refer the communication to staff.

COMMITTEE MEMBER AND STAFF COMMENTS

Committee Members may make comments of general interest and/or direct staff to add specific items to the next agenda.

ADJOURNMENT

The Chair will adjourn the meeting of the Committee.

I, Tina Bulgarelli, Hesperia City Council Advisory Committee Secretary for City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Monday, November 14, 2011 pursuant to California Government Code §54954.2.

Tina Bulgarelli
Hesperia City Council Advisory Committee Secretary

City of Hesperia
STAFF REPORT



DATE: November 16, 2011
TO: Chairperson and Members of the City Council Advisory Committee
FROM: Kim Summers, Assistant to the City Manager *KS*
BY: Julie Ryan, Environmental Programs Coordinator *JR*
SUBJECT: Advance Disposal Amended Franchise Agreement and Rate Structure

RECOMMENDED ACTION

It is recommended that the City Council Advisory Committee recommend approval of the Advance Disposal Solid Waste Franchise Agreement with a preferred service level to the City Council for consideration.

BACKGROUND

On April 20, 2000, the City and Advance Disposal entered into an "Agreement and Exclusive Permit for the Collection and Disposal of Solid Waste" (the "Franchise Agreement") for the collection, transportation, disposal and recycling of residential, industrial and commercial waste. The Franchise Agreement is set to expire on April 20, 2015, absent any further extension.

The Franchise Agreement was drafted in accordance with the provisions of Assembly Bill 939 (AB 939), the California Integrated Waste Management Act of 1989 which required each California county and city to reduce landfill waste by 25% in 1995 and 50% by 2000, or be subject to fines of up to \$10,000 a day for each day of non-compliance. Reducing the amount of landfill waste is accomplished through a variety of diversion methods such as source reduction, recycling, composting or transformation. Due to the excellent working relationship the City has with Advance Disposal, and the variety of programs and services this partnership has established over the years, the City achieved a diversion rate in 2009 of 69%.

Since AB 939, there have been a number of additional environmental bills approved by the California legislature which further impact the way local agencies manage solid waste and recycling. Assembly Bill 32 (AB 32), the Global Warming Solutions Act of 2006, and Assembly Bill 341 (AB 341), the Solid Waste Diversion Legislation of 2011, increases the state's solid waste diversion rate to 75% by 2020 and mandates commercial recycling. In order to stay within the boundaries of changing laws, the City and Advance Disposal meet periodically to discuss services, program efficiencies and necessary provisions of legislative mandates. Over the last few years, efforts to develop an amended franchise agreement before it sunsets in 2015, have been ongoing.

Advance Disposal owns and operates a Materials Recovery Facility and Transfer Station ("MRF") in the City. The MRF's mixed waste processing operation helps meet diversion

requirements while contributing to greenhouse gas (GHG) emission reductions, as required by the legislation identified above. Advance Disposal is currently in the process of expanding capacity and operations at the MRF to meet demand.

With these new State Legislation requirements, new technology, recycling programs and the MRF Expansion, it is necessary to amend the Franchise Agreement. Included in the Amended Franchise Agreement are a variety of new and expanded recycling programs and requirements as well as the plans to construct and develop improvements to the MRF for the City's use.

Another benefit of amending the Franchise Agreement at this early date to facilitate the MRF expansion will be increased efficiency toward meeting the new 75% diversion goal by 2020. The City believes that this Amended Franchise Agreement will contribute significantly toward safeguarding public health through providing the most cost-effective, efficient, reliable, and environmentally appropriate solid waste services to Hesperia citizens.

ISSUES/ANALYSIS

The three components of the proposed Amended Franchise Agreement include the MRF Expansion, the Franchise Agreement and the Proposed Rate Structure. Summaries of each are outlined below.

MRF Expansion

The current 60,000 square foot facility opened in 1993, as one of the first mixed-waste processing facilities in California. At that time, Advance Disposal was permitted to accept 200 tons of waste per day. Today, the Facility accepts up to 600 tons of waste per day and processes Construction and Demolition (C&D) waste, Green Waste and Wood Chip Grinding outdoors. However, the Facility is nearing capacity and because of mandatory commercial recycling mandates and AB 32 GHG emission reductions, processing needs to be moved indoors to provide better environmental controls and performance.

