



Item No. 24 Town of Atherton

CITY COUNCIL STAFF REPORT- PUBLIC HEARING

**TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER**

FROM: ROBERT BARRON III, FINANCE DIRECTOR

DATE: SEPTEMBER 17, 2014

**SUBJECT: PUBLIC HEARING ON RECOMMENDED INCREASE TO
COMMERCIAL REFUSE RATES IN THE TOWN OF ATHERTON**

RECOMMENDATION

- 1) Conduct the Public Hearing regarding the proposed increase in commercial refuse and organic rates for the Town of Atherton; and
- 2) If appropriate, introduce the attached Ordinance for first reading, an Ordinance of the City Council of the Town of Atherton Setting Refuse Collection Rates.

BACKGROUND

The SBWMA Refuse Subcommittee met on May 7 and on July 8, 2014 to discuss the Atherton Commercial refuse and organic rates. The Subcommittee discussed and recommended an adjustment to the commercial refuse and organic rates as well as a correction to the rate schedule to include commercial bins. The Subcommittee recommends that residential garbage refuse rates be maintained at their current levels until a revised collection rate impact projection is done in the fall of this year. At this time, the only recommended change is to the *commercial rates for refuse and organics*.

Tonight's Public Hearing is a required hearing under Proposition 218. Pursuant to the requirements of Proposition 218, staff mailed out a notice 45-days prior to tonight's Public Hearing to all refuse service billing addresses with *commercial services*. The notice described to the service customer the procedures on how to file a protest regarding the rates.

During the Public Hearing, the City Council can consider all written protests of the rate increase. If written protests are presented for a majority of the parcels, the rate increase will not take effect. If there is no majority protest, then the rates can be imposed by an ordinance approved by 2/3 vote of the members of the City Council under Health & Safety Code § 5471. The Town will also publish and post notice of the proceedings. As of the writing of this report the Town has not received any written protest for the commercial rate increase.

ANALYSIS

During the committee's analysis it was proposed and recommended to do the following:

- ❖ Raise the 4, 6 and 8 yards bins to reflect the Town's current rate structure.
- ❖ Review commercial rates and adjust the rates by 5%.
- ❖ Assuming a 5% commercial rate (non-organics) increase, set organic rates at 15% less.

The Town of Atherton SBWMA Subcommittee met on May 7 to discuss the commercial rate adjustments. Particular attention was paid to the rates for the 4, 6, and 8-yard bins. While the Town's rate structure currently does not include these bins, Recology does offer these bins for use. It would be appropriate to add these tiers to the Town's rate structure.

For commercial bins of this category, the Subcommittee proposed the rate structure within the attached ordinance to ensure that the rates for these bins were within the Town's existing rate structure. The Town currently has 10 commercial accounts. The remaining accounts are residential, educational, food service, governmental, transportation and entertainment.

The Subcommittee recommends adjusting the commercial rates by 5% and adjusting the commercial organic rates to 15% less the commercial rate. These adjustments are reflected in the attached ordinance.

Currently the organic rate structure for organic bins is 35% less than the garbage rate for the same type of containers. Based on the **present** rate structures, the following is the calculation for Organic Rates:

With the inclusion of the 4, 6, and 8-yard bins rates, the projected 5% increase, and commercial organics set at 15% less, the proposed rates are:

Refuse Commercial Bins	Current Rate	5% Increase	Organic Rates
1-96 Yard	\$185.00	\$194.00	\$164.90
1-1 Yard	\$200.00	\$210.00	\$178.50
1-2 Yard	\$400.00	\$420.00	\$357.00
1-3 Yard	\$550.00	\$580.00	\$493.00
1-4 Yard	\$462.92	\$650.00	\$552.50
1-6 Yard	\$694.38	\$870.00	\$739.50
1-8 Yard	\$925.84	\$1,160.00	\$986.0

The Subcommittee and staff believe that in order to meet the increased demands for diversion and growing costs of disposal that these are appropriate commercial rates to set. In accordance with Proposition 218 process the following findings are made:

- The revenues derived from the increased commercial collection rates do not exceed the funds required to provide commercial collection services pursuant to the Solid Waste/Recycling Collection Agreement.

