



CITY OF BUENA PARK

OFFICE OF THE MAYOR

August 13, 2007

The Honorable Nancy Wieben Stock
Presiding Judge of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

SUBJECT: Response to Grand Jury findings and recommendations on
"Assembly Bill 939 Waste Diversion: Are We Finally Making
Progress?"

Dear Judge Wieben Stock:

Please accept this response to the Grand Jury's report entitled, "Assembly Bill 939 Waste Diversion: Are We Finally Making Progress?" The City of Buena is committed to developing and implementing programs to reduce the amount of refuse being deposited in our local landfills. We are pleased to offer the following responses to this report.

Finding No. F-6: The presence of non-franchise haulers and so-called "ghost haulers" bins in cities which bypass the recycling system needs to be corrected in order to establish the waste haulers' confidence that their municipalities are looking out for their best interests.

Response No. F-6: The City of Buena Park agrees that the issue of waste being diverted from our established recycling program by non-franchised haulers is an important topic and requires corrective action. Towards that end, the City of Buena Park has instituted the aggressive enforcement program outlined below in response to Recommendation No. R-6.

Recommendation No. R-6: Municipalities need to solve their unauthorized waste bin problems by enacting city ordinances forbidding these practices, imposing fines, including stepped-up fines for additional violations, and impounding unauthorized bins.

Response No. R-6: The City of Buena Park agrees with the need to enact City ordinances forbidding the practice and use of unauthorized "ghost haulers" bins. The City has enacted the following ordinances to accomplish this goal.

8.12.030 Permit—City Council authority.

Pursuant to Section 40059 of the California Public Resources Code, as amended from time to time, or any successor provision or provisions thereto, the Council shall have the authority to issue exclusive permits for the collection and disposal of refuse, trash, rubbish and other forms of solid waste, as provided for in this chapter, and may, as a condition for issuing such permits, require a bond from the permittee in an amount determined by the City Council to insure the faithful performance of such collection and disposal service in accordance with this chapter and the terms and conditions imposed by the Council.

8.12.050 Permit—Required—Exemptions.

No person shall collect or transport refuse within the City unless such person is a permittee, as defined in this chapter, or is exempt in accordance with subsections A through E of this section. No person shall permit, allow or enter into any agreement whatsoever for the collection or transportation of refuse from any residential unit or commercial premises with any person who is not a permittee as herein defined except as permitted in subsections A through E of this section.

A. The collection and removal of grass clippings and shrubbery by individual residents and by individuals doing business as professional landscapers, when the collection is directly related to their work, shall be exempt from the refuse permit system.

B. A permittee shall not be required to collect hazardous or dangerous materials as part of its regular collection activity. Liquid and dry caustics, acids, biohazardous, flammable and explosive materials, insecticides, and similar substances shall not be deposited in collection containers. Any person collecting such substances shall, in addition to any requirements of state law, obtain a permit therefor pursuant to the provisions of this chapter.

C. Infectious medical waste (as defined in California Health and Safety Code Section 25117.5, as amended from time to time, or any successor provision or provisions thereto) shall not be collected by a permittee as part of its regular collection activity. Anyone producing such wastes shall store, handle and dispose of such materials only in the manner approved by the county health officer or designated deputy, and in accordance with the California Health and Safety Code. Disposal of infectious medical waste shall be conducted pursuant to a permit issued under this chapter in addition to any requirements imposed by state law.

D. The collection and removal of recyclable material, including but not limited to glass, newspapers, aluminum and cardboard, that are separated either for reuse or for the manufacture of new products shall not be exempt from the refuse permit system; however, such activities may be the subject of a separate permit at the discretion of the Council.

E. The removal and disposal of refuse from a residential unit by the occupant or owner thereof shall be exempt from the refuse permit system, subject to the provisions of Section 8.12.130 of this chapter. (Ord. 1224 § 2 (part), 1988: prior code § 15-5)

8.12.060 Permittee's exclusive collection rights—Exception.

Excepting existing rights that the City reserves to itself, or as otherwise provided in this chapter, persons to whom the City may issue a permit and the agents, servants and employees of any such person, while the permit is in effect, shall have the exclusive right to gather, collect and remove garbage, rubbish and waste material from premises within the City subject to such terms and conditions as the Council may apply to the issuance of such permit. (Ord. 1224 § 2 (part), 1988: prior code § 15-6).

8.12.290 Franchise grant rights.

The City, subject to all applicable state laws, specifically retains the right to grant a franchise or franchises for the collection of garbage or refuse from any residential unit or commercial premises. (Ord. 1224 § 2 (part), 1988: prior code § 15-29).

1.04.080 Administrative fine.

A. For any violation of this code for which there is no specific administrative penalty established in this code or by the City Council, the fine shall be in the amount of one hundred dollars for a first violation; two hundred dollars for a second violation of the same provision of this code occurring within a twelve month period; and five hundred dollars for each additional violation of the same provision of this Code occurring within a twelve month period.

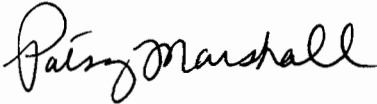
B. Administrative fines assessed pursuant to an administrative citation are a debt owed to the City. (Ord. 1485 § 2 (part), 2006)

As outlined above, the City has enacted ordinances to outlaw the placement of bins by "ghost haulers" and has implemented enforcement programs that include the imposition of fines, including stepped-up fines for additional violations. At this time the City has not implemented a program to impound unauthorized bins. The City will develop an impound program and will report back to the Grand Jury prior to the progress report scheduled date of March 31, 2008.

Honorable Nancy Wieben Stock
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Page 4 of 4

The City is pleased that the Grand Jury recognizes the importance of addressing waste disposal practices in Orange County. You are welcome to contact Mr. Jim Biery, Public Works Director, at (714) 562-3670 if you require additional information regarding our refuse collection, recycling, and disposal programs

Sincerely,



Patsy Marshall
Mayor

c: Orange County Grand Jury
City Council
City Manager
Director of Public Works