Advance Disposal's plans consist of an additional 64,500 square feet of space for processing and installation of new state of the art equipment such as:

- Metering Bin that feeds waste material to system at a continuous, steady rate to increase processing efficiency;
- Bag Breaker that cuts open plastic bags to allow contents to be sorted;
- Old Corrugated Container (OCC) Separator that identifies and separates cardboard while allowing residual waste to continue through the sorting system; and
- Debris Roll Screen that removes small, heavy debris such as dirt, rocks, and broken glass.

This new advanced equipment and technology will assist Advance Disposal in greater throughput, increased diversion, more efficient operations and reduce GHG emissions as

outlined by AB 32. Advance Disposal submitted their Site Plan for approval to the City's Development Review Committee (DRC) on November 9, 2011, and should go forward to the Planning Commission for approval on December 8, 2011.

Advance Disposal anticipates construction to begin on the MRF Expansion by late 2012, and complete all improvements by late 2013.

Franchise

Staff is recommending that the City continue with the service from Advance Disposal due to the company's performance record since approval of the 2000 Franchise Agreement. The Franchise addresses items such as Scope of Franchise; Terms; Services; Waste Diversion; Compensation; and Performance Standards. In addition, the following are some key points as well as new provisions included in the Amended Franchise Agreement (Attachment 1):

- Trash trucks are not permitted to leave the MRF prior to 6 a.m. standard and daylight savings time.
- The City and Advance Disposal will continue to meet periodically to discuss services, program efficiencies and necessary provisions to meet State requirements.
- All trash and recyclables discarded in Advance Disposal bins become the property of Advance Disposal.
- Advance Disposal will not be required to collect trash unless properly placed in Advance Disposal containers with the exception of Bulky Waste, Christmas trees and green waste.
- If trash collection is missed due to a customer's vacation, customer can drop-off trash at Advance Disposal free of charge. In addition, if a resident's property is vacant for more than one-month in a calendar year, the customer may be eligible for a month's service credit after providing proof of home vacancy for one month or more.
- Free bulky waste collections for multi- and single-family residences are as follows:
 - Multi-Family residences will receive ten (10) collections per year based on the number of service collections the complex receives per week.
 - Single-family residents receive four (4) collections per year, with a maximum of eight (8) items per year.
- Christmas trees will be collected during the four-week period after December 25.
- City will receive twelve (12) roll-off bins, four times per year, free of charge. In addition, roll-off bins are available at no charge for Citywide Clean-up Days.
- City facilities are eligible for free weekly trash service and Advance Disposal will collect

any abandoned bulky waste throughout the City at the City's request.

- Advance Disposal will pay the City administrative fees associated with the Amended Franchise Agreement, such as: a one-time administrative fee of \$25,000 for costs incurred as a result of the negotiation, research and preparation of the Amended Franchise Agreement; all costs associated with the City's contract with the County for Household Hazardous Waste (HHW) Collection services; and costs associated with administration of Proposition 218 compliance, including public hearings.
- Advance Disposal currently processes solid waste from other jurisdictions ("Foreign Waste"). Advance Disposal will now pay the City a "host fee" of \$1.50 per ton if foreign waste is 10% or more of total waste processed at the MRF. After April 20, 2015, the \$1.50 host fee will apply to all foreign waste processed at the MRF.
- Advance Disposal has exclusive right to all trash within City limits and all residents and businesses must subscribe to the mandatory trash collection service. The following exclusions will apply:
 - *Intergovernmental Immunity.* All universities, school districts, other state agencies, any other governmental entities that are not subject to the City's police powers are not required to subscribe to Advance Disposal service.
 - *Self-Hauling.* Residents, owners, or occupants may personally deliver trash or recyclables to an authorized disposal site, Advance Disposal or a recycling company, but must also subscribe to Advance Disposal service.
 - *Gardner/Landscaper Green Waste.* A resident, gardener, landscaper or tree trimming company may remove green waste, such as grass clippings and tree trimmings, from a residential property as an incidental part of the landscaping service.
 - *Construction & Demolition (C&D) Material.* A construction contractor may personally collect, transport and dispose of C&D material from remodeling jobs which are generated as an incidental part of the remodeling service.
 - *Asphalt/Concrete/Dirt Materials.* Companies specializing in asphalt, concrete and dirt material processing, shall continue to be permitted to collect, process and transport the material.
 - *Recyclable Materials.* Property owners can sell or donate recyclable materials.
 - *Unoccupied Units.* Properties which are unoccupied for three (3) consecutive months due to foreclosures or abandonment may qualify for an Advance Disposal service exemption.
- The current Franchise Agreement term will terminate on April 20, 2015. Provided construction of the MRF Expansion begins prior to the date, then the term will be extended to April 20, 2035.

