



Legislation Text

File #: 22-028, **Version:** 1

FROM

David P. Donery, Town Manager

RECOMMENDATION

- 1) Conduct a public hearing to consider the proposed Marin Sanitary Service (MSS) collection rates.
- 2) Adopt the attached Resolution establishing maximum rates collected by Marin Sanitary Service for solid waste, recycling, and organic waste services, to be effective January 1, 2022 (Attachment 1).

BACKGROUND

Each year, the Town Council holds a public hearing to set the maximum collection rates that can be charged by MSS in the Town of San Anselmo. These rates are based on a specific methodology contained in the Franchise Agreement with MSS. This methodology was changed in 2019 when the Council adopted the Amended and Restated Franchise Agreement with MSS.

The rate-setting methodology requires a detailed analysis, which was conducted by R3 Consulting Group. (Attachment 4). Based on R3's review, the proposed increase in 2022 for San Anselmo customers is 2.88%. In 2021, the rate was increased by 3.95%

DISCUSSION AND ANALYSIS

At the December 14, 2021 Town Council meeting, the Town Conducted a public hearing to consider the proposed Marin Sanitary Service (MSS) collection rates. At that meeting, Councilmember Greene questioned the use of Federal Paycheck Protection Program (PPP) funds in the rate calculations for 2022.

Garth Schultz from R3 Consulting prepared the attached memo (Attachment 5) and Town staff and Mr. Schultz met with Councilmember Greene and discussed his concerns. The memo provides background and analysis of MSS's PPP loan forgiveness. The memo explains how the PPP funds are being used within MSS.

As stated in the memo, collection services provided under the MSS agreements are funded by solid waste rates paid by ratepayers, which are heard and approved annually by the franchising public agencies. Annual adjustments to rates considered by the agencies take into account either a) projections of compensation due to MSS via an "indexed rate adjustment" methodology, or b) projections of MSS's forecasted cost of operations via a "base year rate adjustment" methodology. In both cases, determination of the contractually established annual rate adjustments are predicated only on rate revenues paid to MSS by ratepayers, as those are the sole recurring form of compensation that MSS receives for provision of collection services.

The MSS rate adjustment methodology (and other similar rate adjustment methodologies for most other solid waste agreements in California) does not include one-times grants in the determination of contractually

allowed adjustments to rate revenues. Contractually speaking, the Town and its ratepayers have no claim on the PPP proceeds, and MSS is under no obligation to report or include the proceeds in determining annual rate revenue adjustments.

However, and despite having no obligation to do so, MSS notified its franchising agencies about the PPP proceeds, and voluntarily waived a portion of its contractually allowed rate adjustment for 2022, which was to the benefit of ratepayers. Moreover, ratepayers have and will continue to benefit from MSS's receipt of PPP proceeds, while MSS has and will continue to incur near-term revenue shortfalls and cash flow impacts.

Rate Chart

Rate increases over the last seven years, some substantial, were necessary to cover the cost of providing refuse and recycling services in San Anselmo. The table below reflects the monthly cost of a 32-gallon can over the past seven calendar years:

| Year | Increase (%) | New 32-gal. rate (\$) | Increase (\$) |
|----------------------------|---------------------|------------------------------|----------------------|
| 2015 | 2.77 | 34.64 | .93 |
| 2016 | 5.71 | 36.62 | 1.98 |
| 2017 | 5.71 | 38.71 | 2.09 |
| 2018 | 5.57 | 40.87 | 2.16 |
| 2019 | 9.56 | 44.78 | 3.91 |
| 2020 | 7.09 | 47.95 | 3.17 |
| 2021 | 3.95 | 49.84 | 1.89 |
| Total incr. 2015-21 | 40.36 | | 16.13 |

CEQA AND CONSISTENCY WITH CLIMATE ACTION PLAN 2030

Adoption of the attached resolution increasing MSS customer rates is not a "project" under the California Environmental Quality Act (CEQA), because it does not involve an activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code § 21065). Moreover, the Town Council finds that even if it were considered a project, adoption of the resolution is exempt from the CEQA under CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that there is no possibility that approval of the customer rates may have a significant effect on the environment.

FISCAL IMPACT

Increases in MSS's rates will result in slight increases to the franchise fees paid by MSS to the Town.

CONCLUSION

The Franchise Agreement for solid waste, recycling, and organic waste services is available on the Town's website at:

<https://www.townofsananselmo.org/DocumentCenter/View/25276/Amended-and-Restated-MSS-Franchise-Agreement-San-Anselmo-11-26-2019>. Marin Sanitary Service representatives along with a representative

from R3 Consulting Group will be present at the meeting to provide information and to answer any questions.

Attachments:

1. Staff Report from December 14, 2021 Town Council meeting
2. Resolution including exhibit with new rates
3. Rate application
4. Marin Sanitary Service Rate Report from R3
5. R3 memo regarding MSS PPP loan forgiveness