



AGENCY: City Council  
MEETING DATE: December 14, 2020  
DEPARTMENT: City Manager  
PRESENTED BY: Tabatha Miller  
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## AGENDA ITEM SUMMARY

**TITLE:**

**Receive Report and Consider Approval of a Letter of Intent to Negotiate in Good Faith with Waste Management for a New Franchise Agreement**

**ISSUE:**

The City of Fort Bragg and Mendocino County's Franchise Agreements with USA Waste of California, Inc., dba Empire Waste Management both expire on June 30, 2021. City and County staff have met with Waste Management (WM) for initial discussions on negotiating new agreements. The City and the County have and would continue to have separate agreements but there are a number of benefits to renewing the agreements at the same time and jointly addressing some of the regional solid waste challenges.

During those initial discussions with WM, WM indicated that they would be willing to extend solid waste service beyond the June 30, 2021 date so long as the City and/or County had agreed to enter into good faith negotiations with WM. Between the meetings with WM, the City Council appointed an Ad Hoc Committee to work with staff and provide day to day direction on a new franchise agreement. Currently, Councilmember Peters and Vice Mayor Norvell are appointed to that Ad Hoc Committee. After exploring alternative solid waste providers, the Ad Hoc Committee recommended that the City enter into good faith negotiations with WM for a new Franchise Agreement. The attached letter, if approved, confirms the full City Council's intent to enter into good faith negotiations with WM.

**ANALYSIS:**

**Background**

The current Solid Waste Franchise Agreement was executed on January 8, 2007 and originally contained a termination date of June 30, 2014. In August of 2011, the Agreement was extended to June 30, 2021. The City and the County synced the expiration dates so that both agreements would be subject to renewal at the same time. The City and the County have shared solid waste contracts and resources for many years. Here on the Coast, the City and the County jointly own the Caspar Transfer Station and before that the Caspar Landfill. Since 2011, both entities have sought a new and more efficient Transfer Station here on the Coast.

The City and the County jointly own 60 acres in the Caspar area at the end of Prairie Way. The City and County first entered into a joint powers agreement in October 1967 to use the property as a solid waste landfill. The landfill was operated from 1968 until 1992, when the landfill was closed. Since then, the property has been used for a solid waste transfer station. The County had operated the facility until it executed the Operating Agreement and Lease

with Solid Waste of Willits on January 25, 2011.

The current Joint Powers Agreement (JPA) between the County and the City was executed in January of 2011 to provide for changes in how the Caspar Solid Waste Transfer Station was operated and to consider the replacement or expansion of the Caspar Transfer Station in order to accommodate commercial collection trucks and allow for long-haul direct transfer to a destination landfill.

The JPA calls for a Joint Coordinating Committee consisting of two City Councilmembers and two County Supervisors. The Committee serves in an advisory role for the Board of Supervisors and the City. The Committee's current members are Councilmember Morsell-Haye, Vice-Mayor Norvell, Supervisor Gjerde and Supervisor Williams. Mendo Recycle (formerly Mendocino Solid Waste Management Authority MSWMA) served as staff support for negotiation of Franchise Agreements and the exploration of a new Coastal Transfer Station. Staff turnover at MSWMA, left limited resources and expertise for this type of support in recent years. In 2019, the City and the County resumed responsibility for these tasks.

The JPA was amended October 25, 2016 in order to outline specific terms and obligations for moving forward with replacement of the Caspar Transfer Station. The County Board of Supervisors and City Council certified the Environmental Impact Report (EIR) on the new Transfer Station project for 30075 Highway 20 on September 19, 2016.

Acquisition of the property at 30075 Highway 20 involved a multi-party land swap. The State of California would transfer 17 acres (30075 Highway 20) to the City/County in exchange for 35 acres of land at the Caspar Landfill site. California Department of Parks & Recreation (DPR) would take ownership of the 35-acre Caspar property in exchange for 12.6 acres of Russian Gulch State Park, which would be transferred to Jackson Demonstration State Forest (JDSF). Not long after the EIR was certified, DPR pulled out of the proposed land swap. Without the option to acquire the land at no out of pocket cost, the project stalled.

After several years of little or no progress on a new coastal transfer station, in March 2019, the Joint Coordinating Committee met to discuss the existing Caspar Transfer Station and the fate of a replacement for that facility. The Committee agreed to hire a consultant to evaluate and provide guidance on the future of the Transfer Station project. After approval by both the City and County, Division Strategies was hired in October 2019. The Pandemic delayed the final report and Tom Varga, the lead City staff on the project, retired in June 2020. The report was presented to the Joint Coordinating Committee on September 17, 2020.

