

AVILA BEACH COMMUNITY SERVICES DISTRICT

RESOLUTION 2011-11

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE AVILA BEACH COMMUNITY SERVICES DISTRICT
CONFIRMING COMPLIANCE WITH THE PROTEST PROCEDURES OF
SECTION 6, ARTICLE XIII D OF THE CALIFORNIA CONSTITUTION AND
ADOPTING INCREASED RATES AND CHARGES FOR COMMERCIAL AND
RESIDENTIAL COLLECTION AND DISPOSAL OF SOLID WASTE**

WHEREAS, South County Sanitary Service, Inc. (herein the “Garbage Company) pursuant to an exclusive franchise agreement currently provides commercial and residential collection and disposal of solid waste services within the Avila Beach Community Services District (“District”) boundary; and

WHEREAS, Government Code Section 61115 authorizes the District Board of Directors to adopt rates or other charges by Resolution; and

WHEREAS, at the December 13, 2011, public hearing, the Board of Directors considered public comment in support and in opposition to the proposed rate increase and whether or not a majority protest exists pursuant to Section 6 of Article XIII D of the California Constitution; and

WHEREAS, based on facts and analysis presented by the District staff, the Staff Report, written protests received prior to the close of the public hearing and public testimony received, the Board of Directors finds:

A. The public hearing adopting this Resolution has been properly noticed pursuant to Government Code §54954.2 (The Brown Act) and Section 6 of Article XIII D of the California Constitution. The 45 Day Notice to Property Owners and/or Tenant Customers is incorporated herein by this reference.

B. The written protests received by the District prior to the close of the public hearing do not constitute a majority protest.

C. That the rates and charges adopted by this Resolution:

1. Are for the purposes of meeting operation expenses for providing solid waste collection and disposal services within the District.
2. Do not exceed the funds required to provide commercial and residential solid waste collection and disposal services.
3. Do not exceed the proportional cost of services attributable to those parcels receiving solid waste collection and disposal services.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Avila Beach Community Services District Board of Directors as follows:

Section 1. Rates and Charges.

The rates and charges for commercial and residential collection and disposal of solid waste, as established in Exhibit "A", attached hereto and incorporated herein by this reference, are approved and adopted.

Section 2. Incorporation of Recitals.

The above Recitals are true and correct and incorporated herein by this reference and constitute findings in support of this Resolution.

Section 3. Severability.

If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Resolution. The Governing Board of the District hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 4. Effect of Repeal on Past Actions and Obligations.

This Resolution does not affect prosecutions for violations committed prior to the effective date of this Resolution, does not waive any fee or penalty due and unpaid on the effective date of this Resolution.

Section 5. CEQA Findings.

The Board of Directors of the District finds that the rates and charges adopted by this Resolution exempt from the California Environmental Quality Act pursuant to Public Resources Code § 21080(b)(8) and CEQA Guidelines Section 15273. The District General Manager is directed to prepare and file appropriate notices and findings.

Section 6. Inconsistency.

To the extent that the terms of provision of this Resolution may be inconsistent or in conflict with the terms or conditions of any prior District Ordinance(s), Motions, Resolutions, Rules, or Regulations, governing the same subject matter thereof, then such inconsistent and conflicting provisions of prior Ordinances, Motions, Resolutions, Rules, and Regulations are hereby repealed.

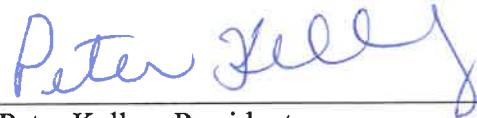
Section 7. Effective Date.

This Resolution shall take effect immediately. The rates and charges adopted by this Resolution shall take effect January 1, 2011.

On the motion of Director Brown, seconded by Director Yoder and on the following roll call vote, to wit:

AYES:	Brown, Yoder, Kelley, Janowicz, Rowe
NOES:	None
ABSENT:	None
CONFLICTS:	None

the foregoing Resolution is hereby passed, approved and adopted by the Board of Directors of the Avila Beach Community Services District this 13th day of December, 2011.



Peter Kelley, President
Board of Directors, Avila Beach
Community Services District

ATTEST:



John Wallace, General Manager
and Secretary to the Board