Rate Structure

The City and Advance Disposal have analyzed the effectiveness of the City's residential and commercial waste programs and understand that a facility expansion is necessary to keep pace with future legislative requirements and to deliver the highest level of customer service. Residential service was evaluated for the impact the City's unlimited trash program has on total solid waste tonnages and the continued need to reduce the quantity of trash disposed of by citizens and processed by Advance Disposal in order to comply with State mandates.

In 2009, Hesperia generated over 3.6 pounds of trash, per person, per day. Though popular, unlimited trash pick-up provides residents with no motivation to reduce waste as evidenced each week by the numerous bins set out curbside. Designed to reduce illegal dumping, unlimited trash has had little effect on the litter and debris that continues to be illegally dumped in the City. It also limits Advance Disposal's ability to require the use of bins, which are necessary for the automated trucks and for reducing blowing trash. Currently, Advance Disposal is required to supply each resident with an unlimited number of bins. As one of only a few cities in California that provide unlimited trash service, the State does not support such programs as it leaves little incentive for Californians to reduce trash, recycle and protect the environment.

In order to address this, two service and rate options are proposed:

Option A – Limited Service/Low-Volume Service:

The first option to consider is to provide all residents with two, 95-gallon bins at a standard rate and charge a fee for each additional bin. This will create a tiered service program that encourages waste reduction and may provide the incentive needed to force residents to consider alternate methods of disposal such as donation, resale or recycling. In addition, residents who generate low volumes of trash could receive a rate reduction and only one bin.

- A. *Basic Service.* Each single family unit receives two bins at the initiation of service. If additional bins are needed, Advance Disposal will provide them at the proposed rate of \$3.00 per each additional bin. Currently, residents pay \$24.33 for unlimited service. This option would provide a discount at a proposed rate of \$23.65, a 2.8% decrease. After two rate adjustments for the MRF Expansion over a two-year period, the proposed rate is \$25.77, an overall 9% increase from the proposed rate of \$23.65.
- B. *Low-Volume Service.* Single family units generating 95 gallons of trash or less each week may apply for "low-volume" service at a proposed rate of \$22.48, a 7.6% decrease from the current \$24.33 residential rate. After two adjustments for the MRF Expansion over a two-year period, the proposed rate is \$24.60, an overall 9.3% increase from the proposed rate of \$22.48. Qualifying residents will receive only one bin at the lower service rate.

Option B – Unlimited Service/Low-Volume Service:

The second option is to continue unlimited trash service with the low-volume option available to residents who generate 95 gallons of trash or less.

- A. *Basic Service.* Each single family unit receives two bins at the initiation of service. If

additional bins are needed, Advance Disposal will provide them at no cost. The current rate for regular residential service is \$24.33. After three adjustments, the proposed rate is \$27.09, an 11.3% increase.

- B. *Low-Volume Service.* Single family units generating 95 gallons of trash or less each week may apply for "low volume" service. Qualifying residents will receive only one bin at the lower service rate. The proposed cost of this service is \$23.42, a 3.7% decrease from the current \$24.33 residential rate. After two adjustments for the MRF Expansion over a two-year period, the proposed rate is \$25.66, a 9.6% increase.

A comparison of both rate options is identified on Attachment 2.

Commercial and Industrial Businesses

Commercial and Industrial businesses make up approximately 60% of the total waste stream going to the MRF. With new Legislation regarding mandatory commercial recycling, the Amended Franchise Agreement includes language and rates that will assist the City and Advance Disposal in meeting the new legislation requirements. The following are the service options available to businesses:

- *Frequency; Unlimited Collections.* Commercial and Industrial businesses will receive a minimum one-time weekly collection, with additional collections available as needed. Commercial and Industrial businesses may share containers with neighboring businesses within the same complex. However, food establishments will utilize their own Advance Disposal bin for disposing of food-related trash.
- *Recycling.* After the MRF expansion project is complete, Advance Disposal will develop and implement a program to provide reduced rates for commercial, industrial and institutional recycling.

