



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Holly Stuart, Public Works Program Manager
Arturo Vela, Director of Public Works

MEETING DATE: June 25, 2024

SUBJECT: Public Hearing and Consideration of Resolution 2024-105, Approving a Report in Connection with the Proposed Collection on the 2024/2025 Riverside County Property Tax Roll of Delinquent Solid Waste Service Charges for Single-Family and Multi-Family Dwelling Accounts and Making a Determination of Exemption under CEQA

RECOMMENDATION:

Conduct public hearing and adopt Resolution 2024-105.

BACKGROUND:

On April 27, 2021, the City Council approved a solid waste franchise agreement with Waste Management of the Inland Empire (Waste Management) for Residential and Commercial Garbage, Recyclable Materials and Organics Waste Collection, Transportation, Recycling and Disposal Services (Franchise Agreement), effective July 1, 2021.

In accordance with the Franchise Agreement, on October 12, 2021, the City Council adopted Ordinance No. 1576, amending and restating Chapter 8.28, "Garbage Collection and Disposal," of Title 8, "Health and Safety," of the Banning Municipal Code. In addition to implementing many aspects of the new Franchise Agreement, the ordinance allows the collection of delinquent residential service charges on the County Tax Roll in accordance with the Franchise Agreement and Article 4 of Chapter 6 of Part 3 of Division 5 of the California Health and Safety Code, commencing with Section 5470 ("Article 4"). The operative date of the amendments to the Municipal Code was January 1, 2022.

Pursuant to Article 4, delinquent charges collected on the County Tax Roll will be collected in the same manner, by the same persons, and at the same time as, together with and not separately from, the general taxes of the City.

The Franchise Agreement provides that Waste Management shall provide solid waste collection services to residential accounts, which includes both single-family dwellings (SFD) and multi-family dwellings (MFD). Pursuant to the Franchise Agreement, services provided to residential accounts that become delinquent are not able to be discontinued. In consideration of Waste Management not being able to discontinue residential services, the City committed to working with Waste Management in placing qualifying residential delinquencies on the County Tax Roll. To initiate the process, the Franchise Agreement requires Waste Management, on May 1st of each year or such other agreed upon date, to notify the City in writing that it seeks to have the City place qualifying delinquencies on the County Tax Roll. At no cost to the City, Waste Management is responsible for timely preparing required information, reports, notices, and materials.

Pursuant to the Franchise Agreement, a qualifying delinquent charge is a SFD or MFD charge that is at least 90 days in arrears and for which Waste Management has provided at least one written notice of the delinquency by mail to the service recipient and to the property owner, as listed on the last equalized assessment roll.

On April 4, 2024, Waste Management submitted a formal letter to the City requesting that qualifying SFD and MFD delinquent solid waste service charges for calendar year 2023 be placed on the Fiscal Year 2024/2025 County Tax Roll, together with a report which includes a description of each parcel within the City for which there is a qualifying delinquent charge (“Identified Parcel”) and the delinquent amount for each Identified Parcel (the “Report”). The Report is on file in the office of the City Clerk. Amounts listed in the Report include past due charges for service and late fees (2.5% or \$5 minimum on balances over \$15). Additionally, County Tax Roll Fees amount to 10% of unpaid balances per occurrence.

For the calendar year 2023 period, Waste Management’s request amounts to 732 delinquent residential accounts for a total principal balance of \$295,823.93 . The principal balance for each parcel includes unpaid charges for solid waste collection services (including extra services) for all or a portion of the period of January 1, 2023 through December 31, 2023, and monthly late fees.

JUSTIFICATION:

The action before the City Council is to conduct a Public Hearing to place calendar year 2023 residential delinquent accounts on the Fiscal Year 2024/2025 County Tax Roll.

At the Public Hearing, the City Council shall hear and consider all oral and written objections or protests, if any, to the Report and the collection of the delinquent accounts on the Fiscal Year 2024/2025 County Tax Roll. If the City Council finds at the conclusion of the Public Hearing that the protest is made by the owners of a majority of the separate Identified Parcels, then the Report shall not be adopted and the delinquent charges shall not be collected on the County Tax Roll. In the absence of a majority protest, the City Council may adopt this resolution for inclusion of residential delinquent accounts to be added to the Fiscal Year 2024/2025 County Tax Roll.

