



**Contra
Costa
County**

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: July 12, 2016

Subject: Rate Changes for Solid Waste Collection in the Unincorporated Areas Served by Garaventa Enterprises Under the County Franchise Agreement

RECOMMENDATION(S):

1. ACCEPT the report dated June 16, 2016, from the County's rate consultant, Crowe Horwath LLP, summarizing the results of their review of the Base Year Rate Application submitted by Garaventa Enterprises (Garaventa), attached as Exhibit A, which includes a recommended discounted rate for new commercial organics collection service mandated by recently approved State law, AB 1826.
2. APPROVE an increase, not to exceed 5.93%, to the maximum solid waste collection rates that Garaventa is allowed to charge their unincorporated area residential and commercial customers effective on or after August 15, 2016, upon completion of customer noticing required in the County's Franchise Agreement.

FISCAL IMPACT:

No impact to the County General Fund. The costs for County staff time and any related consulting services focused on administering the Franchise Agreement, including the rate setting process (rate review), are covered by solid waste/recycling collection franchise fees.

BACKGROUND:

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **07/12/2016** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: Candace Andersen, District II
Supervisor
Mary N. Piepho, District III
Supervisor
Karen Mitchoff, District IV
Supervisor
Federal D. Glover, District V
Supervisor

ABSENT: John Gioia, District I
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: July 12, 2016

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: David Brockbank (925)
674-7794

cc:

In May of 1995, the County entered into a Franchise Agreement with Garaventa Enterprises (County / Garaventa Franchise) governing collection services provided in unincorporated East County areas for a period of 20 years. In August of 2011, the County approved the Third Amendment to the County / Garaventa Franchise Agreement, contingent upon implementation of a three cart collection system, that: extended the term of the Agreement for 10

BACKGROUND: (CONT'D)

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years, established variable rate structure for new three cart collection services, and increased the Franchise Fee to be paid to the County from 5% to 7%.

The Franchise Agreement grants Garaventa the exclusive privilege and duty to collect residential and commercial solid waste (includes curbside recyclables and organics) within the unincorporated service area (Franchise Area). The Garaventa Franchise Area covers the following seven (7) unincorporated areas, all but one of which is located in East County:

1. Bay Point (western portion) - District V
2. Bethel Island - District III
3. Brentwood, unincorporated - District III
4. Concord, unincorporated (portion) - District IV
5. Discovery Bay - District III
6. Knightsen - District III
7. Oakley - unincorporated - District III

The Byron Sanitary District administers its own solid waste collection franchise agreement and regulates the residential rates for about 100 customers in Byron. The County establishes and regulates Collection Rates that Garaventa is allowed to charge for residential and commercial collection services provided in their Franchise Areas (except the unincorporated Concord area customers which have rates and services consistent with those approved by the City of Concord for neighboring incorporated area customers). These rates are established in accordance with the rate setting methodology set forth in the Board approved "Rate Setting Process and Methodology Manual for Solid Waste Collection Charges as Applied to Garaventa Enterprises" (Rate Manual). The Rate Manual establishes a Franchise-specific rate application and review process, involving detailed reviews periodically with intervening annual CPI-based adjustments provided for in the County/Garaventa Franchise, as described below:

- a. Every four (4) years (**Base Years**): Comprehensive rate reviews evaluating the Franchisee's (Garaventa's) actual and projected costs and revenues directly associated with the Franchise Area services and rates. Such reviews rely upon data submitted in detailed rate applications and accompanying audited financial statements; and
- b. Intervening years between Base Years (**Interim Years**): Rates are only adjusted in Interim Years if requested by the Franchisee or County. The Franchisee may request a rate change based on one of the following options. (1) a rate change which does not exceed the annual change in Consumer Price Index (CPI), (Board of Supervisors approval is not required), or (2) Interim Year rate changes calculated based on a weighted increase in controlled and uncontrolled costs, including tipping fees, regulatory charges and change in CPI (Board approval required). The hauler is not required to submit audited financial data with the interim year rate application. Therefore, the Interim Year Rate Review is less rigorous than that carried out in a Base Year.

The Rate Manual provides for setting rates adequate to provide for recovery of the reasonable costs that Garaventa is projected to incur, plus allowable profit, for performing services under the Franchise Agreement. The Rate Manual also allows for consideration of rate adjustments based on special extraordinary cost increases consistent with the Franchise.

