

**SANTA FE COUNTY**

**BOARD OF COUNTY COMMISSIONERS**

**SPECIAL MEETING**

**October 28, 2016**

Miguel Chavez, Chair - District 2  
Henry Roybal, Vice Chair - District 1  
Kathy Holian - District 4  
Robert A. Anaya, Chair - District 3

Liz Stefanics - District 5 [Excused]

COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

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**SANTA FE COUNTY****SPECIAL MEETING****BOARD OF COUNTY COMMISSIONERS****October 28, 2016**

I. This special meeting of the Santa Fe Board of County Commissioners was called to order at approximately 10:10 a.m. by Chair Miguel Chavez in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

**II. Roll Call**

Roll was called by County Clerk Geraldine Salazar and indicated the presence of a quorum as follows:

**Members Present:**

Commissioner Miguel Chavez, Chair  
 Commissioner Henry Roybal, Vice Chair [telephonically]  
 Commissioner Robert A. Anaya [telephonically]  
 Commissioner Kathy Holian

**Members Excused:**

Commissioner Liz Stefanics

**III. Approval of Agenda**

Commissioner Holian moved to approve the agenda and Commissioner Roybal seconded. The motion carried by unanimous 4-0 voice vote.

**IV. PUBLIC HEARING**

- A. **Ordinance No. 2016-7, an Ordinance Amending Ordinance 2016-4 to Extend the Deadline for Commercial Solid Waste Haulers to Provide Bundled Refuse and Recycling Services (First and Only Public Hearing)** [*Exhibit 1: Ordinance Text with Language Amended in Motion*]

CHAIRMAN CHAVEZ: Before we go into the public hearing, we have two versions of the ordinance that we'll be discussing today. There are very minor differences between the two. I'd like for the County Attorney to walk us through the redline version and the version that we'll be using for our discussion this morning, to clarify that for any members of the public. And then I want to be clear about the district that we're talking about and the intent of the ordinance before we move into the public hearing. I want to focus on what's in the ordinance, the draft ordinance and the amendments, but then I know there are members of the public that would like to speak to solid waste in general. I would like to allow them a few minutes to share their comments

with us and then allow staff to comment on what had been said so that it's recorded for the record. So County Attorney, would you start us off please?

GREG SHAFFER (County Attorney): Mr. Chair, on October 11, 2016 the Board of County Commissioners authorized the publication of title and general summary of an ordinance amending Ordinance No. 2016-04 to extend the deadline for commercial solid waste haulers to provide bundled refuse and recycling collection services. And when it did so it had a draft ordinance in front of it with a watermark stamped 10/11/2016 Draft. That was the version that the Board authorized to be put forth to the public and that was the version that was in fact made available to the public as required by law through the County Clerk's Office.

In preparation for today's meeting staff inadvertently included in the Board's packet an earlier draft of the ordinance, and that's what we were trying to correct. There is no change from what the Board had in front of it on 10/11/2016 to what is being presented today. Rather, what happened is that an earlier draft was inadvertently provided to the Board in its packet. That's what we were trying to correct. If the Board was interested we showed and prepared a redline if you had already reviewed the packet version of the ordinance that showed the minor differences, but to sum up, we're not proposing anything different from what was before the Board on 10/11/2016.

So therefore I'd be happy to do it but I don't believe that it's necessary to go through the changes because again we would be comparing between an earlier draft and what the Board actually had in front of it on 10/11/2016. So with that I'd stand for any questions or further direction as to what you'd like me to do.

CHAIRMAN CHAVEZ: No, that clarifies it for me. I just wanted to be sure that we were clear to the public what version we were discussing today, just to be sure that there was not any confusion. If there are not any questions for the other Board members we can move on.

COMMISSIONER ANAYA: I don't have any, Mr. Chair.

CHAIRMAN CHAVEZ: Commissioner Roybal.

COMMISSIONER ROYBAL: I don't have any either, so thank you.

CHAIRMAN CHAVEZ: So let's go ahead. So staff, do you want to start your presentation and then we'll get into the ordinance amendments and then we'll allow for public comment.

CRAIG O'HARE (Public Works): Thank you, Mr. Chair, Commissioners. This ordinance is amending the original Solid Waste and Recycling Ordinance. It's limited to two specific areas. One is it would extend the enforceable deadline for the haulers to comply with the recycling collection requirement that pertains to the newly established solid waste and recycling collection district. It would change the compliance date from November 1<sup>st</sup> of this year to February 1<sup>st</sup> of next year.