- The revenues derived from the increase in commercial collection rates will not be used for any other purpose other than commercial collection services pursuant to Solid Waste/Recycling Collection Agreement.

Attached is an Ordinance adjusting only the commercial refuse and organic rates.

2013 Final Reconciliation

Future activity of the Subcommittee includes the analysis of the rate surplus and shortfall for services provided by Recology. Each year the SBWMA and each contracted agency review the revenue requirements needed for refuse collection and disposal. Each agency is responsible for setting its refuse rates. Each year during the fall, SBWMA staff and town staff review the revenue requirements needed to maintain refuse operations. Through the process we ensure the rates are sufficient to cover the Town's portion of refuse contractor costs and disposal.

Beginning with the rate year 2013, SBWMA has decided to allow agencies that have surplus balance to request a refund of that surplus and hold it within a rate stabilization fund locally. As for the Final 2013 rate year, the Town of Atherton has a shortfall balance of \$136,721. In the coming months staff will work with SBWMA and the Town Refuse subcommittee to create language for changes to the franchise agreement in regards to the event there are future surplus funds and how they will be remitted back to the Town – an in particular, how interest will be treated.

The Subcommittee is also investigating the possibility of imposing a “minimum service level” rate that would be in place when residents vacate the premises for construction, vacation, or other long-term period.

FISCAL IMPACT

Of the 12 commercial accounts, 5 have organic bins. The increase of the commercial rates (non-organic) by 5% would amount to \$3,805 more per month or \$45,670 per year. The organics bin use set at 15% less the new commercial rate, would amount to \$2,667 more per month or \$32,014 per year. As waste diversion is becoming a bigger priority and the cost for diversion increases, it is important to ensure the commercial rates are set accordingly. The total increase for commercial refuse and organics is \$77,684 per year.

ATTACHMENT

Ordinance XXX

Public Hearing Notice

ORDINANCE XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON RESCINDING THE RATES SET FORTH IN ORDINANCE 602 AND SETTING THE RATES FOR SOLID WASTE/RECYCLING COLLECTION SERVICES

WHEREAS, the Town of Atherton ("Town") has provided a franchise to Recology San Mateo County ("Franchisee") allowing for and governing the collection of refuse, recyclable material and plant material within the Town of Atherton's limits and the Town has approved rates, on April 16, 2014 by Ordinance 602, that Franchisee may charge for these solid waste/recycling collection services; and

WHEREAS, pursuant to the Uniform Franchise Agreement for Collection Services ("Solid Waste/Recycling Collection Agreement") between Franchisee and the Town, the Town is required to adopt solid waste/recycling collection rates that produce revenues sufficient to provide payment to Franchisee in accordance with the amount due under the Solid Waste/Recycling Collection Agreement; and

WHEREAS, a the City Council directed staff to prepare an adjustment to commercial refuse and organic rates to reflect a cost model closer to full cost recovery; and

WHEREAS, the City Council has complied with the fee adjustment provisions of Proposition 218, including the mailing of notices regarding a public hearing to consider a proposed ordinance to adopt an increase in the green cart rates; and

WHEREAS, the Town has identified the parcels upon which the increased green cart collection rates will be imposed, calculated the amount of the rates, and mailed notice to the refuse service billing address for all parcels in the Town of Atherton, wherein the Town provided written notice of the proposed rates, the basis for the calculation, the reason for the rates and the date, time and location of a public hearing not less than 45 days after sending the notice; and

WHEREAS, the Town further provided published and posted notice of the foregoing; held the duly noticed public hearing and considered any and all protests; and

WHEREAS, written protests against the green cart collection rates were not presented by a majority of owners or tenants of the identified parcels within the 45 day period;

NOW, THEREFORE, THE CITY COUNCIL OF THE TOWN OF ATHERTON DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. In accordance with Article XIII D, Section 6(b), of the California Constitution, the City Council makes the following findings:

A. The revenues derived from the increased solid waste/recycling commercial refuse and organic collection rates do not exceed the funds required to provide solid waste/recycling collection services pursuant to the Solid Waste/Recycling Collection Agreement.

