

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
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Agenda Number:
Prepared on: 5/8/06
Department Name: Fire
Department No.: 031
Agenda Date: 6/6/2006
Placement: Departmental
Estimate Time: 30 Minutes
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors

FROM: John M. Scherrei
Fire Chief

STAFF CONTACT: Randy Coleman, Fire Marshal/Division Chief
x5554

SUBJECT: Fee Resolutions for Hazardous Materials Business Plans/Waste Generator/Underground Storage Programs

Recommendation(s):

That the Board of Supervisors:

1. Authorize the Fire Department to bill responsible parties (RPs) to fully recover the Department's costs for the time spent identifying RPs, assessing sites and overseeing the remediation of Leaking Underground Fuel Tank (LUFT) sites.
2. Approve the Fee Resolutions and Fee Schedules, to take effect July 1, 2006 listed below:
 - a. Resolution Establishing Fees for Fire Department's Administration of the California Health and Safety Code, Chapter 6.95: Hazardous Plans and Inventory
 - b. Resolution Establishing Fees for Fire Department's Administration of the California Health and Safety Code, Chapter 6.5: Hazardous Waste Control
 - c. Resolution Establishing Fees for Fire Department's Administration of the California Health and Safety Code, Chapter 6.7: Underground Storage of Hazardous Substances
3. Adopt the attached Notice of Exemption under the California Environmental Quality Act

Alignment with Board Strategic Plan:

The recommendation(s) are primarily aligned with Goal No. 2. Ensure the Public Health and Safety and Provide Essential InfraStructure.

Executive Summary and Discussion:

LEAKING UNDERGROUND FUEL TANK PROGRAM

The Santa Barbara County Fire Department is the lead agency in the County for the State Local Oversight Program (LOP, aka LUFT program) which is managed by the State Water Resources Control Board

(SWRCB). The LUFT Program derives its authority from Santa Barbara County Code, Article III, Chap. 18 (Ordinance #3873), which authorizes County Fire to enforce specific regulations from the California Health and Safety Code and California Code of Regulations, Title 23. This program addresses the remediation of contamination found from leaks in underground fuel tanks. The Santa Barbara County Fire Department contracts annually with the SWRCB to identify responsible parties (RPs) and provide oversight of assessment, remediation, and closure activities of contaminated sites within its jurisdiction, based on established regulations. The LOP has successfully overseen the cleanup and closure of 362 sites since the inception of the program in December of 1996. There are, however, approximately 260 active sites with contamination that still require cleanup in order to protect the human health and water resources of this County.

As part of the contract, the SWRCB provides funds to offset oversight costs incurred by the Fire Department. The contract amount in fiscal year 2004-05 was \$518,700. These costs include administrative and site-specific personnel time as well as service and supply costs. To date, the Fire Department has been able to keep spending levels within the amount provided by the LUFT contract with no impact on the County General Fund. In order to accomplish this, however, the Fire Department had to curtail LUFT work in fiscal years 2003-04 and 2004-05 due to the SWRCB contract not keeping pace with County cost-of-living adjustments to salaries and benefits. Then, on May 27, 2005 the SWRCB issued a letter to all LUFT program managers in the state announcing that there would be an 11% reduction in the contract amounts for fiscal year 2005-06 based on the fiscal year 2004-05 baseline amounts. This reduction equates to approximately \$57,000 or essentially one Hazardous Materials Specialist Senior for the Fire Prevention Division (FPD). FPD has temporarily re-allocated resources to the Site Mitigation Unit (SMU) Program during FY 2005-06 due to workload needs in the SMU Program, allowing the Fire Department to operate within the reduced State LUFT contract amount during FY 2005-06. However, this has resulted in even less work being accomplished in the LUFT Program than in past years. The State has indicated that the FY 2006-07 LUFT contract will be equal to the FY 2005-06 contract (\$461,643).

