

MINUTES
OF THE
SACRAMENTO CITY COUNCIL
REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO
HOUSING AUTHORITY OF THE CITY OF SACRAMENTO
ECONOMIC DEVELOPMENT COMMISSION
PARKING AUTHORITY OF THE CITY OF SACRAMENTO
SACRAMENTO CITY FINANCING AUTHORITY

REGULAR MEETING

September 2, 1997

CALL TO ORDER

The Regular Meeting of the Sacramento City Council was called to order by Mayor Serna at 2:07 p.m. on the above date in the City Council Chamber located at 915 I Street.

ROLL CALL

Present: Councilmembers Cohn, Fargo, Hammond, Kerth, Waters, Pannell, Steinberg, Yee and Mayor Serna

Absent: None (Councilmember Cohn arrived late.)

1.0 CONSENT CALENDAR (Items 1.1 through 1.9) except Item 1.1

A motion was made by Councilmember Pannell, seconded by Councilmember Yee, to waive the reading and adopt the Consent Calendar, Items 1.1 through 1.9, except Item 1.1, which was pulled for separate consideration. The motion carried with an 8-0 vote, with Councilmember Cohn being absent.

**** Councilmember Pannell introduced Francisco Madeira, Presidential Minister for Parliamentary Affairs, Mozambique, who commented that he was impressed with the workings of City government, and was here to observe a City Council meeting in session, so that similar procedures may be implemented in his country following local elections to be held next year.

Public Review Items - Informational Only

None

Sacramento Housing and Redevelopment

None

City Council

1.1 Agreement with Reclamation District 1000 for the North Natomas Drainage Community Facilities District 97-01 Improvements. (D-1)

Councilmember Fargo requested clarification about a reference in the staff report concerning RD1000, as to Operations and Maintenance of the North Natomas Drainage Community Facilities District 97-01 Improvements.

Gary Reents, Manager, Engineering Services, advised Ms. Fargo that the Summary Report included within the staff report was in error; today's action is not concerned with operation and maintenance of the facility, but with funding and construction under Mello Roos. Design has only now been completed; before the drafting of any operations and maintenance agreement, based on the type of construction, it must be determined what type of maintenance is needed. Staff will return later with the O&M agreement.

A motion was made by Councilmember Fargo, seconded by Councilmember Pannell, to adopt Resolution 97-497 approving Agreement 97-145. The motion carried with a 7-0 vote, with Councilmember Cohn and Mayor Serna being absent.

RESOLUTION NO. 97-497

RESOLUTION APPROVING THE AGREEMENT BETWEEN
THE CITY OF SACRAMENTO AND RECLAMATION
DISTRICT 1000 REGARDING CFD NO. 97-01

- 1.2 Approval of Supplement No. 4 to City Agreement No. 96-029 with Surface Water Resources, Inc. for the City-County Office of Metropolitan Water Planning, for an amount not to exceed \$35,000. (D-All)
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Adopted Resolution 97- 498.

RESOLUTION NO. 97- 498

RESOLUTION AUTHORIZING THE CITY MANAGER AND
THE CITY CLERK TO EXECUTE SUPPLEMENT NO. 4
TO CITY AGREEMENT NO. 96-029 WITH SURFACE
WATER RESOURCES, INC., TO PROVIDE
PROFESSIONAL EIR CONSULTING SERVICES FOR
THE CITY-COUNTY OFFICE OF METROPOLITAN
WATER PLANNING IN AN AMOUNT NOT-TO-EXCEED
\$35,000 FOR FISCAL YEAR 1997-98.

- 1.3 Approval of Supplement No. 2 to City Agreement 95-106 with Deen & Black Public Relations for the City-County Office of Metropolitan Water Planning for an amount not to exceed \$70,000. (D-All)
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Adopted Resolution 97-499.

RESOLUTION NO. 97-499

RESOLUTION AUTHORIZING THE CITY MANAGER AND
THE CITY CLERK TO EXECUTE SUPPLEMENT NO. 2
TO CITY AGREEMENT NO. 95-106 WITH DEEN &
BLACK PUBLIC RELATIONS TO PROVIDE
PROFESSIONAL PUBLIC RELATIONS/PUBLIC
AFFAIRS CONSULTING SERVICES TO THE CITY-
COUNTY OFFICE OF METROPOLITAN WATER
PLANNING ON BEHALF OF THE WATER FORUM FOR
AN AMOUNT NOT TO EXCEED \$70,000 FOR THE
FISCAL YEAR 1997-98.

