

TO: City Council
FROM: Jim Throop, Director of Administrative Services
SUBJECT: Landfill Corrective Action Funding Mechanism
DATE: April 7, 2009

Needs: For the City Council to adopt a resolution establishing a funding mechanism for corrective action costs for the municipal landfill.

Facts:

1. Since 1993, the City has had in place a funding mechanism for landfill closure/postclosure maintenance costs as required by the California Integrated Waste Management Board (CIWMB).
2. Sometime in the late 1990s, CIWMB developed additional regulations requiring landfill operators to provide funding for a “corrective action event”; i.e. linear tear, sudden pollution or methane gas problem, etc..
3. In the past, the City purchased insurance as its’ means of providing funding for the corrective action event.
3. Unfortunately, insurance is no longer available from any source to fund corrective action costs.
4. Per CIWMB regulations, the City must establish an internal funding mechanism to set aside the estimated cost of a corrective action event.
5. Based upon the estimated life of the landfill, the balance in the closure/postclosure fund at June 30, 2008 and the annual contribution to the fund, the inclusion of corrective action costs is adequately covered by the current annual contribution to the closure/postclosure fund based upon future value calculations.
6. The CIWMB has reviewed the City’s funding methodology and the attached resolution and have found them both adequate.

Analysis

and

Conclusion:

The City’s landfill closure costs has been estimated at \$10,198,110, postclosure costs at \$4,922,411 and corrective action costs at \$483,000 for an aggregate total cost of \$15,603,521. The closure and postclosure amounts must be collected and available by June 30, 2051 when the landfill is estimated to be full.

Given that there was \$1,473,698 in the closure/postclosure fund at June 30, 2008 and that the City makes an annual contribution of \$73,200 in twelve equal monthly installments, if the fund and future contributions earned a 5% yield over the next 43 years, the fund will accumulate a balance at June 30, 2051 of \$23,000,616. An amount that is more than sufficient to fund closure and postclosure maintenance as well as corrective action costs.

The proposed resolution simply renames the closure/postclosure fund to include corrective action.

Fiscal
Impact:

None.

Options:

- a. That the Council adopt Resolution No. 09-_____ providing financial assurances to the California Integrated Waste Management Board that the City is adequately funding its' closure/postclosure/corrective action costs per their regulations; or
- b. Amend, modify, or reject the above option.

RESOLUTION NO. 09-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
RESCINDING RESOLUTION NO. 93-190 AND ADOPTING
A REVISED RESOLUTION ESTABLISHING A FUND FOR THE DEPOSIT
AND ACCUMULATION OF MONIES TO PROVIDE ADEQUATE
RESOURCES FOR LANDFILL CLOSURE/POSTCLOSURE AND
CORRECTIVE ACTION COSTS

WHEREAS, Public Resources Code Sections 43500 through 43610.1 and Sections of Title 27 of the California Code of Regulations, Division 2, Subdivision 1, Chapter 6, require operators of solid waste landfills to demonstrate the availability of financial resources to conduct closure and postclosure maintenance, and corrective action activities; and

WHEREAS, Sections 22228 and 22241 of the Regulations specify an Enterprise Fund and related financial assurances mechanisms as acceptable mechanisms to demonstrate financial responsibility for financing the closure and postclosure maintenance and/or corrective action of a solid waste landfill; and

WHEREAS, the City Council of the City of El Paso de Robles is desirous of providing assurances that a fund has been established.

THEREFORE BE IT HEREBY RESOLVED by the City Council of the City of El Paso de Robles that:

1. The Director of Administrative Services is hereby directed to create and maintain a fund to be identified as the "Landfill Closure/Postclosure/Corrective Action Fund" for the specific purpose of depositing and accumulating monies necessary to meet all costs associated with landfill closure and subsequent postclosure costs as well as corrective action costs; and
2. The monies necessary to cover the costs associated with the landfill closure/postclosure/corrective action as per the most recently approved closure and postclosure plans, and corrective action cost estimate shall be generated through a tipping fee surcharge to be assessed on each ton of solid waste delivered to the municipal landfill or any other source of funds as may be identified by the City; and
3. The City Treasurer shall invest all monies deposited into the fund in accordance with the adopted City Investment Policy for the specific purpose of generating interest earnings which shall be deposited into the fund; and
4. The monies deposited into the fund shall be dedicated exclusively for funding all costs associated with closure/postclosure maintenance and corrective action costs and shall be maintained according to Public Resources Code Sections 43500 through 43610.1 and Sections of Title 27 of the California Code of Regulations, Division 2, Subdivision 1, Chapter 6; and
5. The Landfill Closure/Postclosure/Corrective Action Fund shall be and remain inviolate against all other claims, including claims of the City or its' City Council or the creators thereof, it being

the intent of this resolution that the mechanism established hereby will provide equivalent protection to a trust fund in ensuring that the assured amounts of funds will be available in a timely manner for closure and/or postclosure maintenance and corrective action costs of the landfill.

6. Disbursement of funds for closure and/or postclosure maintenance shall be in accordance with Section 22234 of the Regulations or as may be directed by the California Integrated Waste Management Board.
7. In the event the Board staff or Enforcement Agency finds that the City has failed to perform closure and/or postclosure maintenance and corrective action costs as required by law, the Board staff and/or Enforcement Agency shall confer with the City and attempt to resolve the alleged violation. If no agreement can be reached, the matter shall be referred to the Board which, following a reasonable notice, a public hearing, and consideration of testimony and documentation submitted by the Board staff and/or Enforcement Agency, the City, and any interested parties, shall make a determination on the matter. In the event the Board determines that the City has failed to perform closure and/or postclosure maintenance and/or corrective action costs as required by law, the Board may direct the City to make such expenditures from the Enterprise Fund or any source that may be available to the City as are necessary to ensure sufficient closure and/or postclosure maintenance and/or corrective action costs, as determined by the Board.
8. The Director of Public Works shall produce an annual report for transmittal to the California Integrated Waste Management Board containing as appropriate the following information concerning the Paso Robles Landfill:
 - (a) As specified by Section 21820 of the Regulations, a revised closure cost estimate.
 - (b) As specified by Section 21840 of the Regulations, a revised postclosure cost estimated.
 - (c) An accounting of the current balance of the Paso Robles Landfill Closure/Postclosure Maintenance Fund.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 7th day of April 2009 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Duane Picanco, Mayor

ATTEST:

Cathy David, Deputy City Clerk