There are three options in responding to the reduced funding levels in the SWRCB contract. The first option is to turn the program back over to the State. The consequence of this is the loss of local control and oversight. This will result in contaminated soil being exposed to the environment and ground water for longer periods of time due to the State's lack of personnel to handle the necessary cleanup oversight. The second option is to reduce staffing levels by one FTE in order to absorb the reduction in the contract. The consequence of this is that contaminated sites will take longer to process and the backlog of cases will increase, thus leaving contaminated soil exposed to the environment and ground water for longer periods of time. The third, and recommended, option is to bill the responsible parties (RPs) for costs above and beyond the limits of the LUFT contract. The economic impact on the RPs will be minimal due to the State established Underground Storage Tank (UST) Cleanup Fund. The UST Cleanup Fund reimburses eligible claimants for assessment, corrective action, and regulatory oversight costs. The RPs will be billed their proportionate share based on the difference between the LUFT contract amount and the LUFT program costs. The RPs then can apply for reimbursement from the UST Cleanup Fund.

This billing process proposal differs from our current process in that we do not presently bill LUFT RPs for any costs. Also, this is not an unprecedented proposal. There are other LOPs throughout the State using this method. Ventura, Riverside and Sacramento Counties, to name a few, are dealing with their contract reductions by billing the RPs.

The Fire Department recommends that RP's with a quarterly charge less than \$50 be excluded from the billing for that quarter. This will avoid placing an undue burden on RP's who would have to go through the State to obtain reimbursement from the UST Clean-up Fund for negligible amounts.

The new billing procedures will require the addition of one new accountant position. This position will be responsible for billings and reports to the State, establishing the new billing processes and procedures, and generating bills to the RPs, as well as, budgeting and monitoring for State and County purposes.

The estimated \$200,000 of LOP costs in FY 2006-07 over and above the LUFT contract amount will be spread over approximately 260 sites based upon the number of hours actually worked at each specific site. For reference purposes, if this \$200,000 were applied to the 2005 hours worked at each site, the estimated annual cost per site would range from \$50 to \$22,000 with the majority of the sites averaging an estimated \$780. The new billing procedure, if approved, is anticipated to go into effect on July 1, 2006.

HAZARDOUS MATERIALS BUSINESS PLAN/WASTE GENERATOR/UNDERGROUND STORAGE TANK PROGRAMS

The Santa Barbara County Fire Department implements state mandated hazardous materials control laws throughout Santa Barbara County under the auspices of the Unified Program administered by California Environmental Protection Agency (Cal/EPA). Under the Unified Program each county must have an agency certified by Cal/EPA to implement the hazardous materials control laws contained in the Health and Safety Code. In Santa Barbara County, the Fire Department is the Certified Unified Program Agency (CUPA). The purpose of the Unified Program is to reduce fragmentation and duplication in the business inspection process, as well as, implement the single-fee system required by the State under the Unified Program.

At your Board's hearing of May 27, 2003, you approved a fee adjustment based on the results of a full fee study conducted by the Office of the Auditor-Controller and the Fire Department. On July 27, 2004, a 3% fee adjustment was approved to cover the projected salary increases for FY 04/05. The current proposed fee adjustment is based on the results of a fee study conducted by the Fire Department, utilizing the methodologies developed in 2003 and applying current data to the methodologies. The main purposes of the fee study were to assure that the fees continued to be equitable to the business community and to ensure that they accurately represented the activities performed within each program. The current methodology identifies logical bases on which to allocate the costs within each program, resulting in the proposed fee structures and fee amounts. The various bases include factors such as the average hours spent by the Hazardous Materials Unit specialists at the various facilities, the amount of waste generated by the facilities, the amount of time spent on specific activities related to underground storage tanks and the per hour cost of performing certain tasks. These factors are based on 2005 data. The current proposed fees reflect the recommended budgeted expenditures for the Hazardous Materials Programs in Fiscal Year 06/07.

