ORDINANCE NO. 2006-1680

AN ORDINANCE AMENDING CHAPTER 11, ARTICLES XII AND XIII OF THE SOLANO COUNTY CODE RELATING TO THE BUSINESS LICENSE TAX AND THE SOLID WASTE DISPOSAL MITIGATION FEE

WHEREAS, Chapter 11, Articles XII and XIII contain outdated references to the Solano County Department of Resource Management and to state law; and

WHEREAS, Chapter 11, Article XII incorrectly identifies the Solano County Tax Collector, instead of the Solano County Auditor-Controller, as the department currently responsible for the billing and collection of the County’s business license tax; and

WHEREAS, the Board seeks to correct these outdated and erroneous references throughout Chapter 11, Articles XII and XIII.

The Solano County Board of Supervisors ordains as follows:

Section 1. Chapter 11, Article XII of the Solano County Code is repealed in its entirety and replaced with the following:

"ARTICLE XII. BUSINESS LICENSE TAX

Sec. 11-160. Tax imposed
Pursuant to the authority granted by Revenue and Taxation Code section 72B4, as amended, there is established and imposed a business license tax on those activities and in those amounts specified below:

(a) Solid waste disposal at the base rate of five dollars ($5.00) per ton of waste deposited at a licensed solid waste disposal facility, which rate shall be reduced to three dollars ($3.00) per ton of waste deposited upon the occurrence of the three conditions set forth in subsections (1) and (2) below, and to remain at the three dollar base rate until December 31, 2013, except for annual adjustments based upon the Bay Area Economic Consumer Index (ECI), so long as the conditions set forth in subsections (1) and (2) below are in effect.

(1) The Potrero Hills Landfill operator shall have received all necessary approvals from the County, including a Conditional Land Use Permit and a Marsh Development Permit, to allow for the receipt of expanded tonnage and/or Potrero Hills and Hay Road landfills reach an agreement for disposal of waste tonnage in the County which are in excess of the current permitted limit at Potrero Hills; and

(2) That the present exemption set forth under Section 11-163(f)(2) of this code for placement of asbestos materials in landfills, under the Solid Waste Mitigation Fee shall be eliminated.

(b) Well drilling mud disposal at the base rate of twenty cents ($0.20) per ton of well drilling mud deposited at a licensed drilling mud disposal facility."
(c) Electrical energy produced by commercial wind turbine generators at the base rate of three one-thousandths of one cent ($0.00003) per kilowatt hour of electrical energy generated.

Sec. 11-161. Purpose of tax
This tax is enacted solely to raise revenue for general governmental purposes of the County and not for regulation. All of the proceeds from the tax imposed by this chapter shall be placed in the County's general fund and used for the usual current expenses of the County, however incurred.

Sec. 11-162. Effect of other ordinances
Persons required to pay a license tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of any license fee for the privilege of doing such business required under any other ordinance of the County and shall remain subject to the regulatory provisions of other ordinances.

See. 11-163. Definitions
(a) Commercial wind turbine generator means a wind-driven machine that converts wind energy into production of electrical power for the primary purpose of resale or off-site use.

(b) Drilling mud waste means all drilling mud derived from the development and production of oil and natural gas wells.

(c) Kilowatt hours (kwh) means a measurement of electrical energy produced by commercial wind turbine generators in kilowatts per hour.

(d) Licensed drilling mud waste disposal facility means any facility or location where disposal of drilling mud occurs and is permitted by the local land use authority which has permit authority over the use, location or operation of the facility.

(e) Licensed solid waste disposal facility means any facility or location where disposal of solid waste occurs and is permitted by the local land use authority, local solid waste enforcement agency and any other agency which has permit authority over the use, location or operation of the facility.

(f) Solid waste:

(1) Means all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, de treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes.

(2) Does not include hazardous waste or low-level radioactive waste regulated under the Health and Safety Code.

(3) Does not include medical waste regulated under the Health and Safety Code, provided that the medical waste, whether treated or untreated, is not disposed of
at a solid waste disposal facility. Medical waste which has been treated and which is
deemed to be solid waste shall be regulated pursuant to this ordinance.

(4) Does not include drilling mud derived from the development and
production of oil and gas wells.

(5) Does not include materials which are recycled as defined by Public
Resources Code section 40180, as amended.

(g) Tonnage means the difference between the total weight of the solid waste or
drilling mud received (measured in pounds) and the total weight diverted for recycling
(measured in pounds) divided by two thousand (2,000).

(h) Wind Energy Generation Facility means an installation of one or more
commercial wind turbine generators.

Sec. 11-164. Reporting of tonnage or kilowatt hours
(a) For purposes of determining the net tonnage deposited for computation of the
tax, each licensed Solid Waste Facility or Drilling Mud Facility shall make monthly
reports of net tonnage to the Solano County Department of Resource Management by
the twenty-fifth day of the of the following month. The Department of Resource
Management shall verify the reports and submit the data quarterly to the Solano County
Auditor-Controller on the twenty-fifth day of the month following the end of the quarter.

(b) For purposes of determining the electrical energy produced for computation of
the wind energy tax, each Wind Energy Generation Facility shall make monthly report of
the kilowatt hours of energy produced by the facility to the Solano County Department of
Resource Management by the twenty-fifth day of the following month. The Department
of Resource Management shall verify the reports and submit the data quarterly to the
Solano County Auditor-Controller.

