

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Ordinance Terminating Rabanco Solid Waste franchises
DEPARTMENT: City Attorney
PRESENTED BY: Ian R. Sievers, City Attorney

PROBLEM / ISSUE STATEMENT:

Upon incorporation or annexation of territory, cities are required by state statute to extend solid waste franchises to haulers operating in the territories incorporated or annexed under the same terms and conditions of their existing Washington Utilities and Transportation Commission certificates for a fixed number of years. This term for continuation franchises was five years when Shoreline incorporated and was amended to a term of seven years by the time 1998 and 1999 annexations to the City were approved.

Shoreline had a long-standing dispute with its haulers over the form of notification to terminate WUTC certificates and initiation of continuation franchises with its haulers that would lead to City solid waste hauling as a municipal service. Rabanco threatened suit in 1997 to resolve its interests, and the City filed suit to determine rights to continued operation in August 2000 as the five-year continuation franchises for Rabanco and Waste Management in the core area of Shoreline's incorporation were approaching termination. The City prevailed on a motion for partial summary judgment, in December 2000, with the judge deciding the termination and continuation franchises satisfied the statutory termination provisions. Even though the haulers could not claim damages for loss of continued business, there remained for trial a determination of "measurable damages" authorized by statute.

Waste Management was awarded a competitive contract to provide the City solid waste hauling service and withdrew its claim for damages. Rabanco and the City continued to pursue different theories of damages under this untested statute. A final settlement agreement was reached and approved by Council in June 2001 which included a payment of \$103,609 for damages to Rabanco for discontinuing service in the core area as well as early termination of service in annexation areas that would not have terminated until 2005 and 2006. This allowed an immediate consolidation of service under one provider with a uniform service and rate structure Citywide. The transfer of franchise territories required regulatory approval by the WUTC and financial audit and transfer of accounts and assets. These events are anticipated by February 1, 2002 or no later than April 1, 2002.

The proposed ordinance terminates the Rabanco continuation franchises in areas annexed to the city in 1998 (Ordinance No. 181) and in 1999 (Ordinance No. 201). The termination agreement adopted in this ordinance will finalize the parties' June 2001 settlement agreement.

FINANCIAL IMPACT:

There is little financial impact of final transfer of this service area. The settlement payment has already been made to Rabanco. The new service area released by Rabanco will automatically be included in the existing City contract for hauling with Waste Management under existing costs and rates. The obligation for utility tax paid by Rabanco will now be transferred to Waste Management but will result in little change in utility tax revenue to the City. Using an average customer (32 gal. Garbage/90 gal. Yard/ Recycling Services) the 2002 monthly charge under Waste Management would be \$19.50 compared to \$19.36 with Rabanco or an increase of .72%. Assuming a similar difference for all customers, the total increase in tax revenue for the balance of 2002 would be approximately \$1200.

RECOMMENDATION

City Council approval of Ordinance No. 297 terminating Rabanco franchises within the City.

Approved By: City Manager LB City Attorney [Signature]

ORDINANCE NO. 297

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, TERMINATING FRANCHISES OF ALLIED WASTE INDUSTRIES, INC. DBA RABANCO COMPANIES; AND REPEALING ORDINANCE NOS 181 AND 201

WHEREAS, the City of Shoreline has approved an agreement settling litigation with Allied Waste Industries, Inc. (hereafter "Rabanco") which included areas served by Rabanco and annexed to the City of Shoreline in 1998 and 1999;

WHEREAS, the transfer of the areas serviced by Rabanco has been submitted to the Washington Utilities and Transportation Commission ("WUTC") for approval; and

WHEREAS, Waste Management and Rabanco anticipate approval and final transfer of customer accounts and assets by February 1st, but not later than April 1, 2002; now therefore

THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Repeal. Ordinance No . 181 is repealed.

Section 2. Repeal. Ordinance No. 201 is repealed.

Section 3. Effective Date/Notification. This ordinance shall take effect and be in full force on February 1, 2002, or such later date that the WUTC sets for transfer of portions of WUTC certificates of authority for unincorporated service areas between Waste Management of Washington, Inc. and the Rabanco Companies pursuant to the Purchase and Sales Agreement between these two companies. The City Clerk is hereby directed to publish this ordinance in full and to mail a copy of the Ordinance to the WUTC.

Section 4. Approval. Allied Waste Industries, Inc. dba Rabanco Companies, by its subjoined signature agrees to the cancellation of franchises within the City of Shoreline

established in Ordinance Nos. 181 and 201.

PASSED BY THE CITY COUNCIL ON JANUARY 28, 2002.

Mayor Scott Jepsen

ATTEST:

Sharon Mattioli, CMC
City Clerk

APPROVED AS TO FORM:

Ian R. Sievers
City Attorney

FRANCHISEE APPROVAL:
Allied Waste Industries, Inc. dba Rabanco Companies

By:

Title:

Date of Publication: January 31, 2002
Effective Date: See Section 3 above