



MEMORANDUM

TO: City Council

FROM: Whitney McDonald, City Manager
Timothy Carmel, City Attorney

SUBJECT: Consideration of Adoption of a Resolution Adopting and Authorizing Submittal of a Notification of Intent to Comply in Accordance with SB 619 to CalRecycle

DATE: February 22, 2022

SUMMARY OF ACTION:

Adoption of the proposed Resolution will seek to secure administrative civil penalty relief from any continuing violations of the State's SB 1383 Regulations for the 2022 calendar year in accordance with SB 619.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

There is no fiscal impact in submitting a Notification of Intent to Comply in accordance with SB 619, however, failure to comply with SB 1383 requirements can expose the City of substantial financial penalties.

RECOMMENDATION:

Adopt a Resolution adopting and authorizing submittal of a Notification of Intent to Comply in accordance with SB 619 to CalRecycle.

BACKGROUND:

The California Department of Resources Recycling and Recovery (CalRecycle) has developed prescriptive regulations to achieve the State's organic waste reduction goals. In addition to the City's recent adoption of an ordinance adding Chapter 8.33, Mandatory Organic Waste Disposal Reduction, and Chapter 15.06, SB 1383 CalGreen Recycling and Model Water Efficient Landscaping Ordinance Requirements, to the Arroyo Grande Municipal Code, in order to comply with the State's new regulations, amendments to the City's Solid Waste Franchise Agreement with South County Sanitary Service are also necessary.

CalRecycle's SB 1383 regulations became enforceable on January 1, 2022. For violations, CalRecycle has discretion to determine the level of penalty necessary to remedy any given violation by jurisdictions, but can impose penalties of up to \$10,000 per day. As

Item 8.f.

City Council

Consideration of Adoption of a Resolution Adopting and Authorizing Submittal of a Notification of Intent to Comply in Accordance with SB 619 to CalRecycle

February 22, 2022

Page 2

jurisdictions with solid waste authority are preparing to implement the laws throughout the State, many local governments are facing challenges and delays due to the COVID-19 pandemic and other issues. In response, Governor Newsom signed SB 619 (Laird, Chapter 508, Statutes of 2021) into law to support local governments as they design and implement successful organic waste recycling programs. The law authorizes CalRecycle to waive civil penalties if a jurisdiction submits a Notification of Intent to Comply for some or all of the regulatory requirements and successfully implements a plan to correct their violations. Jurisdictions may submit a Notification of Intent to Comply to CalRecycle with the attached Resolution by March 1, 2022.

ANALYSIS OF ISSUES:

The City has experienced delays in updating required amendments to the Solid Waste Franchise Agreement with its hauler, South County Sanitary Services, since the agreement is being coordinated through the Integrated Waste Management Authority (IWMA) in conjunction with other local jurisdictions. This process has been further complicated by the departure of San Luis Obispo County from the IWMA organization. IWMA's consultants, HF&H, have assisted in drafting amendments to the Franchise Agreements for a number of entities that have haulers who are subsidiaries of Waste Connections, which includes South County Sanitary Services; however, the process has not been concluded.

Currently, draft amendments to the City's Solid Waste Franchise Agreement have been submitted to Waste Connections' legal counsel for review, and negotiations are expected to conclude within the next few weeks to allow City staff to bring the amendments to the City Council for its consideration in the near future.

City staff were also recently informed by the IWMA that Cara Morgan, Branch Chief at CalRecycle, has been in touch with them in response to IWMA's request for further clarification on SB 619. Ms. Morgan has recommended that jurisdictions not apply under SB 619 if they have completed the following by June 30, 2022:

1. Franchise agreement (with SB 1383 required language inserted) Board/Council approved and signed.
2. SB 1383 Ordinance Board/Council approved and signed.

The obvious dilemma for the City is that while we are hopeful that the amendments to the Solid Waste Franchise Agreement with South County Sanitary Services will be completed and approved by the City Council by June 30, 2022, the statutory deadline for filing for relief under SB 619 is March 1, 2022. Accordingly, staff recommends that the City Council adopt the Resolution and authorize the City Manager to submit the SB 619 Notification of Intent to Comply to CalRecycle. The Resolution is based upon a suggested format provided by CalRecycle. In the event that the City is successful in completing the

Item 8.f.

City Council

Consideration of Adoption of a Resolution Adopting and Authorizing Submittal of a Notification of Intent to Comply in Accordance with SB 619 to CalRecycle

February 22, 2022

Page 3

Franchise Agreement amendments prior to June 30, 2022, City staff will advise CalRecycle and request that the City's submittal under SB 619 be withdrawn.

ALTERNATIVES:

The following alternatives are provided for the Council's consideration:

1. Adopt the proposed Resolution;
2. Do not adopt the Resolution; or
3. Provide other direction to staff.

ADVANTAGES:

Adoption of the Resolution will provide administrative civil penalty relief from any continuing violations of the State's SB 1383 Regulations in accordance with SB 619, in the event the City is unable to complete the required amendments to the Solid Waste Franchise Agreement with South County Sanitary Services by June 30, 2022.

DISADVANTAGES:

No disadvantages are identified.

ENVIRONMENTAL REVIEW:

No environmental review is required for this item.

PUBLIC NOTIFICATION AND COMMENTS:

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

Attachments:

1. Proposed Resolution
2. Notification of Intent to Comply