The second provision in the ordinance would provide the Public Works Director with the authority to grant extensions for up to two months to the February 1<sup>st</sup> deadline on a case by case basis for good cause. The reason that we needed this ordinance amendment and the change of the deadline is that earlier this month we were informed by one of the haulers that their supplier/manufacturer of the recycling carts had production difficulties and that they weren't going to receive their carts from the manufacturer until early to mid-December of this year, whereas they had anticipated originally that by this time they

would have received the carts, hence the need to provide an extension.

We felt at the staff level that they had made a good faith effort to comply with the ordinance and procure the recycling carts on time, and that with the manufacturing difficulty that just didn't happen. That's not that uncommon in the industry to have a backlog and problems with procuring recycling carts. So that's the reason for these ordinance amendments. I do want to share with you that as the County Attorney mentioned this item was before you for a request to publish title and general summary hearing on October 11<sup>th</sup>. A couple days later I sent out an email to the haulers. We're really just talking about three haulers that are affected by this, that provide residential service in the solid waste collection district. I let them know of the upcoming hearing, today's hearing, with the possibility or even likelihood that the effective compliance date would be changed.

I wanted to try to give these haulers as much notice as possible that the legally enforceable compliance date was likely going to change from November 1<sup>st</sup> to February 1<sup>st</sup> in order that they could make adjustments if they wanted to. Then subsequent to that I contacted all three haulers and two of the haulers, Waste Management, Incorporated – and they serve a number of areas but they do serve the Eldorado and Las Campanas area as well as other areas, they indicate they were ready to go. We had encouraged them if they were ready to go sooner than February that we thought it was a good idea that they go ahead and start providing that service. So Waste Management is in a position to begin next week on November 1<sup>st</sup> providing recycling service. The other company, Ibarra, is a small, family-based company that provides specialized, more individualized residential solid waste service, they are ready to go as well. In fact they've been providing recycling service to most of their customers for quite some time. And so they are going live, if you will, with the recycling requirement next week as well on November 1<sup>st</sup>.

MCT, the hauler that had the production difficulties with procuring their recycling carts, as well as other areas they do serve the Rancho Viejo area, they indicated to me that they do anticipate getting their carts by mid- to early December and that they're prepared to go live with their program on January 2<sup>nd</sup>. And with that I'd be happy to answer any questions, Mr. Chair, should there be any.

CHAIRMAN CHAVEZ: Questions to staff? Commissioner Holian.  
Commissioner Anaya.

COMMISSIONER ANAYA: I don't have any questions, Mr. Chair.

CHAIRMAN CHAVEZ: Commissioner Roybal.

COMMISSIONER ROYBAL: I don't have any questions right now either.  
So basically, we're looking at about three months [inaudible]

CHAIRMAN CHAVEZ: Again? I'm having a hard time hearing you.

COMMISSIONER ROYBAL: I just had one question and that was more or less three months you said. Would all of the haulers be ready to go in January? Would it be ready by January?

MR. O'HARE: Mr. Chair, Commissioner Roybal, this ordinance would extend the legally enforceable to February 1<sup>st</sup> of next year. However, two of the three haulers are prepared and ready to go live to meet the original deadline of November 1<sup>st</sup>, which I believe is next Tuesday. And I know at least one of the haulers, Waste Management, has already started to deliver the recycling carts. The other hauler, the

hauler that was unable to obtain the recycling carts until mid-December, they've indicated to me that in spite of the likely change to the February 1<sup>st</sup> compliance deadline they are looking at going live with recycling on January 2<sup>nd</sup>.

COMMISSIONER ROYBAL: Okay. Thank you, Mr. O'Hare.

CHAIRMAN CHAVEZ: Commissioner Roybal, just to add to that, the second piece of this amendment will provide the Public Works Director with the authority to grant extensions for up to two months after the February 1<sup>st</sup> deadline on a case by case basis. So those are the two points that we're discussing that are germane to the ordinance and the amendments that are before us this morning.

COMMISSIONER ROYBAL: Okay. Thank you for clarifying that, sir.

CHAIRMAN CHAVEZ: Okay, so now we can go ahead and move into the public hearing.

[Those wishing to speak were placed under oath.]

[Duly sworn, Dustin Maxwell testified as follows:]

DUSTIN MAXWELL: Good morning, Mr. Chair. My name is Dustin Maxwell. I'm from 101 Spruce Street in Farmington, New Mexico. I represent Waste Management today. I'm the district manager that covers the operations side of Waste Management for northern New Mexico and I am under oath.

So today I'm going to reserve my comment on the ordinance itself because I think this is specific to the extension request. So as it relates to that extension, Waste Management's position is we feel that we are kind of being put into an unfair position as it relates to the public and the customers that we service. We received notice approximately 120 days ago this was going to go into effect, and yes, I understand there are production difficulties at times with cart providers. I've experienced that myself, but never, frankly, beyond about an eight-week window. So the fact that we're extending this to over six months can be debatable if that's warranted, from an operations standpoint.

