

CAMBRIA COMMUNITY SERVICES DISTRICT

TO: Board of Directors

AGENDA NO. **6.B.**

FROM: John F. Weigold, IV, General Manager
Timothy Carmel, District Counsel

Meeting Date: October 21, 2021

Subject: Discussion and Consideration of Introduction of Ordinance 04-2021 Adding Chapter 6.09, Mandatory Organic Waste Disposal Reduction, to the Cambria Community Services District Code to Comply with the Requirements of SB 1383

RECOMMENDATIONS:

It is recommended that the Board of Directors discuss, consider, and introduce Ordinance 04-2021 adding Chapter 6.09, Mandatory Organic Waste Disposal Reduction, to the Cambria Community Services District Code by title only and waive further reading in order to comply with the requirements of Senate Bill 1383 (SB 1383).

FISCAL IMPACT:

There is no direct fiscal impact as a result of this item. Under the proposed ordinance, implementation and enforcement would be the responsibility of District staff, as explained below; however, it is anticipated that many of the tasks will be delegated to and handled by the San Luis Obispo Integrated Waste Management Authority (IWMA). The IWMA assesses a solid waste management fee on refuse haulers to fund their activities. With regard to fees and rates, IWMA has advised of the following:

Public Resources Code Section 42652.5 authorizes local jurisdictions to collect reasonable and necessary fees to recover the costs of implementing SB 1383 regulations. Regarding fee adjustments, there are 3 different fee increases, or new fees, that will need to be identified and approved for inclusion in the franchise hauler's rate structure, all of which the final amounts and scheduling for implementation are not known at this time as each is still being identified and finalized:

1. Collection rates will need to be increased to add the cost of SB 1383 activities undertaken by the franchise hauler to comply with the regulations.
2. The IWMA fee that is on the garbage bill as a separate line item (currently 2%), will need to increase for the IWMA costs associated with implementing SB 1383. The IWMA Board approved the 1.25% fee increase in June 2021, but due to subsequent actions taken the SLO County Board of Supervisors regarding the IWMA JPA membership in July 2021, that previous fee increase action is under review and is expected to change.
3. The District SB 1383 fee will need to be added to the franchise hauler agreement during negotiations (like the AB 939 fee in the current agreement) for District staff time associated with SB 1383 implementation and compliance.

Once these three fees are fully identified, the District will assess the need to go through a Prop 218 process for a rate adjustment resulting from SB 1383 implementation.

DISCUSSION:

Background and Overview

The Cambria Community Services District provides solid waste services pursuant to Government Code Section 61100(c), and Mission Country Disposal is the District's franchisee that provides solid waste collection services to the community. Government Code Section 61060(b) provides the District with the authority "To adopt, by ordinance, and enforce rules and regulations for the administration, operation, and use and maintenance of the facilities and services listed in Part 3 (commencing with Section 61100)." The Board of Directors is now being asked to consider the introduction of Ordinance 04-2021 adding Chapter 6.09, Mandatory Organic Waste Disposal Reduction, to the Cambria Community Services District Code in order to comply with the requirements of SB 1383.

SB 1383 was signed into law on September 19, 2016, to require a reduction of organic waste disposal to landfills from 2014 levels by 75% and increase edible food recovery by 20%, by 2025. SB 1383 is the most significant waste reduction mandate to be adopted in the State of California in the last 30 years and requires all jurisdictions in the State that provide solid waste collection and disposal services to implement a mandatory organic recycling ordinance by January 1, 2022. This legislation requires all businesses, residents, and multi-family apartments to have access to recycling programs that capture food scraps, landscaping waste, and other organic waste materials in order to reduce the production of methane gas. This law has significant policy and legal implications for State and local governments, including cities, counties and special districts that provide solid waste services.

In accordance with SB 1383, the California Department of Resources Recycling and Recovery (CalRecycle), which is the State Department tasked with administering California's waste and recycling programs, developed prescriptive regulations to achieve the State's outlined organic waste disposal goals by 2025. In November 2020, CalRecycle released the final regulations for SB 1383.

