



Agenda Item No:

Meeting Date: December 16, 2019

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Manager's Office

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City Manager Approval: _____

TOPIC **MARIN SANITARY SERVICE RATES FOR 2020**

SUBJECT **RESOLUTION ESTABLISHING MAXIMUM RATES COLLECTED BY MARIN SANITARY SERVICE FOR REFUSE AND RECYCLABLE MATERIAL COLLECTION AND DISPOSAL SERVICES, TO BE EFFECTIVE JANUARY 1, 2020**

RECOMMENDATION

Adopt a resolution establishing maximum rates collected by Marin Sanitary Service for Refuse and Recyclable Material Collection and Disposal Services, to be effective January 1, 2020 with an increase of 4.85% over 2019 rates.

EXECUTIVE SUMMARY

This report details the rate adjustment proposal for 2020 necessary for Marin Sanitary Service to provide refuse, recycling, and organic materials composting, hauling, and processing for customers ("rate payers") in San Rafael. Rate payers include residential homeowners, apartment owners, commercial property owners, and other businesses and tenants. The proposed rate adjustment would increase rates by 4.85% over 2019 levels for all rate payers. It includes adjustments based on an agreed-upon rate-setting methodology the City has with Marin Sanitary Service and is based upon an independent third-party review of expenses and revenues by R3 Consulting Group, Inc. (R3). In addition, this report proposes a new Illegal Dumping Pilot Program with Marin Sanitary Service that, if approved, comprises .53% of the total proposed rate adjustment of 4.85%.

BACKGROUND

Each year, the City Council holds a public hearing to set the maximum collection rates that can be charged by Marin Sanitary Service (MSS) in the City of San Rafael. These rates are based on a specific methodology contained in the Franchise Agreement the City has with MSS. This methodology was changed last year when the Council adopted the [third amendment](#) to the Franchise Agreement with Marin Sanitary Service. The Background section of this report will provide the overall context of the rate-setting process, the changes that occurred in the Franchise

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File No.: _____

Council Meeting: _____

Disposition: _____

Agreement, the services Marin Sanitary Service provides in San Rafael, and the Illegal Dumping Pilot Program.

Franchise Agreement and Franchisors' Group

Article XI of the California Constitution and the California Public Resources Code allows cities to regulate refuse and recycling services and to collect a franchise fee from any provider of such services. MSS is our sole provider of refuse hauling and recycling services and performs these services in many surrounding communities as well. These services are pursuant to a Franchise Agreement between the City and MSS, which outlines the services that must be provided by MSS as well as a methodology to be followed to set customer rates each year.

Several jurisdictions in Marin that have similar agreements with MSS joined together as the Marin Franchisors' Group to share information and reduce costs. These jurisdictions are: City of San Rafael, City of Larkspur, Town of Ross, the Las Gallinas Valley Sanitary District, and the County of Marin, including within the Ross Valley Sanitary District boundaries. The Marin Franchisors' Group ("Franchisors") meets several times per year to oversee MSS's operations and works together to conduct a single annual rate review analysis rather than each jurisdiction having to conduct and pay for a separate review.

Our current Franchise Agreement is the "Third Amendment to the Amendment and Restatement of Collection Agreement of the City of San Rafael with Marin Sanitary Service" and was [adopted by Council in 2018](#). The amendment was one several outcomes of a 2-year process of analysis and negotiations with MSS, which also included the following:

1. **Replaced the Recycling Reserve Fund** with a net processing fee structure that allows MSS an annually adjusted processing fee minus revenues from the sale of recyclable materials. This new method of calculating recycling in the annual rate application includes an incentive for MSS to seek the best prices for selling the materials, while also providing a mechanism to ensure revenues help offset customer rates when markets are good.
2. Includes a **substantially streamlined and simplified annual rate adjustment methodology**. The new methodology sets rates based on set revenues due to MSS, which are escalated annually based on one simple Water, Sewer, and Trash (WST) index, which has increased between 2 to 5% annually in recent years. This places more incentive on MSS to live within the regulated revenue amount.
3. **Removes all true-up provisions** from the previous method of calculating rates, other than those negotiated for three years to amortize past recycling losses to the company.
4. **Includes a 2.5% minimum and a 5% maximum rate cap** for MSS' operational expenses. This excludes franchise/agency fees and the cost of processing, recycling, composting and disposal, however, the latter of which are not subject to MSS control.