But where our concern comes in is that the customer base that may be opposed to this ordinance, they're going to be directing a lot of that frustration towards us as a company. And that's okay; we're prepared to deal with that, but the problem is that is not – the same is not being done across the board fairly. So Waste Management kind of becomes the face of this ordinance and we take the brunt of it. We've already lost a handful of customers this week because of the ordinance, and then I have a handful of other customers that have called in and said, well, if this is getting extended till March, why are you providing the cart now? And why am I being charged for it?

So we would have loved to have complied with the extension. I think if I had been given more advanced notice than two weeks ago, we would have halted the assembly and delivery team and pushed it back to March to be in line with the other haulers, but frankly, at the time that we were notified was the point of no return. So what we're basically asking for today is not necessarily to cancel the extension, because I understand operational difficulties, but maybe to walk that back to about a 30-day extension.

CHAIRMAN CHAVEZ: Thank you, sir.

[Duly sworn, Karen Sweeney testified as follows:]

KAREN SWEENEY: My name is Karen Sweeney. I live at 16 Esquila Road in Santa Fe. I am under oath. Chairman Chavez, Commissioners, as you know, I represent or have been part of Eldorado 285 Recycles for quite a while. I'm not

representing them today but I am speaking on behalf of Joe Eigner who you also hear from frequently who was unable to be here.

Basically, we have no problem with this change due to the production difficulties explained. I understand Waste Management's position because I certainly have seen all the deliveries taking place in Eldorado. I know the city has encountered the same problem with delivery of their carts so they've had to delay their implementation as well. So I think it's unfortunate but understandable and we would support this. Thank you.

[Duly sworn, Joseph Gutierrez testified as follows:]

JOSEPH GUTIERREZ: Good morning. Joseph Gutierrez, 9 Moya Loop. I'm under oath. My comments are general. It's about the ordinance itself. Anyway, I live in Eldorado and I currently am a customer of Waste Management. I probably should have come here earlier. I wasn't aware of this. But anyway, we're required now to spend another x-amount of dollars every month to have recycling. Currently, I take my recycle to the transfer station, so I kind of feel like I'm being taxed for something that I do well currently, and I think there's a lot of people in Eldorado that probably feel the same way. So now I have two options. I either have an option to drop the service, okay? Take my waste to the transfer station myself and recycling, or pay the additional fee. So I would hope that you'd take that under consideration. I think it's a good thing in general. I think what you're trying to do overall is a good thing, but I kind of feel like we're unfairly taxed, even though it's not called a tax. I am going to pay an additional fee if I continue with Waste Management. Thank you.

CHAIRMAN CHAVEZ: Thank you, Mr. Gutierrez. Craig, could you respond to that sort of – a little bit of inequity, if you will, in how things are rolling out right now. And I don't know if that's going to be something that we're dealing with in the short term. I hope so. And if that's the case then how does that level out as we move forward, because it's been a struggle to deal with some sort of consolidated curbside recycling, both solid waste and curbside recycling. We know that in some parts of the county it's going to work better than others. In some parts of the county there are no curb and gutter. Street standards are not always conducive to the larger trucks and those kinds of things. So there's been a lot of challenges to this proposal. So talk about some of the comments that have been made in the past about the fees, the cost and the places where it's not in balance.

MR. O'HARE: Mr. Chair, Commissioners, first of all, as far as the cost of the additional recycling service, and again, this is every other week, rather than weekly service. The numbers I've heard range from \$5.08 additional per month for the service by one hauler. \$8 additional per month additional by another hauler, and then the small, family-based hauler, they provide specialized service and they actually do drive-back service and go up long driveways and things like that. They've indicated to me, depending on the area, it's between \$7 and \$10 per month.

CHAIRMAN CHAVEZ: And the County really doesn't have a rate structure or a fee schedule that really tries to regulate that in any way?

MR. O'HARE: Mr. Chair, no. As you recall, this was a compromise, an alternative proposal a year and half ago or a year ago in the spring. We were looking at setting up a solid waste franchise area and that would have involved us competitively selecting a single hauler and then essentially regulating them like a monopoly and

overseeing their rates and that sort of thing. And as you know, there was significant public opposition to that on a variety of grounds and we came up with what I believe is actually a more workable proposal where we left the free enterprise market environment, competitive environment in place and we also left the homeowner choice of hauler in place. But we specifically did not feel it was appropriate to get into the rate oversight role.

