

COMMUNICATION

TO: LOS ANGELES CITY COUNCIL

FILE NO. 10-1797-S7

**FROM: COUNCILMEMBER BERNARD C. PARKS, CHAIR
EDUCATION AND NEIGHBORHOODS COMMITTEE**

COMMUNICATION FROM CHAIR, EDUCATION AND NEIGHBORHOODS COMMITTEE relative to Neighborhood Councils and their understanding and awareness of major issues pending before the City Council, such as proposals to establish eleven waste-sheds in their neighborhoods and the creation of a franchise system for private waste haulers.

Recommendations for Council action:

1. ADOPT Motion (Parks - Perry) requesting Neighborhood Councils to report to the Education and Neighborhoods Committee regarding outreach efforts and understanding of the proposed waste-shed/franchise system issue currently pending before the Ad Hoc on Waste Reduction and Recycling and Energy and Environment Committees under Council File (CF) 10-1797.
2. INSTRUCT the City Clerk to schedule the Community Impact Statement from the Mar Vista Neighborhood Council, and the comments submitted into the record (for CF 10-1797-S7) from the Los Angeles Coalition of Neighborhood Councils, relative to this issue, for consideration at a future meeting of the Education and Neighborhoods Committee.
3. INSTRUCT the City Administrative Officer (CAO) to review and respond to the questions submitted into the record (for CF 10-1797-S7) by the Chair of the Education and Neighborhoods Committee.
4. APPROVE the recommendations of the CAO in its report dated August 23, 2012 regarding establishing a non-exclusive franchise system for refuse collection from multi-family and commercial properties within the City of Los Angeles (as contained in CF 10-1797 and currently under the purview of the Ad Hoc on Waste Reduction and Recycling and Energy and Environment Committees):
 - a. Approve a citywide policy for implementation by July 1, 2013 of a Non-Exclusive Waste Hauler Franchise for the collection of solid waste from commercial, industrial, institutional and multifamily (privately serviced) properties in the City of Los Angeles.
 - b. Authorize the CAO through the Office of Economic Analysis to issue a task order(s) for independent review from a list of qualified consultants for an analysis of economic impacts of franchised solid waste hauling in the City of Los Angeles for multifamily and commercial solid waste (refer to Exhibit G of the CAO report dated August 23, 2012 as contained in CF 10-1797 for specific scope items).
 - c. Instruct the Bureau of Sanitation (Sanitation) to develop a strategic plan within 90 days for commercial waste infrastructure such as sorting, transfer and alternative technology processing facilities.
 - d. Instruct the CAO and Chief Legislative Analyst, with the assistance of Sanitation, to report with a final implementation plan for Council approval based on findings of the economic analysis, inclusive of recommendations for a fee structure and revenue potential.

5. REQUEST the City Attorney to respond to the requests for opinion from the CAO relative to pending issues (such as whether the City can collect non-exclusive franchise system revenue without waiting for 5 years, and whether an Environmental Impact Report [EIR] is required for either an exclusive or non-exclusive franchise system).

Fiscal Impact Statement: The CAO reports that structural revenue to the General Fund from a Franchise Fee can be anticipated. The amount is contingent upon further study and policy decisions on an appropriate franchise structure.

Community Impact Statement: Yes, by
Mar Vista Community Council
Del Rey Neighborhood Council
Greater Griffith Park Neighborhood Council

SUMMARY

At a special meeting held on September 28, 2012, the Chair of the Education and Neighborhoods (E&N) Committee considered Motion (Parks – Perry) relative to a request to the Neighborhood Councils to report on their process for community outreach efforts as well as on the status of their understanding and awareness of major, key issues pending before the City Council, such as proposals to establish eleven waste sheds in their neighborhoods to serve as temporary repositories for waste separation of recyclable materials and to establish a franchise system for private waste haulers.

The Chair announced that the Motion as stated provides Neighborhood Councils with the ability to appear before the E&N Committee, such as at this special meeting, and have the opportunity to comment on matters that may be of major concern in their communities. Additionally, the Committee Chair stated that when major issues come up in the future, such as the waste shed / waste hauler franchise system issue, the E&N Committee will conduct hearings so that Neighborhood Councils can play a vital role. The Neighborhood Councils also have the ability to submit Community Impact Statements into the record, and to date only Mar Vista Neighborhood Council has done so (note: during the E&N special meeting, the Los Angeles Neighborhood Council Coalition submitted comments into the record, and subsequent to the special meeting, the Del Rey Neighborhood Council and Greater Griffith Park Neighborhood Council also submitted Community Impact Statements).