B. The revenues derived from the increased solid waste/recycling commercial refuse and organic collection rates will not be used for any purpose other than solid waste/recycling collection services pursuant to the Solid Waste/Recycling Collection Agreement.

C. The increased solid waste/recycling commercial refuse and organic collection rates do not exceed the proportional cost of the service to each parcel.

D. The only increase is to the commercial base rates and the commercial organic rates.. The remaining rates remain the same as approved in Ordinance 602 and incorporated herein.

E. The solid waste/recycling collection services are presently available.

SECTION 2. Beginning on the effective date of this Ordinance, the green cart collection rates will be established as listed below. The rate schedule includes a fixed rate for each container of refuse, with no additional charge for recycled materials or green waste collection.

Residential Rates:

Black Garbage Container	Rates
20 gallon	\$27.00
32 gallon	\$55.00
64 gallon	\$110.00
96 gallon	\$164.00

Commercial Rates:

Refuse Commercial Bins	Current Rate	Proposed New Rate	Current Organic Rates	Proposed New Organic Rates
1-96 Gallon	\$185	\$194	\$120.25	\$165
1-1 Yard	\$200	\$210	\$130	\$179
1-2 Yard	\$400	\$420	\$260	\$357
1-3 Yard	\$550	\$580	\$357.50	\$493
1-4 Yard	\$462.92	\$650	\$300.90	\$553

1-6 Yard	\$694.38	\$870	\$451.34	\$740
1-8 Yard	\$925.84	\$1,160	\$601.79	\$986

OTHER SERVICES COST SCHEDULE

Backyard Collection Service Distance Costs for Single-Family Dwellings				
	One (1) Solid Waste Cart	Two (2) Solid Waste Carts	Three (3) Solid Waste Carts	Four (4) Solid Waste Carts
Distance from Curbside	Base monthly Solid Waste Rate plus			
0-100 feet	\$21.00	\$31.72	\$60.44	\$89.16
101-150 feet	\$24.00	\$34.72	\$63.44	\$92.16
151 – 200 feet	\$27.00	\$37.72	\$66.44	\$95.16
201 – 250 feet	\$30.00	\$40.72	\$69.44	\$98.16
251 – 300 feet	\$33.00	\$43.72	\$72.44	\$101.16
301 feet or more	\$36.00	\$46.72	\$75.44	\$104.16

Unscheduled Service Category	Cost	Description of Cost
Distance Charge for Commercial Accounts	A – 10% of base monthly Rate B – 25% of base monthly Rate	A – 51 to 100 feet from access by Contractor's collection vehicle B – 101 feet or more from access by Contractor's collection vehicle
Extra Pick-up Cost for Commercial Customers	25% of the base monthly Rate for the size of Container Collected once per week	Per Collection event
Single-Family Return Trip Cost (i.e., request to provide Collection service after the regularly scheduled Collection day)	\$15.00	Per Collection event

Unscheduled Service Category	Cost	Description of Cost
Additional Targeted Recyclable Materials or Organic Materials Cart Rental or Purchase (in addition to the two Organic Material carts and one Recyclable Materials cart)	A – \$11.00 each for 1 or 2 additional cans \$18.00 each for 3 or more additional cans B - \$3.00 C – \$63.00 D – \$69.00	A – monthly rental fee (any size Cart) for Organic Materials Carts B – monthly rental fee (any size Cart) for Targeted Recyclable Materials Carts C – Customer purchase of a 64 gallon Cart D – Customer purchase of a 96 gallon Cart
Fee for Service On-Call Bulky Item Collection Service	\$81.55 per the 3 rd occurrence Residents receive first 2 for free	Per event (after the 2 nd event)
Overage Fee	100% of the base monthly Rate	Per Collection event
Overage Bags Cost	50% of the base monthly Rate or \$8.00 minimum	Per bag
Container Cleaning Fee	A – \$50.00 B – \$85.00	A – per Cart B – per Bin or Drop-Box
Dirty Cart Replacement Cost	A – \$65.00 B – \$75.00 C – \$85.00	A – per 32 gallon Cart B – per 64 gallon Cart C – per 96 gallon Cart

SECTION 3. The City Council hereby declares that it would have passed this Ordinance, sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions in this Ordinance are severable and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not effect the validity of the remaining parts of this Ordinance.