The following are the proposed rates for most of the City's Commercial and Industrial businesses:

- Commercial 1.5 yard bin serviced one time per week is currently charged \$77.27. After rate adjustments over three years that include the cost of the MRF Expansion, the proposed rate will be \$85.55, a 10.7% increase.
- Commercial 3 yard bin service one time per week is currently charged \$147.69. After rate adjustments over three years that include the cost of the MRF Expansion, the proposed rate will be \$163.54, a 10.7% increase.
- Commercial 3 yard bin serviced two times per week is currently charged \$285.58. After rate adjustments over three years that include the cost of the MRF Expansion, the proposed rate will be \$316.26, a 10.7% increase.

Other rates

Other rate considerations outlined in the Amended Franchise Agreement, include:

- Advance Disposal may establish rates appropriate for the current market, but do not exceed the rates approved by City Council.
- Approved rates may be adjusted to account for annual inflationary increases in accordance with the annual Consumer Price Index (CPI), subject to Proposition 218.
- Rate adjustments can continue as approved by a Proposition 218 hearing, on an annual basis for up to five years. Any further adjustments will be subject to a new Proposition 218 process.
- Certain cost increases incurred by Advance Disposal may also require a rate adjustment, subject to the provisions of Proposition 218, which requires the City to get majority voter approval for new or increased general rates by holding a public hearing not less than 45 days after mailing a notice to each property owner. These pass-through adjustments may include increased costs related to the MRF expansion, disposal fees, franchise and recycling fees, changes in the law that result in increased operating costs, and costs associated with Household Hazardous Waste (HHW) centers. Pass-through adjustments can continue on an annual basis for up to five years. At the end of the five-year period, any new adjustments will be subject to a new Proposition 218 process.

FISCAL IMPACT

Implementation of the MRF Expansion will necessitate an increase in service rates in order to finance the necessary improvements. The rate increase would be spread over a two year period, and is subject to a Proposition 218 hearing. The City Council will make the final determination regarding a new rate structure and to advertise for the Proposition 218 hearing process.

ALTERNATIVE(S)

1. The Committee may provide alternative direction to staff.
2. The Committee may make no recommendation to go to City Council.

Attachments:

1. Amended & Restated Exclusive Franchise Agreement
2. Rate Comparisons

City of Hesperia
STAFF REPORT



DATE: November 16, 2011
TO: Chair and Board Members
City Council Advisory Committee
FROM: Scott Priestley,  Director of Development Services
SUBJECT: Proposed Spay/Neuter Ordinance

RECOMMENDED ACTION

It is recommended that the City Council Advisory Committee review the information provided, and determine whether to recommend to the City Council changes to the City's spay/neuter requirements that apply to cats and/or dogs kept in the City.

BACKGROUND

At the Committee's April 13, 2011 meeting, staff presented the Committee with information from the City Council on potential revisions to the City's spay/neuter ordinance. After review of the information, the Committee unanimously agreed to give additional consideration to changes, and directed staff to bring back additional information on the County of San Bernardino's and Stanislaus County's ordinances. In addition, it was suggested that a potential ordinance be drafted that required mandatory spay/neuter only after an enforcement activity confirmed an animal control violation first exists (such as licensing and/or vaccinations). Based on the Committee's concurrence to look into the issue further, staff was requested to contact all affected organizations (rescue groups, etc.) to solicit input for the Committee's consideration.

On June 8, 2011, the Committee further discussed the issue, and received input from representatives from animal rescue groups with whom the City works. The Committee continued the item again until August, recommending staff provide additional outreach, and look into the possibility of adding cat licensing to the proposed Ordinance.

However, the City Council, at its July 19, 2011 meeting, directed staff to agendize an item for its discussion on the Planning Commission and two other Council-appointed committees' (City Council Advisory and Public Safety) roles and use of staff time. All pending action items and meetings were put on hold until after August 16, 2011, when the Council directed that each committee's activities be limited to items scheduled by staff consistent with Council's direction and/or budgetary work program. This effectively resulted in no change to the Advisory Committee's actions, allowing the Committee to resume review of this matter.