The City Administrative Officer (CAO) and the Director of the Public Works Bureau of Sanitation (BOS) and their respective staffs were present and were invited by the Committee Chair to provide an overview and background on the issue as stated in the Motion and to respond to related questions. The Division Manager of the BOS Solid Resources Citywide Recycling Division began by explaining that waste hauling is provided in two ways: BOS handles waste from single family dwellings and small multi-family dwellings (such as duplexes), as well as recycling and green waste, including that of Los Angeles Unified School District; while commercial and large multi-family dwellings (such as apartment buildings) are handled by private waste haulers that operate through permits granted by the City in an open market system in which waste haulers negotiate their contracts and rates with each of their customers.

BOS is proposing to move from an open market system for large multi-family and commercial/industrial customers to an exclusive franchise system. The City would be divided into eleven “waste sheds” (which are geographical areas in which waste and recycling are collected; they are not actual facilities) and BOS would conduct a Request for Proposals (RFP) for each waste shed for which the permitted waste haulers would be allowed to bid. BOS would then evaluate the proposals and look for the best rates and service and then the City

would contract with the successful proposer to provide exclusive service for that waste shed.

In response to a question from the Chair regarding the number one concern by constituents and Neighborhood Councils which was whether there would be any waste sorting facilities sited in their communities if an exclusive franchise system is implemented, BOS responded that it has no proposals at this time for any facilities within City boundaries and since the RFP has not yet occurred, there have not been any such proposals from bidders. However, BOS reported that it anticipates and expects that successful proposers in an exclusive franchise system would already have existing facilities that they either own or with which they contract that would be included in their proposals. Moreover, BOS would also be concerned if a bidder was proposing a new facility in light of the difficulty of actually getting waste sorting facilities built.

BOS stated that it is recommending an exclusive franchise system for two reasons. The first reason is that the City must move to mandatory commercial recycling pursuant to a state law that became effective July 1, 2012 requiring all commercial and multi-family locations that generate waste volume of more than 4 cubic yards per week to have recycling programs. Additionally, the City is required by law to monitor and report to the state on who has recycling programs and the level of recycling occurring. The City has a responsibility to ensure recycling programs for all commercial establishments and multi-family dwellings that meet the aforementioned waste volume requirement. It would be more difficult for BOS to track and report on recycling in an open market system since customer accounts change often (customers move from one hauler to another). The second reason BOS is recommending an exclusive franchise system is for environmental efficiencies. A single hauler for a geographic area can route more efficiently and economically to perform the waste and recycling hauling, rather than a number of different companies sending multiple vehicles into the same area and competing for one customer at a time. By cutting down on miles traveled, efficient routing is one way an exclusive franchise system would reduce vehicle emissions; the other would be by proposing clean fuel requirements for those vehicles.

BOS noted that it has conducted community outreach on this issue and held a number of stakeholder meetings in 2011. BOS sent out a notice in July 2011 to a list of 2,000 e-mail addresses, including 397 neighborhood council contacts, informing them of the proposal and inviting them to the stakeholder meetings. A neighborhood council, community, and Renter's Association stakeholder meeting was held by BOS on July 27, 2011 which was well attended. Additionally, BOS has been updating their website on this issue and in January 2012 sent another communication to the e-mail list with a progress report.

The Committee Chair reported that the second most asked question by Neighborhood Councils and constituents (after the question of waste sorting facilities) is what will be the impact on current haulers if they are not successful bidders for an exclusive franchise, particularly the impacts on the business and employees of those haulers who operate and are based in the City of Los Angeles. BOS acknowledged that this issue came up consistently in stakeholder meetings, so BOS is proposing an exemption for construction and demolition waste haulers (many of these haulers are the smaller haulers with 1-2 trucks) so that they are not impacted by an exclusive franchise system. Additionally, BOS is proposing that the successful bidder for a waste shed area sub-contract a suggested amount of hauling to smaller haulers, particularly minority- and women-owned business, as part of their contract. Each bidder would include the sub-contracting percentages in their proposals for the RFP and would be evaluated by BOS accordingly during the RFP process. BOS also noted that they would welcome and encourage smaller haulers forming into cooperatives or collectives to participate in the RFP process.