- 1.4 Approval of Parcel Map entitled "Showing a Division of Lot 12, as said lot is shown on the Plat of Laguna Meadows", (AKA Laguna Village Shopping Center) located at the northwest corner of Center Parkway and Bruceville Road (P94-056). (D-8)
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Adopted Resolution 97-500.

RESOLUTION NO. 97-500

APPROVING PARCEL MAP ENTITLED "SHOWING A DIVISION OF LOT 12, AS SAID LOT IS SHOWN ON THE PLAT OF LAGUNA MEADOWS" (AKA LAGUNA VILLAGE SHOPPING CENTER) (P94-056)

- 1.5 Fund transfer of \$100,000 for Capital Improvement Program YA36, Landfill Gas Control Program, located at 20-28th Street. (D-3)
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Adopted Resolution 97-501.

RESOLUTION NO. 97-501

RESOLUTION AMENDING THE 1997/2002 CIP BUDGET BY TRANSFERRING \$100,000 FROM SOLID WASTE CONTINGENCY RESERVE TO CIP LANDFILL GAS CONTROL PROGRAM (YA36)

- 1.6 Pretax Payroll Deduction Plan for Service Credit Purchases. (D-All)
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Adopted Resolution 97-502.

RESOLUTION NO. 97-502

A RESOLUTION APPROVING A PRE-TAX PAYROLL DEDUCTION PLAN FOR SERVICE CREDIT PURCHASES PURSUANT TO IRC SECTION 414(h) (2) BY MEMBERS OF THE SACRAMENTO CITY EMPLOYEES' RETIREMENT SYSTEM (SCERS)

- 1.7 Zoo/Land Park Drive Sewer Improvement Project (PN:XM15)- award contract to Jaeger Construction, Inc., for an amount not to exceed \$222,132. (D-All)
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Adopted Resolution 97-503 awarding Contract 97-114.

RESOLUTION NO. 97-503

RESOLUTION AUTHORIZING THE CITY MANAGER AND CITY CLERK TO SIGN AND EXECUTE A CONTRACT WITH JAEGER CONSTRUCTION, INC., FOR THE ZOO/LAND PARK DRIVE SEWER REPLACEMENT PROJECT (PN:XM15) FOR AN AMOUNT NOT TO EXCEED \$222,132.

- 1.8 Zoning Ordinance amendment and City Code amendments related to streamlining development of housing projects in the Central City (M97-013). (D-1)
- A) Ordinance amending Sections 2,3,5,6,7 and 12 of the Comprehensive Zoning Ordinance (Ordinance No. 2550, Fourth Series, as amended), relating to Central City Housing Regulations.
 - B) Ordinance amending Section 38.13 of the Sacramento City Code, Title 38 (Streets and Sidewalks).
 - C) Ordinance amending Chapter 40 of the Sacramento City Code relating to Subdivision Regulations (M97-013)
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Passed for publication of titles and continued to September 9, 1997 [staff].

- 1.9 Ordinance amending Title 25 [Motor Vehicles and Traffic] Section 25.09.157-1 of the Sacramento City Code, relating to improper use of validations for the Downtown Plaza Parking Lots. (D-1) (PFP'd 8/26/97, item 1.22)

Adopted Ordinance 97-054.

ORDINANCE NO. 97-054

AN ORDINANCE AMENDING SECTION 25.09.157-1 OF THE SACRAMENTO CITY CODE, RELATING TO IMPROPER USE OF VALIDATIONS FOR THE DOWNTOWN PLAZA PARKING LOTS

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2.0 SPECIAL PRESENTATIONS/GENERAL COMMUNICATIONS

None

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3.0 PUBLIC HEARINGS

- 3.1 Temporary Street Closure of a portion of the alley bounded by 11th Avenue, 42nd Street, 12th Avenue and 40th Street; Abandonment Proceedings No.TSC #97-03. (D-5)

Ron Perry, Engineering Technician, Public Works, presented the report.

Mr. Perry commented that this action today is the second portion of the close-off. Neighborhood groups in Council District 5 and the Police Department requested that the above described portion of the alley be temporarily closed. Streets can be temporarily closed under Ordinance #92-076 relating to the closure of streets to combat drug, gang, and other criminal activity. The closure will be effective for 18 months and can be extended for additional 18-month periods.

Vice Mayor Kerth commended staff for its work on the closures; he asked when the first alley in the north area might be closed? Mr. Perry replied that the process would be broken down into 4 categories; restriction of access, temporary street closure, summary abandonment, and regular abandonment. While the time schedule has not been set, Mr. Perry advised Mr. Kerth that a portion would be done in the north area by Thanksgiving.