On January 1, 2022, CalRecycle's regulations will become enforceable, and will require each jurisdiction to adopt a mandatory recycling ordinance. SB 1383 allows entities to take an educational and non-punitive approach to enforcement for the first two years of the ordinance being in effect (2022 and 2023). Taking an educational approach will allow the District and its franchise waste hauler, Mission Country Disposal, to work with Cambria residents and businesses to inform them of the requirements. Under this regulatory enforcement program, the enforcing agency, CalRecycle will have 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 against a jurisdiction if this law is not complied with. Demonstrated good faith efforts and progress towards compliance will likely result in fewer penalties.

Under the new State mandates, each resident and business must subscribe to an organic waste collection service that either "source-separates" the waste (e.g., separate bins), or transports all unsegregated waste to a facility that recovers 75% of the organic content collected from the system. This law puts the onus on local jurisdictions to enforce waste reduction through various means, including, but not limited to: inspections/audits of residential and commercial refuse

containers; facilitation of agreements between commercial edible food generators (e.g., schools, hospitals, large restaurants, and large grocery stores) and food recovery organizations and providers to ensure that recoverable food is diverted and not put into the waste stream; conducting education and outreach; and District procurement of recyclable and recovered organic products.

As noted, the District is required to enact an ordinance codifying these regulations. Monitoring and education must begin in 2022, and enforcement actions must start January 1, 2024. The State is leaving it to the discretion of the local agency to determine what forms of enforcement actions to impose, but suggests first providing educational materials, then issuing a notice of violation, and finally imposing penalties. The State's suggested penalties, incorporated into the draft ordinance, include a base penalty of \$50-\$100 for a first violation, \$100-\$200 for a second violation, and \$250-\$500 for a third violation. The proposed Ordinance allows for the District to evaluate each situation individually and allows the District, at its discretion, to consider the nature, circumstances, and severity of the violations, the violator's ability to pay, as well as other factors outlined in the Ordinance.

IWMA Coordination and Implementation

Given the complexity of SB 1383 and its requirements, the San Luis Obispo County Integrated Waste Management Authority has taken the lead for its member agencies to provide for the implementation of SB 1383. The IWMA has retained a consulting firm, HF&H, who has worked with the IWMA member agencies to draft amendments to their solid waste franchise agreements to address SB 1383, and also prepared a draft model SB 1383 ordinance for San Luis Obispo County agencies. This model ordinance has been used to create the proposed new Chapter 6.09 in the Cambria Community Services District Municipal Code. It should be noted that HF&H had previously been retained by CalRecycle to develop Statewide SB 1383 model documents, including franchise agreements, enforcement ordinances and procurement policies for compost, renewable gas, and paper

The IWMA is also expected to be the District's and other member agencies "designee" and have delegated to it tasks, as permitted by CalRecycle's regulations, to carry out various requirements under SB 1383. Accordingly, the District will prepare an authorizing document outlining which activities the District will be assigning to the IWMA on its behalf for execution by both parties. HF&H will also be assisting IWMA member agencies with project management and implementation support.

This delegation has also been provided for in the draft amended franchise agreement and in the new proposed Ordinance. The delegated tasks include: education and outreach monitoring, inspection, and record keeping programs; establishing, administering, and implementing the edible food recovery requirements; coordinating with CalRecycle and any other State or federal entities in assessing and ensuring compliance with the CalRecycle procurement and pollution reduction targets for each agency; monitoring and education, including, but not limited to, monitoring compliance through route reviews and evaluations, determining the applicability of waivers, and issuing educational notices where necessary and/or appropriate; and required reporting to CalRecycle. Accordingly, the franchise agreement amendment terms and ordinances have been developed to harmonize the language related to SB 1383 countywide, to the greatest degree possible, in order to provide for coordination between jurisdictions, franchisees and the IWMA.

Franchise Agreement, Rates and Fees

The District has also been working with HF&H on an amendment to the solid waste franchise agreement with Mission Country Disposal and it is expected that staff will bring that amendment to the Board for its consideration in the near future, once negotiation have been completed.

Attachments: Ordinance 04-2021

Exhibit A - CCSD Municipal Code Chapter 6.09 Mandatory Organic Waste Disposal Reduction