On May 24, 2024, the notice of Public Hearing was mailed to the owner of each Identified Parcel at the address shown on the last equalized assessment roll available on the date the Report was prepared or as known to the City Clerk, and to the address to which the invoices are customarily mailed, if different than the owner’s address. The mailed notices describe the Council’s intent to place delinquent solid waste charges on the Fiscal Year 2024/2025 County Tax Roll, public hearing and protests process and deadline to resolve delinquent balances prior to submittal of the delinquencies to the County. In addition, notices of this public hearing were published in the Record Gazette on June 7, 2024 and June 14, 2024.

The following outlines the process for collecting delinquent solid waste charges:

1. Waste Management prepares an annual written Solid Waste Delinquency Report and submits a copy to the City. The delinquency report contains a description of each SFD and MFD parcel receiving solid waste services and the amount of the delinquent amount for each parcel that remains outstanding, which include service charges, late fees and a tax roll fee.
2. City staff evaluates delinquent residential accounts reported and continuously works with Waste Management to identify and resolve any identified inconsistencies. This process is pursued from the time the initial report is submitted by Waste Management through its final submittal to the County of Riverside.
3. At the public hearing, in absence of a majority protest, City Council approves the Solid Waste Delinquency Report and adopts a resolution authorizing the collection of delinquent solid waste charges to be placed on the annual County tax roll. City staff is authorized to decrease the number of residential delinquent accounts and/or principal balances reported to the County, if necessary. Property owners that resolve their outstanding calendar year 2023 solid waste charges with Waste Management, or make partial payment to Waste Management prior to July 19, 2024,

will be removed from the accounts submitted to the County of Riverside Auditor-Controller by the City for collection on the County Tax Roll or the amounts submitted will be reduced accordingly.

4. Following the final determination of the delinquent solid waste charges, the City shall file with the County of Riverside Auditor-Controller any remaining delinquent balances, including applicable late fees and tax roll fee, to be included on the respective property owner's Fiscal Year 2024/25 property tax bill.

Property owners have two options to resolve delinquent solid waste charges:

1. Resolve unpaid solid waste delinquencies with Waste Management before the July 19, 2024 deadline; or
2. Resolve unpaid solid waste delinquencies with the County of Riverside once delinquent charges are included on the Fiscal Year 2024/2025 property tax bill. Delinquent charges collected on the County Tax Roll will be collected in the same manner, by the same persons, and at the same time as, together with and not separately from, the general taxes of the City.

CEQA

City staff has evaluated the proposed collection of the delinquent charges on the County Tax Roll for purposes of compliance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. City staff has determined that the proposed collection of delinquent charges on the tax roll is an activity covered by the common sense exemption in that it can be seen with certainty that there is no possibility that such collection may have a significant effect on the environment because the collection only addresses the cost of an existing service provided to the public and not the commencement of a new service or program. Accordingly, the process for the collection of the delinquent charges on the County Tax Roll is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

FISCAL IMPACT:

At no cost to the City, Waste Management shall be responsible, without limitation, for all costs associated with preparing required information, including but not limited to, reports, notices, and materials, publication costs, and Riverside County fees. The Franchise Agreement provides that the City will pay Waste Management moneys collected from the payment of the delinquent charges placed on the County Tax Roll, less the franchise fee equal to twelve and one-half percent (12.5%).

ALTERNATIVES:

1. In the absence of a majority protest, adopt Resolution 2024-105, as recommended.
2. In the absence of a majority protest, adopt Resolution 2024-105, with modifications.
3. Reject Resolution 2024-100 and provide alternative direction to staff. If rejected, delinquent charges will not be collected on the Fiscal Year 2024/2025 County Tax Roll, and pursuant to the Franchise Agreement, Waste Management shall have the right to dispute the denial action by pursuing measures outlined in the Franchise Agreement.

ATTACHMENTS:

1. [Resolution 2024-105, Solid Waste Tax Roll.docx](#)
2. [WMLetter_4.04.24.pdf](#)
3. [SampleDelinquentLetter.docx](#)
4. [Publication.DOCX](#)
5. [2024 06 14_PHN Solid Waste.pdf](#)