Councilmember Hammond commented that this alley was discussed by neighbors last month; this closure is the second part. Efforts are underway to find a citywide solution.

A motion was made by Councilmember Hammond, seconded by Councilmember Fargo, to close the hearing and adopt Resolution 97-504. The motion carried with a 7-0 vote, with Councilmember Cohn and Mayor Serna being absent.

RESOLUTION NO. 97-504

RESOLUTION AND FINDINGS OF FACT REGARDING
THE TEMPORARY CLOSURE OF A PORTION OF THE
ALLEY BOUNDED BY 11TH AVENUE, 42ND STREET,
12TH AVENUE AND 40TH STREET WITHIN COUNCIL
DISTRICT #5

ABANDONMENT PROCEEDING NO. TSC#97-03

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4.0 STAFF REPORTS

- 4.1 Acceptance of the 1997 Cops Universal Hiring Program Grant Award, in the amount of \$17,252,921. (D-All)

Police Chief Venegas presented the report.

Chief Venegas advised Council that of a possible \$19 million available in the State of California through this grant program, the City of Sacramento won \$17.2 million, which will enable the Police Department to function to the year 2000. A total of 35 new hires are expected: 20 at the present time to handle calls for service; 10 for patrol; and 5 additional detectives.

Chief Venegas noted that grant funding sources would be getting tighter, saying that we must use this window of opportunity.

Councilmember Fargo thanked Chief Venegas and City Manager Edgar for their good work on getting the grants.

Councilmember Waters commended Chief Venegas on receiving the \$17 million. Mr. Waters requested a report back regarding the taking of Megan's Law into the community. Mr. Waters advised Chief Venegas that of \$3,000 needed to do so, private businesses had agreed to fund \$1,500 of it, if the Police Department would provide the other half. The Chief agreed to pursue it.

Councilmember Yee expressed his thanks on behalf of the whole Council. Mr. Yee recalled that the City Manager's staff was looking at possible measures for a permanent fix. City Manager Edgar confirmed, saying that several measures would be coming before the Law & Legislation Committee.

Chief Venegas agreed it was necessary to avoid an addiction to grant funding, but he noted that it buys time for now until a permanent solution can be found.

A motion was made by Councilmember Hammond, seconded by Councilmember Fargo, to adopt Resolution 97-505 awarding Grant 97-017. The motion carried with a 7-0 roll call vote, with Councilmember Cohn and Mayor Serna being absent.

RESOLUTION NO. 97-505

RESOLUTION AUTHORIZING THE CITY MANAGER TO
ACCEPT A \$17,252,921 AWARD FROM THE U.S.
DEPARTMENT OF JUSTICE UNIVERSAL HIRING
PROGRAM

Councilmember Steinberg expressed his thanks to Chief Venegas.

Vice Mayor Kerth expressed his gratitude to the Chief and his staff, saying this will make a difference.

4.2 Construction of Meadowview Community Center-Phase Two (CB25), located at 2450 Meadowview Road. (continued from 8/12/97, item 4.2) (D-8)

Duane Wray, Manager, Technical Services, presented the report.

The Meadowview Community Center, Phase Two, construction is in the final stage of completion and move-in is underway. The opening is planned for the second week of October, 1997. Efficient planning by the community and staff and design/build construction has resulted in project savings of approximately \$1,000,000.

Mr. Wray noted that this was the second City project using the Design/Build concept, which avoids conflict between designer and contractor. Mr. Wray acknowledged Scott Maxwell of Unger Construction; English Harper Reta, Architects; good value engineering contributed to the success of the project, and particularly Yadi Kavakebi, the project manager.

Mr. Wray advised that this project will be completed without using any contingencies; MBE/WBE goals were met; people from the local community were hired.

Councilmember Pannell urged that a letter of recommendation be placed in the employee files of Yadi Kavakebi, the Project Manager, Mr. Wray, and other staff involved commending them for their good work and the money saved. Mr. Pannell commented that this was an excellent project, and the department should be proud of the results; it has been instrumental in turning the community around. Mr. Pannell also commended the Art in Public Places project at Meadowview Community Center.

Councilmember Yee remarked that there were good engineers on that team, also.

Councilmember Fargo congratulated Mr. Kavakebi and Mr. Pannell for a good Community Center, saying it was getting good use; it is what the community wanted.