History of Solid Waste Collection Rate Adjustments Since the Prior Base Year

There have been various rate adjustments in the Garaventa Franchise Area since 1999 when the County adopted Garaventa's Rate Manual. The most recent Base Year rate adjustment for Garaventa was

approved by the Board of Supervisors (Board) in 2011. Below is a brief summary of that review and subsequent allowable rate adjustments:

2011: Base Year Rates - The Base Year Rate Application submitted by Garaventa requested a rate increase of 21.10%. The County enlisted the services of the selected rate consulting firm, NewPoint Group (now Crowe Horwath), to assist with the review of the submitted Base Year Rate Application. NewPoint Group's report dated January 10, 2011 identified specific adjustments to costs and revenues identified in the application which resulted in a recommended increase of 13.88%. The adjustments reflected changes to the amount of revenue required to cover allowable costs, profit levels, and pass through costs. The recommended adjustments were consistent with the Board's discretion under the Franchise Agreement and with the guidance stated in the Rate Manual. In January 2011, the Board approved a 13.88% increase in maximum rates to be charged to residential and commercial customers served under the County/Garaventa Franchise Agreement.

2012: Interim Year Rates - There was no Interim Year Rate adjustment in 2012 due to the variable can rate structure and associated three cart services not being implemented until early 2012. In 2011, the County and Garaventa worked together to develop a new variable can rate structure that would provide residential customers with pricing incentive to reduce their disposal (smaller brown trash carts) by maximizing use of curbside recycling (blue cart) and composting (green carts). This was the final County Franchise Area to implement rate changes that satisfy the variable can rate structure program requirement in our State approved Countywide Integrated Waste Management Plan. In conjunction with the proposed Franchise Amendment and Base Year Rate adjustment, Garaventa requested that the Board consider changing the Rate Manual. In August 2011, the Board approved certain changes to the Rate Manual as well as the new variable can rate structure which was intended to be implemented simultaneously with the new three cart services. The resulting residential rate adjustments varied from reductions of 8% to increases 11.5% depending on the size of the trash cart selected by the customer.

2013: Interim Year Rates - Residential and commercial CPI rate increase of 2.06% that went into effect in February/March 2013.

2014: Interim Year Rates - Residential and commercial CPI rate increase of 2.38% that went into effect in February/March 2014.

2015: Interim Year Rates - Residential and commercial CPI rate increase of 2.78% that went into effect in February/March 2015.

Crowe Horwath Review of Garaventa's Base Year Rate Application

On October 27, 2015, Garaventa submitted a Base Year Rate Application proposing to increase solid waste collection rates by 5.67%. To determine the most appropriate Base Year Rate adjustment to recommend for Board consideration, County staff solicited assistance from Crowe Horwath (rate consultant) to review the Garaventa's 2016 Base Year Rate Application. During the consultant's review of the Rate Application, consistent with the Rate Manual, Garaventa provided additional information deemed necessary in order to complete the analysis. The result of Crowe Horwath's review is contained in their Final Report dated June 16, 2016, which is attached as Exhibit A, including discounted rate for new commercial organics collection services that are compliant with recent changes in State law, AB 1826.

The Base Year Rate setting process requires that a detailed rate change application be submitted by Garaventa along with audited financial statement(s) and supplemental financial and operational information. Using the detailed financial data provided, Crowe Horwath reviewed the following major

cost categories to determine the appropriate rate adjustment:

- Direct Labor Costs
- Tipping Fees
- Corporate and Local General and Administrative Costs
- Household Hazardous Waste Program Costs
- Trucking and Equipment
- Allowable Profit
- County's Franchise Fee

BASE YEAR RATE APPLICATION ADJUSTMENTS: Garaventa's Base Year Rate Application proposes a residential and commercial rate increase of 5.67% for 2016. However, that was based on an error in the Franchise Fee formula in its Rate Application, which when fixed resulted in a proposed 6.16% increase for 2016. Crowe Horwath reviewed the Rate Application submitted by Garaventa for consistency with the Rate Manual, County policies, and waste management industry practices. Their analysis did a comparison on year-to-year changes in revenues and costs for reasonableness and solicited explanations from Garaventa for material changes. This included the examination of actual data for the years 2011 to 2014, estimated data for 2015, and projected data for 2016.

Crowe Horwath's review of Garaventa's Rate Application led to recommended adjustments to various cost categories which included eliminating unallowable costs and adding allowable costs for programs/services that were not accounted for in the original 2016 Base Year Rate Application. Based on this analysis, Crowe Horwath is recommending a 5.93% rate increase. The details of Crowe Horwath's recommended adjustments to the revenues, costs, and profits that Garaventa submitted in their Rate Application are discussed in the Final Report (Exhibit A), starting on Page 9. Table 1 below shows the recommended rate increase which provide Garaventa the profit level (operating ratio) allowed for based on the approved Rate Manual and Franchise.