In total, these changes are intended to provide more stable and predictable rates, continued verifiable high levels of service, and a simplified and cost-effective rate-setting methodology that also improves accuracy and transparency. This rate-setting report, conducted by R3 Consulting Group, Inc. (R3) is the first rate review using the new methodology.

Marin Sanitary Service Programs and Services

MSS provides residential, commercial and multi-family refuse services, including garbage, recycling and organics (composting) collection and processing. MSS also provides garbage and recycling pick-up for City facilities, parks, and all sidewalk receptacles downtown and throughout San Rafael. MSS is a key partner in the City's environmental goals as well as the City and County's Zero Waste Goals. MSS conducts the majority of the outreach for the City for the State's Mandatory Commercial Recycling and Mandatory Composting laws (AB 341, AB 1826, and soon

SB 1383), which place requirements on businesses to recycle and compost, and requires annual monitoring and notifications to non-compliant businesses. MSS also has a robust community outreach and education program, and they conduct numerous programs and community offerings, including an annual free compost giveaway and customer education event. All their services including a new Where Does it Go, Joe recycling lookup feature can be found on their new website: <https://marinsanitaryservice.com/>

Changes in the Industry

Numerous changes have taken place in the industry over the past several years. First, recognizing the negative impacts of organic materials decomposing in landfills on climate change, the State of California has started mandating that businesses of certain thresholds compost their organic materials. The State will soon mandate that all residents and businesses compost their organic waste in the coming years (AB 1826 and SB 1383). Additionally, the State may also place new requirements on local governments to implement, monitor and enforce participation in organic waste programs. In addition, there continues to be a depression in the recycling commodities markets, resulting in losses for recyclers throughout the State.

ANALYSIS

This section will outline the rationale for the two items under consideration:

- A. The rate adjustment for 2020
- B. A recommended Illegal Dumping Pilot Program

A. Rate Adjustment for 2020

Over the past ten years rate adjustments for San Rafael have ranged from less than one percent to over 10% with an average of 5.82% annually. Last year's adjustment was 9.39% and included some legacy true-ups and recycling losses. In the past few years many Bay Area cities have experienced rate adjustments in the double digits, including more than 50% in Piedmont, Windsor and Santa Rosa. These increases are the result of many factors, including a growing amount of solid waste, recycling, and compostable materials generated by residents and businesses, increasing costs of processing recyclables and compostable materials, decreasing value of recyclable materials, and increasing costs of labor in a constrained labor market.

Attachment B shows R3's independent third-party review of Marin Sanitary Service's 2020 Rate Application and breaks down the areas impacting the rates as an average for the Franchisors' as a whole. The table below shows the Rate Increase Factors for San Rafael for 2020, including the Illegal Dumping Pilot Program.

Table 1. 2020 Rate Increase Factors, San Rafael

Collector Operations	2.13%
Garbage Landfilling and Organics Processing	0.83%
Other (Government Fees, Interest, Change in Law)	0.62%
Recyclable Materials Processing	0.43%
Profit	0.31%
Pilot Illegal Dumping Program	0.53%
Total	4.85%

Collector Operations comprised the majority of the rate adjustment and was calculated using the Consumer Price Index (CPI) for Water, Sewer and Trash Collection. The second highest factor included the costs of processing recyclables and organics and the disposing of waste. All told,

the new rate setting methodology has been effective in keeping rate increases below 5%. Note that some of the increase this year is due to legacy true-ups in Fuel and Oil and Garbage Landfilling and Organics Processing that will sunset in 2021. Staff also anticipates new expenses related to changes in State law that will be mandating additional organics recycling via Assembly Bill (AB) 1826 and Senate Bill (SB) 1383. Staff will be working with MSS in the coming year as the SB 1383 regulations are finalized to better understand these impacts and efficient ways to address the mandates.

R3 reviewed the application and all relevant documents and financial schedules with MSS and recommends an increase of 4.85% to the City of San Rafael's rates in 2020 with the addition of the illegal dumping pilot. This would result in an increase of \$2.01 per month for a residential 32 gallon cart, which is the most common cart size, totaling \$43.37. For the most common commercial size there would be an increase of \$24.78 per month for a 3 yard bin totaling \$535.73. Recycling is included in all accounts and customers can reduce their regular landfill container size or pickup schedule resulting in lower rates.