Dick Mayberry, President of Sacramento Firefighters Local 522, congratulated the contractor for completing the project with \$1 million under funding. As to the \$1 million savings now available, Mr. Mayberry reminded Council that due to budget constraints, Fire truck No. 7 at Valley Hi in the South Area was closed. A Greenhaven truck was relocated to cover; Mr. Mayberry recalled that when the budget was adopted, Council had promised restoration of the fire truck to Greenhaven; he urged that top priority for the allocation of the \$1 million in savings be the restoration of the fire truck to the South Area, in the interests of public safety.

Councilmember Yee remarked to City Manager Edgar that \$200,000 of the money would go to FTE; he suggested extending the truck company for six months.

City Manager Edgar responded that this is a capital infusion; he expressed a preference that it should be used to buy down debt, saying it was not advisable to use capital savings for the operational money.

Councilmember Hammond expressed distress over having to choose between Meadowview Community Center and Fire Department needs; she asked if it is not proper to use capital monies for operational purposes, how is it possible to get \$1 million in operational funds? Can the City ever come up with \$1 million for the operational budget? Mr. Edgar replied that he could not support using capital monies for operation; he commented that as we go to the midyear review, the operational budget will be looked at. There is some good news coming from the State and some bad news from the other side; at midyear review, Mr. Edgar assured Ms. Hammond that the Fire Department situation will be looked at.

Councilmember Steinberg asked whether there was a precedent for using capital dollars for operational expenses? Mr. Edgar replied that this was done on occasion, on an emergency basis. Mr. Steinberg requested a report back on the options.

Mr. Mayberry remarked to Ms. Hammond that she should not feel conflicted regarding Meadowview Community Center and the Fire Department because the \$1 million originated from the General Fund and would be put back into the General Fund.

Greta Cannon, Meadowview Community Activist, expressed her thanks to Council for its support of the Meadowview Community, and to staff and construction workers for their willingness to work with the community. Ms. Cannon urged the construction of Phase III, using the \$1 million savings. Ms. Cannon especially thanked Councilmember Pannell for his hard work.

A motion was made by Councilmember Pannell, seconded by Councilmember Fargo, to adopt Resolution 97-506. The motion carried with an 8-0 roll call vote, with Councilmember Cohn being absent.

RESOLUTION NO. 97-506

RESOLUTION AUTHORIZING AMENDMENT OF THE
1997-98 OPERATING BUDGETS TO UTILIZE
SAVINGS FROM THE MEADOWVIEW COMMUNITY
CENTER PHASE TWO CONSTRUCTION PROJECT
(CB25)

- 4.3 Recommendation for authorization to distribute the Request for Proposals, the evaluation criteria, and the Draft Solid Waste Transfer and Disposal Services Agreement located at Florin-Perkins Enterprise Zone. (D-6)

Reina Schwartz, Manager, Solid Waste, presented the report.

In April, 1997 Council directed staff to develop a revised RFP and a draft contract for the solid waste transfer and disposal project. The RFP and draft contract were then to be distributed to the three short-listed firms from the first round to solicit best and final offers. Since April, the Council has also short-listed four landfills and five local transfer sites as acceptable for consideration in the best and final offers.

The presentation today will:

- 1) describe the process City staff have followed in developing the recommendations before Council;
- 2) identify the major provisions of the RFP and contract; and
- 3) request authorization to distribute the RFP and draft contract to solicit best and final offers for this project.

Ms. Schwartz acknowledged the team members who developed the RFP and contract, who, besides herself, were: Gary Van Dorst, Jim Faber and Pelle Clark from the Public Works Department, Assistant City Attorney Carnazzo, and Risk Manager Margaret Allen. Consultant members of the team included Constance Hornig and Bob Hilton, both with extensive experience in public sector solid waste and financing projects; as well as Mic Steinmann and Jim Steinmann from the SGS Group, specializing in facilities planning and evaluation.

Drafts of the RFP and contract have been discussed extensively with the short-listed transfer firms; the team met with each firm at least twice and answered over 150 specific questions regarding the contract. The draft contract before Council today represents significant changes in terms and provisions to accommodate proposers' concerns while still representing the City's best interests.

Ms. Schwartz went on to say that the contract is a services agreement; the City seeks to contract with a private firm to provide processing, transfer, hauling and disposal services. The City will neither own nor operate the facility.

The RFP requires each firm to provide best and final offers for a number of options and indicate their willingness to sign the attached contract. Given the extensive revisions already addressed, the RFP urges proposers to take as few exceptions to the contract language as possible. Proposers are asked to identify as part of their proposal provisions to which they may still take exception.