CHAIRMAN CHAVEZ: Well, now that we're on rates, if we could for a minute, because we know that we have another option, which is the transfer station and self-hauling. But that comes at a cost as well. And so could you, in a summary fashion and for the public's information, explain the situation that we're in with the transfer stations, the costs that the County incurs and what we're collecting in revenue for providing that service.

MR. O'HARE: Yes. Thank you, Mr. Chair. And I'll sort of broaden my answer a little bit because we all, staff and Commission office, are receiving a lot of calls from constituents right now, particularly in the Eldorado and Las Campanas areas, where their hauler, Waste Management is starting to deliver carts and inform them of this change. The reality is that as we explain this to citizens we basically let them know that the County historically – and that came out of the solid waste study we did – has had really a very poor recycling rate, and this was specifically, this proposal, this new recycling collection ordinance, was specifically intended to address that and increase the County's recycling rate.

One of the biggest concerns we are hearing from citizens is the concern that Mr. Gutierrez expressed, is that there are many citizens out there in Eldorado and other places that have curbside refuse pickup but they've been self-hauling their recyclables to one of our convenience centers and they either enjoy doing it or they have gotten used to doing it and they object to the notion of the County essentially imposing a recycling service on them that they'll have to pay for and that they really don't desire. And our response, at least at the staff level, and it's been very sympathetic I would say, is that if everyone in the recycling district did as Mr. Gutierrez does and as those who have been and continue to self-haul their recyclables, if we had a high participation rate on that basis we wouldn't need an ordinance like this.

But the reality is that we have a lot of citizens, and this came out in the study we did a couple years ago, that subscribe to a refuse service, don't self-haul their recyclables, and then in turn all those recyclables end up in their refuse bin and end up in the landfill. And that was the main objective for doing that.

With respect to the costs out at the convenience center, of course, as a public service we offer recycling of recyclables by those who self-haul to the convenience center. The service is free, but of course it's not free on the Solid Waste Division of the Public Works Department. It costs us. A lot of people are under the impression that recycling makes money and is profitable, and I wish that were true, but the markets are such that we offset the costs of hauling with some of the revenue we get by delivering it to BuRRT and then it gets processed down in Albuquerque. But it's still a net cost on the County Public Works Department. I believe that might have been the nature of your question that while we're offering recycling for free it's not free to as a County government to provide that drop-off service for free because our staff and hauling costs

can be significant.

CHAIRMAN CHAVEZ: Well, yes, I want to dial it down a little bit further than that because I think in my recollection the Solid Waste Division, Public Works Division, is only collecting somewhere between maybe 15 to 30 percent of the revenue needed to support that. So that's being subsidized from other activities.

MR. O'HARE: Mr. Chair, that's correct, and specifically referring to – we call them the punch passes, the convenience center punch passes. You all adopted as part of the amendments to the solid waste ordinance a couple years ago, you adopted a cost recovery strategy that suggested that we should try to get to 30 percent cost recovery within the next five years. I think we're now entering the third year of that. So I believe right now we're in the neighborhood of 18 to 20 percent cost recovery, and that's for that \$75 per 12 punch pass fee schedule. The rest is subsidized essentially or at least supported by the general fund and the environmental gross receipts tax revenue.

CHAIRMAN CHAVEZ: So I just wanted to put that on the record and I think it ties into the attempts that the County has done in the past and continues to try to do to increase recycling. I was listening to a program on NPR just the last couple of days and because of the plastics and the different formulas that we use in plastic, it's estimated that only about 10 percent of that plastic – ends up recycled and repurposed. I don't know if those numbers are accurate, but it seems that a lot of the plastics that we do have are ending up in our ocean streams.

So it's something that we really have to deal with and address because it has gotten out of hand. To do nothing, I don't think was much of an option. We tried doing a little bit more and making it broader and making it more comprehensive instead of just picking little areas that generally supported and are doing good at it already. So I find myself in a little bit of a quandary right now but we keep revisiting it and Waste Management feels like they're at a point of no return so where does that put us collectively if we want to try to do something different than what we're doing now, because what we're doing currently is really not working.

So I'll leave it at that. That closes the public hearing portion and I'll bring it back to my colleagues' comments from the Board. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I think it's important to think of the costs, not just in the short term but in the long term. And I think that it's really important to recycle as much as we can for not only because it's good for the environment and we really don't want, as you say, the plastics ending up in the ocean instead of either being recycled or – well, better in our landfill than in the ocean.

But in any event we really want to make our landfill last as long as possible because when we have to have a new landfill, when that gets filled up, it's going to be extremely expensive. It's not even clear that we could have another landfill within Santa Fe County and at that point, after our landfill is filled up, we might have to start hauling long distances and then that's going to take a lot of money and a lot of fossil fuels to do that. So it really is important to think not just about the short term but about the long term with this particular issue. So with that, Mr. Chair, may I make a motion? Or more comments.