R3 conducted a survey of Bay Area refuse haulers as part of the rate review, included in Attachments 3, 4, and 5 of their Report. It summarizes the survey data for residential 30-35 gallon can weekly service with curbside recycling and organics pickup. Note though, that proposed 2020 rates are not available for other jurisdictions yet, so this summary compares proposed San Rafael 2020 rates to other jurisdictions' 2019 actual rates, which will certainly increase. Using this comparison San Rafael's rates are slightly higher than other Bay Area jurisdictions. However, it is also important to note that all jurisdictions provide different services and levels of services, making apples-to-apples comparisons problematic. San Rafael's rates have traditionally been comparable with rates in other Bay Area jurisdictions, while often providing more services.

As in previous years, staff is recommending that the rate adjustment be applied across the board to all residential, multi-family and commercial service accounts. Actual rates for all services are provided as Exhibit C, an attachment to the Resolution included with this report.

B. Recommended Illegal Dumping Pilot Program

Illegal dumping has been a persistent and costly problem for San Rafael and the City receives over 200 complaints every year from residents and businesses alike. The Department of Public Works estimates the annual fiscal impact to the City of approximately \$250,000 to cover staff time and disposal associated with illegal dumping. The Streets Division generally spends one full day each week collecting and disposing of illegally dumped items. Illegal dumping not only affects the City's budget and staff resources but is a health and quality of life issue for everyone in San Rafael. This issue is not unique to San Rafael, and some cities such as Oakland spend upwards of \$5.5 million per year.

The City has done a great deal to try to abate the problem, including changing parking alignment on Windward Way, removing trash cans and putting up signage and surveillance cameras, conducting outreach, and adjusting days and times for removal of illegal dumping. MSS has also been assisting and cleans up Jacoby Street a minimum of once per month, which gets a lot of after-hours dumping. In the end, our resources are limited, and we need new tools to address the issue.

In late 2017 a Together San Rafael team formed to address illegal dumping using a formal cross-departmental approach comprising staff from Police, Public Works, and Sustainability utilizing a Human Centered Design (HCD) approach. Through initial research the Team identified three key areas of action necessary for success: 1) education and community engagement, 2) infrastructure and universal access to disposal, and 3) enforcement. Through

interviews and surveys the Team identified some early actions that were rolled out in 2018 and 2019:

1. Developed a **new protocol for reporting** and following up on illegal dumping reports such that Police got notified when it was criminal activity, and Public Works was routed more pedestrian level dumping such as what happens outside apartment complexes when residents set items out on the street or sidewalk. This included a new public-facing [web page](#) with tools and information.
2. Developed **Crime Prevention Through Environmental Design (CPTED) outreach collateral** that could be given to businesses to learn how to protect their property from unwanted dumping.
3. Developed a **mini-grant pilot** program for businesses in East San Rafael that offered up to \$1,000 to a business that wished to utilize a CPTED strategy they hadn't previously employed, such as installing surveillance cameras and signage, or upgrading lighting around the building.
4. Began hosting **bulky waste collection and recycling events** ([example](#)) in the Canal Neighborhood to offer options for multifamily building residents to dispose of their unwanted items properly, while gathering research data into the problem and potential solutions. This included direct mailings to all residents and apartment managers in the Canal with information about the illegality of putting items on the street and the proper means of disposal. This pilot was mostly paid for through our Zero Waste grants.
5. **Increased enforcement:** Public Works started issuing warnings and administrative citations to apartment owners who regularly had dumped items around their property, and Police stepped up their efforts to make contact with people who were reported to have dumped items on the public right-of-way.

This combination of engagement, enforcement, and disposal opportunities resulted in a noticeable decrease in items picked up in the Canal Neighborhood by Public Works in 2019 (see Attachment D - Illegal Dumping Pilot Report). However, there is still a need to develop a long-term solution that is resource-efficient and cost-effective. There are limited enforcement resources due to the other pressing issues that Police and Public Works face, and there are limited funds and use cases for the Zero Waste Grants. In addition, this pilot only addressed one neighborhood in San Rafael and relied heavily on an intern who has since moved on.

Although illegal dumping has been reduced in the Canal Neighborhood since the Together San Rafael pilot program, it is still a prevalent concern in many other areas of San Rafael including the East San Rafael Business District. Currently, only single-family residential accounts have bulky waste disposal options as part of their curbside pickup of trash, recycling, and composting. Adding this to over 400 multi-family complexes and hundreds of businesses in San Rafael would entail a significant rate increase. This new pilot aims to test some more cost-effective options to increase access to safe and easy disposal for multifamily building tenants and business owners.

