
RESOLUTION NO. 4088-2018

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING WASTE
MANAGEMENT PROPOSED RESIDENTIAL, COMMERCIAL AND
MULTIFAMILY, AND ROLLOFF RATE INCREASES AND OPPOSING
RETROACTIVE APPLICATION OF THE COST OF LIVING RATE
ADJUSTMENT TO SUCH RATES**

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989, has declared that it is within the public interest to authorize and require local agencies to make adequate provisions for Solid Waste handling within their jurisdictions; and

WHEREAS, pursuant to California Public Resources Code Section 40059 (a) (2), the City Council of the City of Fort Bragg (City) determined that the public health, safety and well-being require that an exclusive franchise be awarded to a qualified Solid Waste enterprise for the collection and recovery of solid waste from certain residential, industrial and commercial areas in the City; and

WHEREAS, The City and USA Waste of California, Inc., DBA Empire Waste Management (Waste Management) executed a Franchise Agreement (Agreement) dated January 8, 2007; and

WHEREAS, the City's intention in executing the Agreement with Waste Management was to maintain reasonable rates for collection and transportation of solid waste, discarded recyclable materials and green waste within the area covered by the Agreement; and

WHEREAS, the Agreement provides for prior approval by the City Council and/or the City Manager of rates and charges by Waste Management; and

WHEREAS, the Agreement provides for rate adjustments on a pass-through basis, if the City or another jurisdiction increases or decreases surcharges, disposal fees, taxes or other expense that impacts Waste Management's expenses. The Agreement explicitly allows for pass-through rate adjustments to be implemented retroactively; and

WHEREAS, the Agreement provides for rate adjustments annually as of June 1 based on the change in CPI-U, all items for the San Francisco-Oakland-San Jose CA and the most recently published California Index for #2 diesel fuel. The Agreement does not provide for retroactive implementation of the cost-of-living adjustments; and

WHEREAS, Waste Management recently sent letters to City residential, commercial and rolloff customers stating that the City approved the retroactive cost-of-living rate increase from June 1, 2017 and an additional increase due to tipping fees increasing at the Mendocino County and privately-owned transfer stations would be applied retroactively from January 1, 2018. The letter explains that the retroactive cost increases would be spread over the April and May, 2018 invoices; and

WHEREAS, neither the City Council nor the City Manager approved the rate adjustments as set forth in the Waste Management letters, and the City objects to the

retroactive application of the 6.52 percent increase for the cost-of-living adjustment as it was not approved by the City and is not provided for in the Agreement; and

WHEREAS, City staff has reviewed the cost-of-living increase in the amount of 6.52 percent and agrees with the calculation and recommends approval of that increase.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve the cost-of-living increase in the amount of 6.52% but opposes the retroactive application of the adjustment from June 1, 2017. The City Council demands that any retroactive cost-of-living adjustment billed to City of Fort Bragg customers be reversed and appropriate credits applied to the invoices.

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg approves the pass-through adjustment of .26% and supports the retroactive application to January 1, 2018.

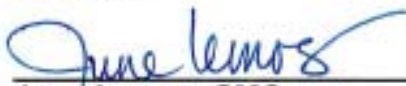
The above and foregoing Resolution was introduced by Councilmember Norvell, seconded by Councilmember Turner, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 23rd day of April, 2018, by the following vote:

AYES: Councilmembers Lee, Norvell, Turner and Mayor Peters.
NOES: None.
ABSENT: Councilmember Cimolino.
ABSTAIN: None.
RECUSED: None.



LINDY PETERS
Mayor

ATTEST:



June Lemos, CMC
City Clerk