CHAIRMAN CHAVEZ: Well, I want to go to the County Attorney and then I want to ask if the other Commissioners have comments at this time. Commissioner



Anaya, and the Roybal, we'll go in that order, but I'm going to go to the County Attorney first. Mr. Shaffer.

MR. SHAFFER: Mr. Chair, I did want to state that the Board does have the option with this draft ordinance as it does with any ordinance it considers to make changes in light of public testimony and comment and offer that a potential option would be to keep the deadline as it is in the current ordinance of November 1 but allow individual extensions to be made to solid waste haulers for good cause shown so that you would keep the deadline in place for those haulers who are prepared to actually implement by November 1 but allow individualized extensions, again, based upon reasonable good cause as demonstrated.

That would be a potential option and since we do have representatives of one solid waste hauler here who are dealing with the implementation of various options and considering it, it may be worthwhile to get their perspective on that potential change, but again, I just wanted to note that the Board has that option in front of it where the extension could be scaled back from February 1<sup>st</sup>. But again, you have options that you could consider in terms of your deliberations on what the appropriate legislative policy is in the draft ordinance in front of you.

CHAIRMAN CHAVEZ: I appreciate that, Mr. Shaffer. I guess the other consideration would be to narrow it down to a 30-day extension instead of a 60-day extension.

MR. O'HARE: Mr. Chair, let me address both of those issues. First is what the County Attorney brought up, the notion of essentially keeping the November 1<sup>st</sup> enforcement deadline for the two haulers that are already in a position to meet that deadline, and that's particularly because in discussions with Mr. Maxwell with Waste Management they're hearing from some of their customers that, well, gee, if it's not legally required till February 1<sup>st</sup>, I don't want it till February 1<sup>st</sup>.

And so I just tagged base really quickly with Mr. Maxwell and Waste Management thinks it would be a good move to go ahead and make it enforceable so they can tell their customers that, yes, this is indeed required by the County come November 1<sup>st</sup>. So I did want to share that with you.

The second issue of just limiting it to a 30-day extension, unfortunately that's not feasible because 30 days from November 1<sup>st</sup> would be around December 1<sup>st</sup> or November 31<sup>st</sup> – which I don't think exists, actually. So December 1<sup>st</sup> and as I shared with you, MCT does not expect to get their recycling carts until early to mid-December, a week or two weeks after the compliance deadline. And so they would be technically in non-compliance, even if we could get them to. I have encouraged them to, if they get them on December 7<sup>th</sup> and they're ready to roll on December 15<sup>th</sup> that we would encourage them to do that. They would not be able to meet that 30-day deadline. They would be in non-compliance and then we'd have to start pursuing compliance and enforcement action, which I think causes other difficulties.

CHAIRMAN CHAVEZ: Okay. I'm going to go back to Commissioner Holian and then to Commissioner Anaya, and then Commissioner Roybal.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. So, Craig, could you comment on the proposal by our County Attorney to keep the deadline in place but then to allow individual exceptions to that deadline to be determined by County staff? Do you

think that that's a good compromise?

MR. O'HARE: Mr. Chair and Commissioner Holian, personally I do, yes. Particularly hearing from the hauler that has concerns about the way this is sort of going forward with one hauler getting an extended deadline and their customers knowing that the deadline – if they know it's February 1<sup>st</sup> and the customers are saying we don't want it till February 1<sup>st</sup>. So I think it's a good move and clearly, if we grant the Public Works Department Director the discretion to provide the extension necessary for good cause. We're not just saying for no reason at all, that seems to be reasonable as well and I wish I had been out in front of the ordinance enough to think about that, back when we passed it a number of months ago but I'm sorry I didn't. But I think that's a good approach to address the concerns we've heard today.

COMMISSIONER HOLIAN: Thank you. Thank you, Mr. Chair.

CHAIRMAN CHAVEZ: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I have four points that I want to make on the record. I'm supportive of the extension. All this process we've had a lot of feedback and comments from mostly proponents, predominantly proponents. And now that we're starting to roll it out we're seeing that there's concern from the public and so I want to give them an opportunity to continue to provide that feedback.

Number two, I'm supportive of recycling and want us to encourage recycling but I'm not and I haven't been supportive of cost recovery. It's my interest to lower the cost of the solid waste permits, not increase the costs of the solid waste permit. In a recent meeting there was comments from one of my other colleagues on the Commission tied to seniors and other individuals that were concerned about cost increases. So that's my take, Mr. Chair. Thank you.

CHAIRMAN CHAVEZ: Commissioner Roybal.