The Illegal Dumping Pilot Program proposal aims to do 3 things:

1. **Test a voucher program for multi-family residents** whereby they can utilize a voucher once or twice per year to dispose of unwanted bulky items when they need to dispose of them as opposed to on a specific day. This flexibility is critical as research we conducted over this past year revealed that many times people need to replace an item or move and get rid of items and don't have the luxury/availability of storing them until a local bulky waste collection event. The voucher program will also help determine actual costs vs. the collection events to see which is more useful and cost-effective.

2. **Test a commercial coupon program** that offers businesses that have experienced illegal dumping on their property the ability to dispose of it at a free or reduced cost. The initial proposal has been to offer this once or twice per year when the business owner or manager reports the dumping, which would allow for the City to follow up and provide them with a CPTED flyer and opportunity to apply for a mini-grant to further protect their property. Results from early research showed that businesses who employed CPTED strategies saw dramatically lower prevalence of illegal dumping on their property once implemented.
3. **Continue the bulky waste disposal events** in the Canal Neighborhood but on a quarterly basis. This will allow us to continue to partner with the Mattress Recycling Council, which has committed to help us up to four (4) times a year at no cost. It will also allow us to gather more data through in-person surveys and engagements and gauge people's familiarity with the coupon program.

This Pilot Program is being recommended as part of an addition to the rates this year. The intention is the City and MSS can use the pilot and further research and community engagement to develop a longer term or permanent solution that could be considered going forward that is sustainable, equitable, and efficient. The City would continue current increased enforcement and business mini-grant programs as well.

R3 has conducted an analysis of the costs in Attachment C. This pilot would begin with an engagement with local and statewide entities focused on finding solutions to illegal dumping along with other community partners. The City would engage a local consulting firm specializing in developing metric-based outreach campaigns to provide assistance with pilot design and testing. Best practices in behavior change social science combined with Human Centered Design would be utilized to ensure a rigorous pilot and confidence in the results and future recommendations. This approach combines research into what works in other places along with grounded local research to craft the right approach for local conditions.

R3 estimates costs for this pilot program to be a maximum of \$100,000, and the engagement would be pursued as a not-to-exceed that amount. This adds .53% to this year's rate adjustment as shown in Table 1 above and is included in the staff recommendation as Option 1 below. Option 2 below is the rate adjustment without the additional .53% for the Illegal Dumping Pilot Program.

COMMUNITY OUTREACH

Notice of the public hearing was published twice in the Marin Independent Journal (Attachment B) and emailed to all names on file with the City Clerk and City Manager's Office. Information on the maximum annual rate that MSS can collect is available at the City Clerk's office during the 10 days prior to the public hearing. The proposed rate information is also provided directly to the San Rafael Chamber of Commerce, the Business Improvement District, Marin Builder's Association, and other interested parties.

FISCAL IMPACT

The attachment to the Resolution (Exhibit C) contains the complete rate request. As shown, the overall increase is 4.85%, including the illegal dumping pilot program, applied to all customer types and service options. If approved, these rates are projected to satisfy the City's contractual obligations to meet the MSS revenue requirement to cover San Rafael refuse and recycling service costs, including franchise fees. Increasing MSS's rates will result in slight increases to the franchise fees paid by MSS to the City.

OPTIONS

- Adopt a resolution establishing maximum rates collected by Marin Sanitary Service for Refuse and Recyclable Material Collection and Disposal Services, to be effective January 1, 2020 with an increase of 4.85% over 2019 rates, or
- Adopt a resolution establishing maximum rates collected by Marin Sanitary Service for Refuse and Recyclable Material Collection and Disposal Services, to be effective January 1, 2020 without the addition of an Illegal Dumping Pilot Program for a total increase of 4.32% over 2019 rates, or
- Do not adopt a resolution establishing maximum rates collected by Marin Sanitary Service for Refuse and Recyclable Material Collection and Disposal Services, to be effective January 1, 2020 at this time and direct staff to come back with more information.

RECOMMENDED ACTION

Adopt a resolution establishing maximum rates collected by Marin Sanitary Service for Refuse and Recyclable Material Collection and Disposal Services, to be effective January 1, 2020 with an increase of 4.85% over 2019 rates.

ATTACHMENTS

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| Attachment A: | Resolution with Exhibit C Rate Schedule |
| Attachment B: | R3 Review of Marin Sanitary Service's 2020 Rate Application |
| Attachment C: | R3 Memo for Illegal Dumping Pilot Program |
| Attachment D: | Illegal Dumping Pilot Report 2019 |
| Attachment E: | Affidavit of Publication |