Table 1: Recommended Residential Collection Rates, per Customer, per Month in 2016 with +5.93% Increase

Trash Cart Size	Existing Maximum Monthly Rate	Recommended Base Year Rate Increase for 2016 (5.93%)	Recommended Maximum Monthly Base Year Rate for 2016
20 Gallon	\$27.61	\$1.64	\$29.25
32 Gallon	\$34.46	\$2.04	\$36.50
64 Gallon	\$39.97	\$2.37	\$42.34
96 Gallon	\$47.55	\$2.82	\$50.37

Table E-1 and E-2 in Crowe Horwath's Final Report (pages 37 - 39 of Exhibit A) provide a comparison of Garaventa's County Franchise Area rates and other residential and commercial rates for customers in neighboring incorporated cities (e.g. Walnut Creek, Concord, Antioch), as well as the other unincorporated areas (e.g. Allied Waste Franchise Area and Unincorporated Central Contra Costa Solid Waste Authority). Compared to the other local incorporated/unincorporated areas surveyed, the recommended 2016 Base Year Rate adjustment would result in County/Garaventa residential customers with the two smallest cart sizes being charged rates that are between 21% to 46% above the average incorporated/unincorporated rates. However, the recommended rates would result in County/Garaventa residential customers with the two largest cart sizes being charged rates that are between 8% to 25% below the average incorporated/unincorporated rates.

NEW COMMERCIAL ORGANICS SERVICE: Separate commercial organics collection service was not accounted for in the original Rate Application, but this is a service which recently became mandatory for certain entities based on change in State law pursuant to Assembly Bill 1826 (AB 1826). AB 1826 requires certain businesses to separate food scraps and other organics, like yard debris (also applies to multi-family, with the exception of food waste), for composting or anaerobic digestion, through a phased implementation program. Starting April 1, 2016, commercial businesses that generate 8 cubic yards or more of organic waste per week must arrange for the collection and recycling (composting) of this material. On January 1, 2017, businesses that generate 4 cubic yards of organics per week will also be required to divert this material. As of January 1, 2019, AB 1826 requires any business that generates 4 cubic yards or more of solid waste (consistent with the threshold for mandatory commercial recycling established previously through AB 341) must recycle their organic waste. The 4 cubic yards of solid waste threshold could be reduced to 2 cubic yards on or after January 1, 2020, if the state regulatory agency (CalRecycle), makes a specified determination prior to that date.

Garaventa provided a list of 26 commercial customers that have weekly solid waste collection service of 5 cubic yards or more, which County staff and the consultant reviewed as potential customers that would be subject to AB 1826 regulations through 2017. Three of the original 26 commercial customers are currently subject to AB 1826, but two of them back-haul their organics to out-of-County composting facilities which is adequate for AB 1826 compliance, and the other one is having Garaventa provide organics collection service for which they are charged a rate equivalent to what is charged for solid waste (garbage) service. County staff is estimating that at least six of the remaining commercial customers would be subject to AB 1826 regulations in 2017, but further analysis will be conducted prior to January 1st of next year. Looking at the 2017 threshold dates, Garaventa should be able to incorporate organic collection service for these commercial customers into their standard residential routes. The recommended rate adjustment accounts for the shift in projected cost/revenue that is expected to result from charging customers a discounted monthly rate (75% of the maximum rate for routine collection of trash and non-organic recyclables) for the new commercial organics recycling collection service. Due to

the limited number of commercial customers expected to require this new organics service, Garaventa is expected to be able to incorporate commercial organics collection into existing nearby routes which help minimize an adjustment needing to be incorporated into the overall Base Year rates, while facilitating the establishment of the discounted commercial organics rate (75%)

CONSEQUENCE OF NEGATIVE ACTION:

The County/Garaventa Franchise Agreement obligates the County to:

- set rates in a manner consistent with the approved Rate Manual
- consider fairness to both Garaventa Enterprises and Customers when setting rates, and
- set rates adequate to cover Garaventa's reasonable projected costs and allowable profit

If a rate increase is not approved, Garaventa will not have a means to collect an adequate amount of revenue from the customers in the Garaventa Franchise Area to cover the company's costs for providing collection services to said customers.

ATTACHMENTS

Exhibit A: Final Report - Review of 2016 Garaventa Enterprises Rate Application