The attached Expenditure and Revenue History shows that the proportionate share of fee revenues from businesses and the General Fund's proportionate share for the Unified Program have remained roughly the same from Fiscal Year 96/97 (the fiscal year the Fire Department was designated as the CUPA) through Fiscal Year 02/03. In FY 03/04 and FY 04/05, the General Fund's proportionate share of the Unified Program decreased to 7% due to unanticipated salary savings. The current proposed adjustment and the increased fee revenues associated with increased efforts required in the Site Mitigation Unit, which provides oversight of oil field clean up and restoration activities, is projected to reflect the General Fund's proportionate share of the Unified Program at 18% for Fiscal Years 05/06 and 06/07.

The bulk of the \$370,914 General Fund contribution projected for Fiscal Year 06/07 is related to emergency responses and complaint investigations. Emergency responses and complaint investigations are driven by all sectors of our community. These responses and investigations are conducted in order to ensure a healthy, safe environment for everyone who lives, visits and works in the County. Due to the overriding nature of these activities to protect the community as a whole, it is believed that this should be a General Fund responsibility. The Fire Department will continue to prosecute emergency responses caused by negligence or a willful disregard of the law, and will continue to attempt to collect cost recoveries when responding to emergencies that require greater than 4 hours of Hazardous Materials staff time, when a responsible party can be identified. Another component of the General Fund contribution is related to a number of regulated businesses that are assessed no fees due to the fact that they operate with such a small amount of hazardous materials so as to be considered an “exempt” business.

The Fire Department’s Fire Prevention Division, Site Mitigation Unit (SMU), oversees the assessment and remediation of contamination associated with current and/or previous oil company operations in the county. It is a fee for service program and is paid for entirely by the parties responsible for the contamination.

There are, at present, 500+ active SMU sites in the county. Approximately 200 of these are where the needs of the landowners, oil companies, developers and other agencies require prompt attention. SMU currently has two Hazardous Materials Specialist level FTEs. The optimum caseload per FTE is approximately 30 sites. This equates to many sites not getting the attention necessary in a timely manner. In order to better focus on and address the needs of all interested parties, the Fire Department is proposing to add two Hazardous Materials Specialist positions to help address this issue. These two positions are included in the FY 06/07 Budget and will be allocated through that process. The amounts shown for the Site Mitigation Unit on the attached proposed fee schedule reflect the addition of these two specialist positions.

The Fire Department has discussed these fee increases with the Fire Department’s citizen advisory group known as the Community Toxics Awareness Committee (CTAC). CTAC is comprised of representatives of a variety of community organizations including: Santa Barbara Industrial Association (SBIA), League of Women Voters, Coalition of Labor Agriculture and Business (COLAB), Community Environmental Council, Automotive Services Council (ASC) and the Service Station Dealers of Southern California.

The fees are given statutory CEQA exemption under the Public Resource Code, section 21080, subd. (b)(8)(1) & (2) and Title 14 (California Code of Regulations), section 15273.

Mandates and Service Levels:

All programs are operating at State specified service levels.

Fiscal and Facilities Impacts:

The additional staffing and proposed fee increases have been incorporated in the Fire Department’s FY 06/07 requested budget for the Hazardous Materials Programs.

Special Instructions:

Please transmit the Notice(s) of Public Hearing – Proof of Publication to the Fire Department (attention Rose Pueschel) and County Counsel (attention Enrique Sanchez). Please transmit the adopted resolutions and attached fee schedules to the Fire Department and County Counsel along with a certified copy of the minute order.

Attachments:

- *Expenditure and Revenue History*
- *Summary Fee Schedule*
- *Resolution Establishing Fees for Fire Department's Administration of the California Health and Safety Code, Chapter 6.95: Hazardous Plans and Inventory*
- *Resolution Establishing Fees for Fire Department's Administration of the California Health and Safety Code, Chapter 6.5: Hazardous Waste Control*
- *Resolution Establishing Fees for Fire Department's Administration of the California Health and Safety Code, Chapter 6.7: Underground Storage of Hazardous Substances*
- *California Environmental Quality Act Notice of Exemption*

Concurrence:

County Counsel, Auditor-Controller