The contract requires that the winning firm provide transfer of a minimum 117,000 tons of City-delivered waste each year (about 450 tons per day), and achieve the mandated diversion of 30 percent of the commercial waste the City brings to the facility, as well as 50 percent of the neighborhood cleanup waste the City delivers.

The RFP and contract specify that the City must be the most favored customer, meaning that the contractor cannot charge any other customer, receiving the same services, a lower price.

Ms. Schwartz noted that in the RFP, firms are asked to provide best and final offers on a number of options so that Council will have the cost information available when making policy decisions regarding the project. The RFP asks for proposals for three initial terms: 10, 15, and 20 years. While the City may prefer a short initial term for the contract so that it maintains flexibility, committing to a longer initial term may result in better prices.

The RFP requests prices for different hauling methods; truck haul (using traditional diesel equipment), truck haul (using at least 50 percent low emission vehicles), and rail haul. Having prices for each of these options will allow Council to understand fully the cost implications of alternative means of transportation.

The RFP and contract contain specific provisions and requirements designed to help ensure the City is comparing "apples to apples" while evaluating the proposals. Some of the specific major provisions in the contract include:

- * **Indemnification:** for the transfer provider, the contract requires the firm to indemnify the City in all cases except for the City's sole and active negligence. This is a standard provision in City agreements. With respect to the landfill, the contract requires the landfill operator to fully indemnify the City for any potential CERCLA (Superfund) problems.

- * **Traffic mitigation/environmental impact:** The RFP and contract reflect a strong commitment to mitigate both of these; an independent environmental assessment is already underway, as is an evaluation of traffic mitigation costs for each site. These impacts and their costs will be included as part of the evaluation of the best and final offers in order to provide a comprehensive picture of costs and benefits of each option to Council.
- * **Self-haul:** The RFP and contract require that the successful contractor accept self-haul material and identify how those services will be charged. Rates must honor the long-standing commitment in this county to ensure that reasonably-priced self-haul services are available, in order to reduce illegal dumping. This is particularly important since it is likely the County will close its South Area Transfer Station once this facility is open.
- * **Household Hazardous Waste:** The RFP and contract require the proposer to set aside space on their site for the City to permit and develop a permanent site for residents to bring household hazardous waste material. These materials are currently taken at the County's South Area Transfer Station. The City Council's adopted Household Hazardous Waste Element identified the City's commitment to developing such a permanent facility.
- * **Alternative workforce/local hiring:** The contract reflects the City's commitment to creating and maintaining an inclusive economy in the City. The RFP sets goals of 30 percent of the payroll coming from employees hired from neighborhoods surrounding the facility and 20 percent to come from employees drawn from alternative sources such as welfare-to-work programs.

Ms. Schwartz discussed the evaluation process for the best and final offers, noting that the primary evaluation would be based on total cost to the City, including the tipping fee, off-route transportation, and any mitigation measures that may be required.

Based on the financial evaluation and any exceptions taken to the contract language, the contract team will develop a recommendation as to which firm should be selected. When the recommendation is brought to Council, staff will identify which policy issues underlie the recommendation to ensure that the project recommended best meets Council's goals.

Finally, the timeline for the project is included on pages 4 and 5 of the staff report. Selection of the firm is expected to proceed in December, 1997. Ms. Schwartz urged Council to proceed without further delay.

Councilmember Kerth established with Ms. Schwartz that all proposers must submit a rail-haul option; if they were not close to rail, the proposers must estimate an intermodal facility, then to rail. Mr. Kerth asked whether this easement must be under their control? Ms. Schwartz replied affirmatively, in terms of an option, but not purchased per se. The recommendation in December will indicate whether we should proceed with the truck or rail-haul option.

Mr. Kerth asked why all proposers were being forced to include a rail option? Ms. Schwartz replied that it is in as a rail requirement; rail may be more now, but we must compare cost of the other options. Mr. Kerth expressed his disapproval of requiring all proposers to submit a rail option; he pointed out that the City was already late on

this proposal, adding that costs continue to escalate by introducing new issues, which may or may not improve air quality, congestion, etc.

Mr. Kerth asked about an option to purchase at the end of the contract? Ms. Schwartz responded that the price definition recognizes not only the capital investment, but also the value of the ongoing contract. The rationale is that it would give the City an option at the end of the contract and a means of a continuing source to handle waste.

Mayor Serna asked whether the logic was that through lease payments the facility would belong to the City? Ms. Schwartz replied negatively, saying it would allow an option to buy the value of the business, and either operate it ourselves, reprocur it, or renegotiate a contract with them.