COMMISSIONER ROYBAL: Thank you, Mr. Chair. I too am supportive of the ordinance and also I'm supportive of the recycling and doing something to protect our landfill. And even though I also would be supportive of an extension and I know that staff will make sure that any other extensions that are granted will definitely be for good reason.

COMMISSIONER ANAYA: Mr. Chair.

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN CHAVEZ: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I want to be clear on my position. I'm supportive of the extension in front of us today, not the modification requested by Legal or other comments. So I'm supportive of the February extension.

CHAIRMAN CHAVEZ: Okay, so you're not interested in holding to the November 1<sup>st</sup> deadline for the one hauler that expressed a concern or narrowing it to a 30-day extension.

COMMISSIONER ANAYA: No. I want to keep it all bundled together. Plus we're getting additional comments and additionally, you have a new incoming Commissioner that's going to be faced with those comments as well in the new year so I want to afford him that opportunity to make any modifications he may see as necessary as the incoming Commissioner.

CHAIRMAN CHAVEZ: Well, I think that's the case with anything,

Commissioner Anaya. We could vote on something today and the future Commission could make it better or undo it. So I appreciate that, but we do need to move forward. So I'm going to go back to Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Well, in light of the comments by Mr. Maxwell I would like to make a motion for approval of the ordinance but adding language – well, keeping the November 1<sup>st</sup> deadline, but adding language to allow individual exceptions to that deadline to be determined by the Public Works Director.

CHAIRMAN CHAVEZ: And I would second that motion and discussion?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CHAVEZ: Commissioner Anaya.

COMMISSIONER ANAYA: I guess I need some clarity. I thought that we had already provided a motion that put this program in play, and the only thing we were doing today was a modification to the time it was going to start. So could I get some clarity from Legal as to what we previously did and what we're trying to do today. Because that's going to affect whether I vote – how I vote.

CHAIRMAN CHAVEZ: Sure. Mr. Shaffer.

MR. SHAFFER: Mr. Chair, Commissioner Anaya, the ordinance that created the recycling district and mandated recycling service with curbside refuse collection established a deadline of November 1, 2016 by which the recycling services had to be provided. The draft ordinance that the Board of County Commissioners authorized us to publish title and general summary on would have extended the deadline by which these services had to be provided to February 1, 2017 across the board and allow for the Public Works Director to grant additional extensions on a case by case basis for good cause shown. So that's the draft ordinance that the Board had in front of it October 11<sup>th</sup>.

So what is being considered by the motion is to do away with the across the board extension and keep the deadline of November 1, 2016 but allow individual extensions to solid waste haulers who can demonstrate that such extensions are warranted for good cause. So I would think that such an amendment, and that's why you have a public hearing process, would be within the scope of what the public had notice of in terms of the possible options that the Board might take.

So again, to sum up what the motion as I understand it being made by Commissioner Holian and seconded by the Chair, would allow an extension to be granted to an individual hauler for good cause shown for up to two months, but for those haulers who did not face circumstances that precluded them from meeting the original deadline of November 1<sup>st</sup> they would still be required under the law to go forward and begin implementing those services as they had contemplated to do and as they're prepared to do. I hope that answered your question, Commissioner Anaya, Mr. Chair.

COMMISSIONER ANAYA: So if I could, Mr. Chair, just for complete clarity. The ordinance is already adopted; this only modifies whether they are forced to start in November or whether they get to push that deadline to February.

CHAIRMAN CHAVEZ: That's correct, Commissioner Anaya, and the other pushback we're getting is unfortunately from the customer base that wants this service and is willing to pay for it only when that deadline has been met. So that's the

other sort of stumbling block that we're facing, or that the haulers are facing in providing the service that we're hoping to provide to our residents. So I guess it accommodates them, gives them some level of comfort in investing in or spending their dollars for that activity knowing that it's met the deadline and that they're doing everything that they're required to do.

COMMISSIONER ANAYA: Well, my perspective, Mr. Chair, is that the modification in front of us that takes it to February puts everybody in the same perspective of being able to start in February, and that's what I would rather see. So that's my take. Thank you.

CHAIRMAN CHAVEZ: Well, I would disagree, Commissioner Anaya, because there are how many haulers that are ready to go now, Craig?

MR. O'HARE: Mr. Chair, two of the three are ready to go and have already distributed their equipment and carts.

CHAIRMAN CHAVEZ: Okay. Commissioner Holian.

COMMISSIONER HOLIAN: Mr. Chair, well, I'll just make the comment that actually, this particular amendment that I have proposed to the ordinance would actually make it easier for Waste Management and the Ibarra haulers to start now. And they are the ones asking for this.