According to the Chair, the third most asked question pertains the ability of commercial business and multi-family property owners to negotiate with haulers for the best pricing and

specialized services. They are concerned that under an exclusive franchise system, they would pay a standardized cost higher than their current cost and lose the ability to deal with one company, particularly in a situation, for example, where a property owner might have multiple properties in several waste shed areas and end up dealing with three different companies rather than dealing with one company to service all of their properties. BOS conceded that under an exclusive franchise system, prices would be set as part of the exclusive system contract. However, BOS is committed to a system that provides the highest level of customer service, and would negotiate for the best possible prices for the system. BOS has seen from exclusive franchise contracts in other cities that the City would have substantial leverage to ensure prices stay reasonable. Regarding whether prices would be consistent for all waste sheds or whether they would vary, BOS reported that it would depend on how far the material that is being hauled has to travel from the customer to the sorting or disposal site as is the case with pricing under the current system. However BOS has not yet conducted a study on how this would affect contracts, nor the type of pricing a customer could expect if they have a large amount of properties that require servicing.

In response to questions from the Chair regarding whether the proposed exclusive franchise system fees would be directed to special funds or the General Fund and whether the current AB 939 10 percent recycling compliance fee would be separate or folded into the franchise fees, the City Attorney, CAO, and BOS noted the following: 1) currently, AB 939 compliance fees are considered a special fund, 2) some portion of the proposed franchise fees, either from an exclusive or a non-exclusive system, would go into the General Fund, 3) folding the AB 939 fee into the franchise fee would be a policy decision to be made by the Council, and 4) even after whichever franchise system that the Council approves is in place, BOS will still be permitting for over 650 construction and demolition haulers every year that would be exempt from the franchise system. Additionally, the Chair inquired what type of revenue could be expected from exclusive franchise system fees, and BOS stated that if the fee was set at 10 percent, then revenues could be \$25 million but neither BOS nor the CAO has established a franchise fee for the proposed exclusive and non-exclusive franchise systems.

The CAO then provided an overview of its report dated August 23, 2012 relative to analysis of the exclusive franchise system proposal submitted by BOS and the Board of Public Works, and the proposal from the CAO for a non-exclusive franchise system. In the report, the CAO reported that it tried to identify the specific objectives of an exclusive system and propose alternatives to meet those objectives, while at the same time addressing the concerns raised by communities, businesses, and multi-family households. The CAO concluded that the goals of an exclusive franchise system are worth pursuing by the City, but can be reached through a non-exclusive franchise system.

In a non-exclusive franchise system, each property owner, commercial establishment, apartment building, and retail establishment would still have the ability to select the hauler for their unique needs. However, in order to participate in hauling trash in the City, the haulers would be required to meet certain criteria and standards set by the City such as the types of vehicles used for hauling, the levels of emissions, diversion rates to meet state mandates, labor standards (including requiring a living-wage if Council so chooses), etc. Currently, the City has a permit process for haulers, however the CAO recommends strengthening this process to create more aggressive expectations, as well as implementing monitoring and reporting, and ultimately denying haulers permits if they fail to meet those standards.

Under a non-exclusive franchise system, the CAO expects that many of the issues raised relative to an exclusive franchise system will not be issues since rates will be set by the market and each hauler will have to be competitive to meet the City's regulations while seeking business. The CAO looked at jurisdictions in other states as well as in California in terms of identifying what models would work best. Since the City of Los Angeles is the second largest city in the U.S., it is hard to find appropriate comparisons, however cities closer in size to Los

Angeles have free market systems while exclusive franchise systems are mostly found in cities significantly smaller. Ultimately, the CAO believes that a non-exclusive franchise system is a compromise between those who seek an exclusive franchise system and those who would rather maintain a free market system where commercial and large multi-family buildings can select the hauler of their choice.

The CAO was then asked by the Chair whether implementing a non-exclusive franchise system would allow the City to immediately begin collecting revenue instead of waiting until 2017 (as would be required under state law for implementation of an exclusive franchise system). The CAO stated that its interpretation of state law is that the City can begin quicker in establishing a non-exclusive franchise and, as a result, that the General Fund could receive funding sooner. However a legal opinion on this issue has been requested by the CAO from the City Attorney but not yet received. CAO reported that the amount the General Fund could receive is dependent on the franchise percentage and the rate that would be approved by Council, but could range between \$20 and \$20 million based on the 10 to 15 percent range. Additionally, the CAO noted that a legal opinion has also been requested from the City Attorney on whether an Environmental Impact Report (EIR) is required for either an exclusive or non-exclusive franchise system.