Mayor Serna established with Ms. Schwartz that the option to buy did not include good will, but only tangible assets. Mayor Serna agreed that it was time to move on, saying that areas of contention could be worked out during the time line.

Mr. Kerth commented that, in effect, at the end of the contract the City would be putting the facility owner out of business; they would have to relocate; we would also have their contracts. Ms. Schwartz referred to pages 87-88, Exhibit 4.03, Facility Design Requirements. Mr. Kerth established with Ms. Schwartz that the Education Center was always part of the RFP.

Mr. Kerth asked whether we set the price for self-haul? Ms. Schwartz replied that the proposers are asked to tell the City how they will handle self-haul, as to price sheet, methodology, and program.

Further discussion between Mr. Kerth and Ms. Schwartz addressed indemnification and liability issues, as well as off-site transportation/traffic mitigation numbers for roadway and traffic intersection mitigation that would be required. Ms. Schwartz commented that it was being proposed to ascribe to the project the transportation mitigation costs; this (area beyond the driveway) will be included in the evaluation.

Mr. Kerth questioned the 30% of jobs to be drawn from the immediate area surrounding the facility, saying this takes the jobs beyond the reach of other Council districts. Ms. Schwartz noted that this was based on enterprise zone criteria.

Councilmember Steinberg commented that 1) the 30% is a target; he believed the winning provider should hire from as many low-income areas as possible; and 2) Mr. Steinberg established with Ms. Schwartz that, should the City take assignment of the facility at the end of the contract (20 years), it is liable.

Mr. Steinberg urged as many options as possible, including the rail option, referring to revised sub-section G of the RFP, page 5: Capacity. Mr. Steinberg expressed concerns about building a transfer station of such capacity that the area would become a repository for everyone's solid waste; he stressed environmental responsibility to other businesses as well. Mr. Steinberg commented that at the beginning of the submittal, 1500 tons per day was considered to be a reasonable amount; he stressed that he did not want excessive tonnage of waste, which could create adverse impacts in the area.

Councilmember Waters inquired about the closure of the South Area Station, commenting that would affect the capacity. Ms. Schwartz explained that the County has indicated probable closure if another station opens which would handle its current volume; the South station operates at a loss; closure would help to cut the County's losses.

Mr. Waters asked why there was so much concern about 20 years down the road, saying that he understood the goal was to privatize. Mr. Waters expressed fears concerning the loss of proposers, the loss of good will, which could result in a loss of competitive bidders, thus escalating the cost. Ms. Schwartz responded that the contract terminology is now limited to tangible assets.

Mr. Waters agreed with Mr. Kerth regarding the rail-haul requirement, saying it seems unfair competition; he discussed mileage to the disposal facilities. Ms. Schwartz noted that rail has been included since the original RFP. Other proposers chose sites specifically to meet that requirement.

Mr. Waters established with Ms. Schwartz, regarding off-site improvements, that before the proposals were due there would be a firm figure, for a level bid opportunity.

Councilmember Yee asked whether, in 20 years, should the City Council not wish to own a transfer station, it would be necessary to go through a re-procurement process? Ms. Schwartz replied that would be the approach, should Council not wish to purchase.

Mayor Serna established with Ms. Schwartz that higher capacities should result in lower rates to customers. Mayor Serna asked what the breaking-off point would be, considering the issue on a citywide basis? Ms. Schwartz commented that for transfer stations, 1200-1500 tons per day was reasonable for the RFP; capacity is now about 1700 tons per day, is cost-effective without being huge.

Mayor Serna discussed the indemnification issue with Ms. Schwartz, asking whether the proposers are asking the City to indemnify them? Ms. Schwartz responded that if the City is in control of it, the City indemnifies them; if the providers are in control, they indemnify us.

Mike Brown, Brown, Benson Associates, representing the BFI team, commented that following considerable positive discussion, his client was eager to proceed.

Mr. Brown noted, however, that there were several points of contention remaining which could make the issue unbiddable:

1. Regarding the negligence clause as to indemnification, if responsibility is shared, he believed the amount to be unequal.
2. Regarding termination - the City has the right to terminate without allowing a reasonable time to address/fix problems
3. Staff needs direction regarding:
 - A. Option to purchase
 - B. The negligence issue; BFI would prefer that each party be responsible for its own actions, or in the case of shared responsibility, that there be an equal share.
 - C. Termination

Mr. Brown expressed his desire to remove a clause in the RFP which allows staff to reject the proposal if they do not like the list of the proposer's concerns.