COMMISSIONER ANAYA: I respect the businesses but at this point I'm more sympathetic to the users, not the business, and all the businesses would need to start at the same period so I don't see it as a detriment. I see all the businesses and everybody starting on the same page in February. So that's my take. I'll sit back and wait for your motion and I'll vote as I deem appropriate.

COMMISSIONER HOLIAN: I have made the motion, Commissioner.

COMMISSIONER ANAYA: Okay.

CHAIRMAN CHAVEZ: There's a motion and a second. We're still under discussion, Commissioner Anaya, so I do appreciate that. Commissioner Roybal, any comments you want to make at this time?

COMMISSIONER ROYBAL: Just the comments I already made before, sir.

CHAIRMAN CHAVEZ: Okay. Thank you. So there's a motion and a second. Discussion.

MR. SHAFFER: Mr. Chair, maybe a way to proceed would be to go ahead and take action on the motion to see if the support is there and then if so we could do one of two things. We could do it that way or we could pass out a revised draft of the ordinance that we think would accomplish that motion. Either way would work. But my point is that it's important from my perspective that the Board have in front of it the actual language of what the revised ordinance would look like. So we could pass out a revised draft now that is consistent with the motion made by Commissioner Holian and seconded by you. Or we could wait to see what the actual vote is on that concept and then pass it out. Either way would work.

CHAIRMAN CHAVEZ: Commissioner Holian, what is your preference? You made the motion.

COMMISSIONER HOLIAN: Mr. Chair, so how long would it take to have a revised copy? Would it be at the next meeting?

MR. SHAFFER: It would be about five seconds.

COMMISSIONER HOLIAN: Oh. Okay.

CHAIRMAN CHAVEZ: So let's break for five minutes, not five seconds and then we'll be back. Oh, you have it already? Okay. Do you want to read this for Commissioner Roybal and for Commissioner Anaya?

MR. SHAFFER: Yes, Mr. Chair. So again, there are some ripple through changes in light of this concept. Let's start with the findings. And so I'm going to read the sections that are changed in a clean way for comprehension. So in Section 1 there are a variety of findings. In the draft that was just handed out, 1.3 would read that Some solid waste haulers may be unable to comply with the deadline imposed under Section 6(A) of Ordinance 2016-04 through no fault of their own.

Section 1.4 would read In order to avoid possible disruption or delay in the collection and proper disposal of refuse within the collection district, Section 6(A) of Ordinance 2016-04 should be amended to authorize the County Public Works Director to grant extensions on a case by case basis for good cause shown.

In Section 2, in the Amendment Section, it would read Ordinance No. 2016-04 is hereby amended by replacing the first sentence of Section 6(A) of that ordinance in its entirety with the following: Subsection A. would read On or before November 1, 2016 all SW haulers who provide curbside residential refuse collection and services to customers within the collection district shall also as part of such service collect recyclables in containers separate from refuse containers, provided, however, that the Santa Fe County Public Works Director may grant extensions to solid waste haulers of up to two months on a case by case basis for good cause shown.

Section 3, which would have underscored that the original deadline was no longer in effect would be removed, because it would remain in effect for those solid waste haulers who are able to comply with that deadline and the remaining sections would be renumbered accordingly.

CHAIRMAN CHAVEZ: So it's kind of a phased approach, if you will, in a sense, anyway. So for Commissioner Anaya and Roybal, were you able to pick all that up?

COMMISSIONER ROYBAL: Yes, I understood it.

COMMISSIONER ANAYA: Yes, I understood it but I'm still with what's before us on the agenda that we got for this meeting.

CHAIRMAN CHAVEZ: Okay. That's fine. It's been duly noticed. We're in deliberation now. We're in compliance with the Open Meetings Act. We've discussed the ordinance and the amendments. There's a motion and a second on the floor. There's been some discussion, some clarification. I'd like a roll call. We have to have a roll call.

**The motion to approve Ordinance No. 2016-7, as amended, passed by majority [3-1] roll call vote as follows:**

<b>Commissioner Anaya</b>	<b>Nay</b>
<b>Commissioner Chavez</b>	<b>Aye</b>
<b>Commissioner Holian</b>	<b>Aye</b>
<b>Commissioner Roybal</b>	<b>Aye</b>
<b>Commissioner Stefanics</b>	<b>Not Present</b>

CHAIRMAN CHAVEZ: The motion carries. Thank you all. Thank you, staff. Craig, do you have any closing comments?