Sec. 11-165. Payment of tax
The Solano County Auditor-Controller shall issue a quarterly tax bill to each licensed
Solid Waste Facility and to each licensed Drilling Mud Disposal Facility and Wind Energy
Generation Facility, which shall be due and payable to the Solano County Auditor-
Controller upon receipt and delinquent at the end of the month following the month
issued.

Sec. 11-166. Penalty for delinquency
A ten percent (10%) penalty shall be assessed on any tax not paid by the delinquent
date. Any licensed facility not current in its payment of taxes pursuant to this Chapter at
the time of the annual renewal of its Solano County Business license issued pursuant to
Chapter 14 of the Solano County Code may be denied a license renewal until all taxes
and penalties are paid."

Section 2. Chapter 11, Article XIII of the Solano County Code is repealed in its
entirety and replaced with the following:

"ARTICLE XIII. SOLID WASTE DISPOSAL MITIGATION FEE"
Sec. 11-200. Findings

(a) Solid waste hauling and disposal is an issue that local governmental entities are being required to address more frequently, due to (1) the increasing difficulty in siting new solid waste landfills; (2) the increasing restrictions being placed on the types and quantities of materials that may be disposed of at licensed landfills by the State; (3) court decisions that have made it more difficult to restrict the importation of solid waste from outside the County; and (4) additional requirements for monitoring the closure of the licensed sites, once closure commences.

(b) The State has imposed new statutory monitoring requirements on local enforcement agencies, under the provisions of Public Resources Code section 40000, et seq., as amended, which require additional staff to properly enforce the provisions.

(c) There is increased demand to prepare amendments to, and update existing siting elements of the local agencies General Plan.

(d) There are more stringent requirements imposed in the environmental review process for Environmental Impact Reports (EIRs) for all new siting activities.

(e) The transportation and disposal of solid waste within the County of Solano has and continues to impose litter problems on the roads and in the areas around the landfill sites in the unincorporated areas of the County.

(f) These additional obligations imposed on the County have created a demand for services directly related to the acts of the hauling and disposal of solid waste, by both residents and non-residents of Solano County.

Sec. 11-201. Mitigation fee imposed

Pursuant to the authority granted by Public Resources Code sections 41900, et seq., and 43213, as amended, and based upon the findings set forth in Section 11-200 of this code there is established and imposed a solid waste disposal mitigation fee, at the rate of fifteen cents ($0.15) per ton of waste deposited at any permitted solid waste landfill.

Sec. 11-202. Purpose of fee

This fee is enacted to mitigate the costs of providing identified services which are required as a direct result of the hauling and disposal of solid waste within the unincorporated portions of Solano County. All of the funds derived from this fee shall be used to reimburse the direct costs of the affected departments of the county in (1) enforcing compliance with Public Resources Code section 40000, et seq., as amended; (2) the preparation of the siting element, or the EIR for the siting element of the county general plan, including necessary consultant services, and (3) litter control and roadside litter pick-up.

Sec. 11-203. Definitions

(a) Licensed solid waste disposal facility shall be defined as set forth in Section 11-163(d) of this code.

(b) Siting element means the solid waste siting element of the Solano County Integrated Waste Management Plan, as required pursuant to the Public Resources Code section 41700, et seq., as amended.
(c) Solid Waste shall be defined as set forth in Sections 11-163(f)(1)-(5) of this code.

(d) Tonnage shall be defined as set forth in Section 11-163(g) of this code.

Sec. 11-204. Reporting of tonnage
For purposes of determining the net tonnage deposited for computation of this fee, each licensed solid waste disposal facility shall make monthly reports of net tonnage to the Solano County Department of Resource Management by the tenth day of the following month. The Department of Resource Management shall verify the reports. This report can be the same report required under provisions of Section 11-164 of this code.

Sec. 11-205. Payment of fee
The Department of Resource Management shall issue a quarterly statement to each licensed solid waste facility, which shall delineate the amount of the mitigation fee due to the Department of Resource Management, and the fee is due and payable upon receipt of the statement, and shall be delinquent at the end of ninety (90) days after issuance of the statement.

Sec. 11-206. Penalty for delinquency
A penalty of ten (10%) percent shall be assessed on any fee not paid by the delinquent date."

Section 3. In the event of any conflict between any provision of this ordinance and any law or regulation, the conflicting provision of this ordinance shall be deemed superseded and severed and all remaining portions of this ordinance shall remain in full force and effect.

Section 4. This ordinance shall be effective thirty (30) days after its adoption.

Section 5. A summary of this ordinance will be published within fifteen (15) days after its adoption in a newspaper of general circulation in Solano County.

Passed and adopted by the Solano County Board of Supervisors on Oct. 24, 2006 by the following vote:

AYES: Supervisors Kondylis, Kromm, Reagan, Silva, and Chair Vasquez
NOES: Supervisors None
EXCUSED: Supervisors None

Attest:
Michael D. Johnson, Clerk
Board of Supervisors

By: ~Myra Crittenden, Chief Deputy Clerk~

Introduced: Oct. 3, 2006
Adopted: Oct. 24, 2006
Effective: Nov. 23, 2006