Mr. Brown wanted to return to City Council as to how they are doing during the process of negotiating; if proposers are unable to resolve key issues with staff, he wanted the Council to know about it.

Mr. Brown discussed the rail-haul option, urging that it either be left in all the way or removed altogether; Mr. Brown commented that BFI has already spent money to select the site.

Councilmember Cohn discussed the indemnity language, asking whether, regarding operation of the facility itself, it wasn't reasonable of the City to expect indemnification? Mr. Brown agreed that was reasonable, but outlined several possible scenarios which would involve mutual responsibility. Mr. Cohn commented that he did not wish to negotiate language during a hearing. Mr. Brown replied that he was asking for a continuance of the process going on.

Mr. Yee asked staff to continue working with the proposers on some of their issues; he pressed the need to move forward into the competitive phase, commenting that he believed an indemnification policy should be offered.

Mr. Brown replied that BFI would not indemnify, saying that the language "sole and active negligence" is the point of contention.

Mayor Serna asked Ms. Schwartz to respond to the 3 big issues in question. Mr. Brown interjected that ongoing negotiations with staff regarding 9 major issues were progressing well, but it was agreed that these three remaining issues appear to need "higher court" decisions.

Mr. Kerth questioned whether rail-haul would be more expensive than truck haul? Mr. Brown replied affirmatively, saying that tipping is made up of transfer, haul, and disposal. Haul is one-third of the total fee, and rail-haul may be 50% more of that portion. Mr. Brown noted that, if traffic congestion is the concern, rail access at the site might be worth the additional cost. Mr. Kerth established with Mr. Brown that there were about 50 trucks per day, noting that this was a cost issue, rather than another tangible issue.

Gregory Thatch, representing CalWaste Recovery Systems, focused on several issues:

1. The fundamental premise is to privatize and keep cost low.
2. After 20 years, good will is an asset; if removed from the formula, the picture is changed.
3. Rail-haul is an important factor: if CalWaste does bid for it, it should not have to pay thousands of dollars to tie up sites just on the chance that rail-haul may be chosen.

Mr. Thatch discussed self-haul as to the City's rate-setting, saying that CalWaste believed the City should not be setting the rates for self-haul.

Points of concern were:

1. Indemnification re: Household Hazardous Waste - the City contract language: "sole and active negligence".
2. Re-institute noticing of lender, which allows fault to be cured.
3. Regarding offsite improvements, Mr. Thatch requested clarification regarding the establishment of the figure prior to responding to the RFP; he believed it should be reflected in the price.
3. Regarding capacity - it is highly unlikely that multiple jurisdictions would bring waste to the transfer site; that is not feasible. The City would be the best customer.

Mr. Yee discussed the first right of refusal after 20 years, establishing with Mr. Thatch that it would be agreeable at that time to pull the contract and put out another RFP. Mr. Yee asked staff why it was not including Hazardous Household Waste? Ms. Schwartz replied

that the item was controversial; the decision was not to hold up the transfer station because of HHW. Proposers were asked to set aside a space for it; details would be worked out later.

Mr. Yee established with Ms. Schwartz that the City would not ask the proposer to indemnify HHW, since the City would be operating that portion.

Mr. Cohn noted that without Household Hazardous Waste, people could drive up for normal types of recycling. Ms. Schwartz identified most HHW material as batteries, oil, and paint.

Mr. Thatch discussed the resolution, regarding capacity, asking whether this will limit by contract, or land use? Ms. Schwartz responded that the permitting process and entitlements are to go through the normal course of action.

Annette Deglow pressed for different, more environmentally sensitive sites than those proposed; she believed that there was a financial incentive where the sites are placed. Ms. Deglow advised Council that the rail-haul option would disturb the community; they do not want it. Ms. Deglow asked Council to consider a two-station alternative, citing excessive noise, etc. with one site.

Mr. Steinberg responded to Ms. Deglow's rail access concerns, saying that the Power Inn Transportation Management Association asked that rail-haul be included as an option. During discussions held, it was determined that every association wanted BFI#1 eliminated because of Power Inn access. Mr. Steinberg asked staff to recount information regarding the two-station option. Ms. Schwartz responded that the initial RFP, in July, 1996, addressed a two-station alternative; it was determined that that option would cost \$4 million more over the term of the contract.

Ms. Deglow asked whether the savings in a recycling zone were being factored in? If outside the recycling zone, in an environmentally superior environment, there appears to be a financial incentive. Ms. Schwartz commented that this was not relevant to this RFP, since proposers had been asked to propose within the recycling zone.