MR. O'HARE: Yes, Mr. Chair and Commissioners, just real quickly on behalf of Santa Fe County I just wanted to express my appreciation, both to the haulers for their cooperation, understanding and patience with this during the last year and a half and also more particularly to the citizens of Santa Fe County, particularly those in the solid waste collection district. We worked with them for the last year and a half. They were very understanding, patient and cooperative with sort of launching this pretty new change to solid waste management and recycling and I just wanted to express my appreciation to the public affected.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CHAVEZ: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I just want to note on the record that when we post one thing and then we do something different, I think that's concerning. But thank you for allowing me to put that on the record.

CHAIRMAN CHAVEZ: Duly noted. Thank you, Commissioner Anaya.

### VIII. CONCLUDING BUSINESS

- A. Announcements
- B. Adjournment

Having completed the agenda and with no further business to come before this body, Chair Chavez declared this meeting adjourned at 11:00 a.m.

Approved by:

  
Board of County Commissioners  
Miguel Chavez, Chair

ATTEST TO:

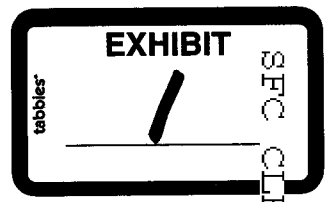
  
GERALDINE SALAZAR  
SANTA FE COUNTY CLERK  
11-29-2016

Respectfully submitted:



Karen Farrell, Wordswork  
453 Cerrillos Road  
Santa Fe, NM 87501





SFC CLERK RECORDED 11/30/2016

# SANTA FE COUNTY

ORDINANCE NO. 2016-\_\_\_\_\_

## AN ORDINANCE AMENDING ORDINANCE NO. 2016-04 TO EXTEND THE DEADLINE FOR COMMERCIAL SOLID WASTE HAULERS TO PROVIDE BUNDLED REFUSE AND RECYCLING COLLECTION SERVICES

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
SANTA FE COUNTY:**

### Section 1. FINDINGS.

1.1 Section 6(A) of Santa Fe County ("County") Ordinance No. 2016-04 requires Solid Waste Haulers ("SW Haulers") who provide curbside residential refuse collection services to customers within the Collection District established by the Ordinance to also provide curbside collection of Recyclables to their customers.

1.2 The deadline for providing the new service required under Section 6(A) of Ordinance No. 2016-04 is 120 days after the Ordinance's effective date, which is November 1, 2016.

1.3 Some SW Haulers ~~will~~ may be unable to comply with the deadline imposed under Section 6(A) of Ordinance 2016-04 through no fault of their own. ~~Moreover, in order to accommodate individual circumstances, the Public Works Director should have authority to grant limited extensions of the deadline on a case-by-case basis.~~

1.4 In order to avoid possible disruption or delay in the collection and proper disposal of refuse within the Collection District, ~~the deadline imposed under Section 6(A) of Ordinance 2016-04 should be extended~~ amended to authorize the County Public Works Director to grant extensions on a case-by-case basis for good cause shown.

1.5 Pursuant to NMSA 1978, 4-37-9(C), it is necessary for the public peace, health and safety that this Ordinance take effect immediately upon being duly filed in the records of the County Clerk.

**Section 2. AMENDMENT.** Ordinance No. 2016-04 ~~by~~ is hereby amended by replacing the first sentence of Section 6(A) of that Ordinance in its entirety with the following:

"A. On or before ~~February~~ November 1, 2017, all SW Haulers who provide curbside residential refuse collection services to customers within the Collection District shall also, as part of such service, collect Recyclables in containers separate from the refuse containers; *provided, however,* that the Santa Fe County

Public Works Director may grant extensions to SW Haulers of up to two (2) additional months on a case-by-case basis for good cause shown.”

~~Section 3. PRIOR DEADLINE OF NO EFFECT.~~ The deadline imposed in Section 6(A) of Ordinance 2016-04, as originally enacted, shall be of no force or effect and shall not be enforced.

**Section 43. ORDINANCE REMAINS IN EFFECT, AS AMENDED.** Except as expressly amended hereby, Ordinance No. 2016-04 remains unchanged and in full force and effect.

**Section 54. EFFECTIVE DATE.** Pursuant to NMSA 1978, Section 4-37-9(C), this Ordinance shall become effective immediately upon being duly filed in the records of the County Clerk; *provided, however*, that if a court of competent jurisdiction should declare Section 4-37-9(C) inapplicable, then this Ordinance shall become effective thirty (30) days after it is recorded in the office of the County Clerk.

**ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY THIS \_\_\_ DAY OF \_\_\_\_\_, 2016.**

**BOARD OF COUNTY COMMISSIONERS**

By: \_\_\_\_\_  
Miguel M. Chavez, Chair

**ATTEST:**

\_\_\_\_\_  
Geraldine Salazar, Santa Fe County Clerk

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Gregory S. Shaffer, Santa Fe County Attorney