Division Strategies' recommendation was to pursue the option of adding transfer operations to the upcoming City and County Solid Waste Franchise Agreement RFP/negotiations. The rationale was that this would allow qualified operators the ability to compete for the most economic and compliant option for the management of waste in today's regulatory environment. The report evaluated the pros and cons of three sites: the Highway 20 location subject to the failed land swap, the existing Caspar Transfer Station owned by the City and County and the existing Pudding Creek facility owned by WM. Within the report no one site stood out as the preferred location.

The draft report received mixed reviews from the Joint Coordinating Committee. While there

was some discussion of drafting language to include transfer operations in an RFP process, there was some speculation that without a property site clearly identified and ownership secured, it was impossible for a proposer to propose a viable economic and compliant option. There were too many unknown costs. The other obstacle was lack of sufficient time to develop transfer operations requirements and criteria for an RFP process that would meet the June 30, 2021 expiration date. The Joint Coordinating Committee and City and County staff agreed that pursuing a shorter-term renewal with WM was the best solution. That would provide the City and County more time to decide on the best approach to transfer station operations and ideally identify a location.

City and County staff met with WM several times in preliminary discussions on negotiating shorter term Franchise Agreements. In those discussions, WM was firm that the shortest term it would consider was five years and it would only enter into negotiations if the City and County together or separately agreed to do so in good faith. WM indicated that they would be open to improvements to the Pudding Creek facility that could improve transfer operations in the future.

### State Mandated Challenges for Solid Waste

In addition to finding a solution to transfer operations on the coast, the City faces implementation of several complex state mandates set forth in AB 827, AB 341, AB 1826 and SB 1383 that target diversion from landfills.

**AB 827** requires businesses to make available to customers separate waste, recycling and organic recycling bins.

**AB 341** requires local jurisdictions to implement commercial recycling programs.

**AB 1826** requires businesses that generate a specific amount of organic waste per week to arrange for recycling services and implement a program to divert organic waste to an organic waste recycling program.

**SB 1383** sets forth a series of local requirements to divert organic waste from landfills starting in 2020.

Each of these mandates is unfunded. The responsibility to implement falls on the local jurisdiction and the costs onto local rate payers. As CalRecycle representatives have stated, local jurisdictions can increase rates to cover these costs. Many cities are building these requirements, programs and education efforts into their solid waste franchise agreements, since like Fort Bragg, they do not provide direct solid waste services. Both City of San Ramon and City of Stockton recently entered into new franchise agreements which incorporated compliance with SB 1383 and the other state mandates. City of Stockton's agreement had an overall rate increase of 32.6% associated with those measures and San Ramon a 30% increase.

### Franchise Agreement Ad Hoc Committee

The Ad Hoc Committee explored negotiating with other solid waste collection providers. The challenge to a new provider is the capital investment in trucks and a local facility to serve Fort Bragg. In order to recoup that investment and not increase rates too dramatically, a long term franchise agreement of 15-20 years is necessary. That would tie the hands of the City and County to consider incorporating the transfer operations into the services provided

by the local solid waste provider anytime in the near term.

The Ad Hoc Committee (Norvell and Peters) recommends that the City commit to good faith negotiations with WM and favors a short term (5-year) agreement that provides time and resources to meet the newer state mandates and to develop a transfer station plan.

**RECOMMENDED ACTION:**

Approve the proposed letter of intent to commit to good faith negotiations of a new franchise agreement with WM.

**ALTERNATIVE ACTION(S):**

1. Do not approve the letter of good faith intent to negotiate.
2. Provide staff direction to revise the letter.
3. Provide staff alternative direction.

**FISCAL IMPACT:**

The letter of intent and even the negotiations will not have a direct impact on the City's fiscal health. However, long term the City relies on solid waste franchise to pay the Caspar landfill closure costs and to support the General Fund. Staff anticipates that the costs to implement SB 1383 and the other state mandates will increase rates to our ratepayers.

**GREENHOUSE GAS EMISSIONS IMPACT:**

There is no impact on greenhouse gas emissions from signing the letter. Implementation of the mandates for reducing waste delivered to landfills should have long-term positive impacts for reducing methane from decomposing organic waste. Other terms incorporated into a solid waste franchise agreement could also impact greenhouse gas emissions such as the types of trucks employed, the miles necessary to dispose of solid waste and local recycling.

**CONSISTENCY:**

N/A

**IMPLEMENTATION/TIMEFRAMES:**

If approved the letter would be sent immediately and would be followed by active negotiations with WM.

**ATTACHMENTS:**

1. Letter of Intent

**NOTIFICATION:**

1. Kayla Rodriguez, Public Sector Manager, Waste Management
2. Steve Shamblin, District Manager 1, Empire Waste Management