ISSUES/ANALYSIS

As a reminder, the City's current Ordinance (Hesperia Municipal Code Chapter 6.08) only requires animals which are adopted out, or when an unlicensed animal running loose is impounded and returned to the owner, to be spayed/neutered. Hesperia Municipal Code Section 6.08.030 also provides that properly licensed animals found running loose are only required to be spayed/neutered if it occurs three or more times in a three-year period. Cats are not currently required to be licensed.

Staff has again contacted various rescue groups and organizations, advising them of the November 16 meeting, and requesting any input (in writing) or by attending the meeting. Public

advertising was not conducted due to budgetary constraints, but it is anticipated that press coverage will occur prior to the meeting. In addition, it should be noted that any proposed Ordinance presented to the City Council would be a Public Hearing.

San Bernardino County - update. The County's Mandatory Pit Bull Spay/Neuter Ordinance has been in place since August 13, 2010. Staff reported on its effectiveness during the June 8, 2011 meeting, with a 26% increase in Pit Bull impounds, but a minor increase in total licensing (less than 1%). In August 2011, the County considered a more-broad amendment requiring all dogs found subject to any animal control law violation to be spay/neutered (similar to the Committee's April 2011 discussion, and staff's June 2011 proposal). This Ordinance Amendment was scheduled for adoption on September 13, 2011.

Cat licensing. Attached is an e-mail from Suzanne Edson, Animal Control Supervisor with Memorandum from the National Association of State Public Health Veterinarians, Inc. Six California jurisdictions provide for cat licenses, a relatively low percentage of the 480+ cities and 58 counties statewide. The primary impetus (like the State law requiring dogs) is for rabies control, with the incidence of reported cat rabies outpacing dog rabies by almost a 3:1 margin.

Depending on the Committee's recommendation, two Code Sections would need to be amended. If cats are to be licensed, Hesperia Municipal Code (HMC) Section 6.08.010(G) (Care of Animals) would be added to read:

"G. Every dog and cat kept in the City shall first obtain and maintain a valid City animal license, for a fee established by resolution of the City Council. Exception: Any dog or cat under four months of age.

In addition, HMC Section 6.08.020(E) (Control of Animals) would be revised to read:

"E. A person found to be in violation of any provision of this Chapter shall require those animal(s) subject to the violation to be spayed or neutered and properly licensed, at the owner's expense before being returned to their owner."

As noted in June, field enforcement would be the trigger that mandates the spay/neuter requirement. The mandatory spay/neuter would only apply to the offending animal, not all animals at the household. However, there may be cases where the violation involves the entire property and/or multiple animals. In such case, all animals would be "subject to the violation." In addition, the revised subsection eliminates the exception granted for licensed dogs found running at large, or off the owner's property (this is a violation of subsection A).

CONCLUSION

Staff would ask the Committee to first discuss whether the City should include dogs and cats at this time, or whether to approach this amendment incrementally, and initially focus on only dogs.

FISCAL IMPACT

Undetermined; However, increased costs to enforce new alteration standards would likely be offset by current costs responding to aggressive animals, removing animals from hoarding locations, and administrative hearings for such cases.

ALTERNATIVE(S)

1. Recommend that the City Council adopt an Ordinance to require spaying/neutering of all breeds, with the requirement only being triggered when an animal control violation has been documented on a property.
2. Recommend that the City Council adopt an Ordinance to require spaying and neutering of all dog breeds and licensing of cats.
3. Recommend that the City Council adopt an Ordinance to require spaying and neutering of only Pit Bull type dogs and Chihuahuas, which are the prominent breeds in the City of Hesperia.
4. Provide alternative direction to staff.

ATTACHMENT(S)

1. June 8, 2011 Advisory Committee agenda staff report (with attachments), and minutes
2. April 13, 2011 Advisory Committee agenda staff report (with attachments), and minutes
3. San Bernardino County August 23, 2011 staff report and draft Ordinance.
4. September 19, 2011 E-mail from Suzanne Edson with Memorandum from the National Association of State Public Health Veterinarians, Inc.
5. Hesperia Municipal Code Chapter 6.08 (Animal Care and Control)