SECTION 4. This Ordinance was approved by a 2/3 vote of the City Council pursuant to Health & Safety Code section 5471.

SECTION 5. This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code section 36937.

SECTION 6. This Ordinance shall be published once fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Government Code section 36933.

* * * * *

Introduced at a regular meeting of the City Council held on September 17, 2014, and passed and adopted by the City Council of the Town of Atherton on the 15th day of October, 2014 by the following roll call vote, to wit:

AYES: 0 COUNCIL MEMBERS:
NOES: 0 COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

Cary Wiest, Mayor
Town of Atherton

ATTEST:

Theresa DellaSanta
City Clerk

APPROVED AS TO FORM:

William B. Conners
City Attorney

**NOTICE OF PUBLIC HEARING
REGARDING PROPOSED INCREASE IN COMMERCIAL RATES IN THE TOWN OF
ATHERTON**

Dear Property Owner/Tenant:

Pursuant to the requirements of Proposition 218 and Article XIID of the California Constitution, this notice provides information regarding proposed increases to the existing commercial customer rates for the collection of commercial waste materials in the Town of Atherton.

Notice of Public Hearing
Regarding Proposed Increase in Commercial Waste Rates and Commercial Organic Rates

A public hearing on proposed increases to commercial waste rates and commercial organic rates will be held by the City Council on:

Date: Wednesday, September 17, 2014
Time: 7:00 p.m.
Place: City Council Chambers, 94 Ashfield Road, Atherton CA

This notice is being sent to the refuse service billing address for all commercial parcels in Atherton. This notice also describes how to file a protest regarding the proposed rate increase. All property owners/tenants and other interested parties are invited to attend the public hearing and be heard on the proposed rate increase.

Proposed New Commercial Rates (Effective November 17, 2014):

Refuse Commercial Bins	Current Rate	Proposed New Rate	Current Organic Rates (35% less refuse)	Proposed New Organic Rates (15% less refuse)
1-96 Gallon	\$185	\$194	\$120.25	\$165
1-1 Yard	\$200	\$210	\$130	\$179
1-2 Yard	\$400	\$420	\$260	\$357
1-3 Yard	\$550	\$580	\$357.50	\$493
1-4 Yard	\$462.92	\$650	\$422.50	\$553
1-6 Yard	\$694.38	\$870	\$565.50	\$740
1-8 Yard	\$925.84	\$1,160	\$754	\$986

Protest Procedures:

The City Council of the Town of Atherton will hold a public hearing on Wednesday, September 17, 2014 at 7:00 p.m. in the Council Chambers at 94 Ashfield Road. At this hearing, the City Council will consider public comment as well as written protests by ratepayers and property owners against the proposed increase in commercial fees. Any person may appear at the public hearing and be heard on any matter related to the proposed increase in rates.

Any written protest must be signed by the property owner or the customer responsible for payment of the fee and it must include the service address or assessor's parcel number (APN). The Town of Atherton must receive any written protest at Town Hall by 5:00 p.m. on September 17, 2014, or the written protest must be presented at the City Council meeting on September 17, 2014 prior to the close of the public hearing on the matter. If you wish to mail a written protest, please send it in a sealed envelope addressed to Commercial Refuse Rates, City Clerk, Town of Atherton, 91 Ashfield Road, Atherton, CA 94027. Only one protest may be filed per parcel or service address.

If written protests are presented by a majority of affected property owners/customers prior to close of the public hearing, the City Council cannot adopt the proposed rates and another rate structure would have to be proposed.

If you have any questions or would like to make changes to your service with Recology, please visit their website at www.recology.com or call 650-802-3500.

If you would like additional information on the proposed rates, please call Robert Barron III at 650-752-0552.

For mailing distribution by July 30, 2014.