The Chair posed a series of questions such as whether any consideration was given to raising the AB 939 fee from 10 percent to 20 percent rather than going to any type of franchise system, what criteria would be proposed for an RFP for a non-exclusive franchise system, and whether the City would consider putting its residential waste hauling out for RFP if it is determined that price point for franchising is lower than the City's cost, and whether the City would compete for commercial and multi-family waste hauling. The CAO reported that AB 939 revenue is for restricted purposes, i.e. recycling programs, and any revenues from increased fees would have to be used strictly for the intended purpose. Regarding an RFP for a non-exclusive franchise system, the CAO reported that one would not be necessary and that the City would work with stakeholders to develop criteria for waste haulers that would be approved by Council and that any hauler that seeks to do business in the City would be required to meet those criteria. Lastly, the CAO responded that the Council would ultimately determine whether the City could seek to issue an RFP for residential waste hauling and recycling services or whether the City would compete for commercial and multi-family waste hauling after more data was available from the implementation of a franchise system. However, the CAO and BOS both were in agreement that the services provided by BOS are a national model and BOS has an exemplary record of meeting diversion goals. Moreover, the partnership and separation between the services that the City and private industry provide is currently working well.

The Chair then inquired about the HF&H Study and whether the CAO had evaluated it (BOS commissioned HF&H, a consulting firm that specializes in the areas of recycling and solid waste management services, to study the cost of providing waste collection services under an exclusive and non-exclusive franchise system and a permit-based system). CAO reported that it had reviewed both the January 23, 2012 and August 24, 2012 studies and that it did take the results of the studies into account when the CAO prepared its report. The studies basically concluded that there was not a significant increase or decrease in rates (no more than five percent in either direction) for either an exclusive or a non-exclusive franchise model.

After a detailed briefing from both BOS and the CAO, the Chair convened the public comment period. The first speaker expressed concern that the special meeting had devoted over an hour to discussion of waste hauling franchise issue and veered away from the agenda item which he believed was the discussion of the effectiveness of outreach to Neighborhood Councils and their effectiveness in dealing with issues. The Chair replied that the manner in which the Motion was written and agenda item also seeks to provide Neighborhood Councils with an awareness of the waste sheds/waste franchise issue and that this awareness cannot

be provided without first providing background on the subject. The Chair then read the entire Motion into the record to ensure that subsequent speakers sharing the concern of the first speaker were informed that the special meeting was held for the purpose of providing education on this issue to the Neighborhood Councils.

Subsequent speakers included members of Neighborhood Councils, landlords, organizations representing building owners and landlords, waste haulers, organizations representing waste haulers, commercial organizations, and individuals. Most of the approximately 30 speakers expressed opposition to the establishment of an exclusive franchise system within the City of Los Angeles. Several speakers, including representatives of the Los Angeles Neighborhood Council Coalition and the Silverlake Neighborhood Council, submitted documents into the record.

Additionally, the E&N Committee Member representing the Ninth Council District submitted a letter addressed to the Chair of the E&N Committee expressing support for the CAO's recommendations as they relate to a non-exclusive franchise system for waste hauling in the City (which was read into the record by the E&N Committee Clerk), and the Committee Chair submitted into the record a list of questions relative to the proposed non-exclusive and exclusive franchise waste hauling systems and instructed the CAO to respond to the questions.

The Chair also requested that the City Attorney provide legal opinions requested by the CAO relative to pending issues (such as whether the City can collect non-exclusive franchise system revenue without waiting for 5 years, and whether an Environmental Impact Report [EIR] is required for either an exclusive or non-exclusive franchise system) and instructed the City Clerk to schedule the Community Impact Statement from the Mar Vista Neighborhood Council, and the comments submitted into the record by the Los Angeles Neighborhood Council Coalition, for discussion at a future meeting of the E&N Committee. The City Clerk was further instructed to schedule this Communication from the Chair for consideration by Council at the time the other Council Files on this matter (CFs 10-1797 through 10-1797-S6) are scheduled for consideration.

After having provided the opportunity for extensive public comment, the Committee Chair recommended that the Council approve the instructions to the City Clerk and the CAO, the request to the City Attorney, and the recommendations contained in the CAO report dated August 23, 2012. This matter is now forwarded to the Council for its consideration.

Respectfully submitted,

COUNCILMEMBER BERNARD C. PARKS, CHAIR
EDUCATION AND NEIGHBORHOODS COMMITTEE

| | |
|----------------|-------------|
| <u>MEMBERS</u> | <u>VOTE</u> |
| PARKS: | YES |
| PERRY: | ABSENT |
| ZINE: | ABSENT |

REW
11/7/12
[10-1797-S2](#) rpt_en_9-28-12

Not Official Until Council Acts