Mr. Steinberg clarified, regarding the EIR for the preferred site and company, that would be compared to Ms. Deglow's alternative site proposal. Ms. Schwartz replied that was based on CEQA process. Ms. Deglow pressed that a plan should be in place, should final recommendation include a two-station option.

Mr. Steinberg replied that City Council would have the option to approve a permit or not; this would be done at the end of the process.

Dan Rosenthal, representing BLT Enterprises, discussed the new version of the RFP, page 15, provision E; regarding narrowing options before, this is onerous; some contract provisions not acceptable. In most cases, the procedure is to choose the provider, and then hammer out the details, sign the contract.

Mayor Serna expressed disapproval of word smithing by City Council, saying that professional questions need to be resolved at staff level. Mr. Rosenthal commented that he wanted the language to be understandable by both parties, after selection.

City Manager Edgar advised that staff had met last week, inserted a provision into the calendar, and will be meeting with proposers. At that time, issues will be clarified and agreement reached on a final contract, in so far as possible.

Councilmember Pannell urged moving forward, identifying the direction.

Mayor Serna remarked that the EIR was another controversial question to be addressed, with summer 1999 projected at the present time to be an actual start date for the facility.

A motion was made by Councilmember Steinberg, seconded by Councilmember Pannell, to adopt Resolution 97-507.

Councilmember Kerth proposed an amendment to the RFP - to make rail-haul an option, rather than a requirement. Mr. Pannell asked for clarification regarding Mr. Kerth's amendment, to submit or not to submit with the RFP: how would this be accomplished? Mr. Kerth believed this to be over-complicating a bid, questioning Council's perceived interference in private business practices.

Mr. Kerth suggested an amendment to the contract: rather than reserve the right to purchase at the end of the contract, give the first right of refusal to the City Council.

Mr. Kerth questioned Mr. Steinberg regarding his concerns about the maximum size of the facility; Mr. Steinberg responded that when it comes to the environmental permitting process, there may be limits placed on tonnage capacity at a particular site.

Mr. Cohn indicated that the proposed amendments were acceptable to him. Mr. Cohn suggested that rail-haul be considered as part of the package, if City Council wants to pay to have the rail option available. Ms. Schwartz replied that it would be an option, but the proposers may decide not to supply a rail option.

Mr. Steinberg commented that, as maker of the motion, he had no problem with the "first right of refusal" amendment, but was concerned that the City could end up with no rail-haul option. Would a company have to purchase an option on a rail spur in order to submit their numbers? he asked. Ms. Schwartz responded that a company would have to demonstrate some site control, some assurance that they could live by the numbers submitted in the proposal.

Mr. Steinberg accepted the friendly amendment, but urged proposers to submit rail-haul proposals; if not, it limits their options.

Mr. Pannell requested that the question be split, for separate voting, saying he agreed with the right of refusal, but was concerned regarding the rail option.

The amendments were defined: #1 = "right of refusal" as related to the service agreement: #2 = making the rail-haul option no longer mandatory as part of the RFP.

The main motion, including the "right of refusal" amendment, carried with a roll call vote of 9-0.

Councilmember Fargo asked whether this proposed amendment, which would remove the mandatory rail-haul option from the RFP, would preclude the City from selecting a proposer who submits a proposal including the rail-haul option? Mr. Edgar replied that it just meant that some bids may be received without the rail proposal.

Mr. Pannell expressed concern that two or three sites were chosen because of the rail-haul option. One rail site was already removed.

Mayor Serna commented that the rail-haul option could effectively be taken off by this option, but City Council wants as many options as possible. The Mayor urged the proposers to provide the rail option.

Mr. Cohn urged that rail-haul be retained as an option; he asked whether the adoption of this amendment would make it possible for the proposers to submit both with and without rail-haul, or one proposal only? Ms. Schwartz responded that the proposers could propose all three options; rail, truck, and low-emission truck alternatives.

Mr. Yee suggested that since the proposal now asks for both rail and truck, the portion of the proposal which says that the proposer would be disqualified if no rail option is submitted could be deleted.

Mr. Waters asked whether this brings a level playing field to a company who does not have a rail connection? Ms. Schwartz replied "yes and no".

Mayor Serna urged multiple options, saying the amendment just means it is not mandatory to propose the rail-haul option.

The vote to remove the mandatory stipulation regarding the rail-haul carried with a 7-1 roll call vote, with Councilmember Hammond voting no, and Councilmember Pannell abstaining.

RESOLUTION NO. 97-507

AUTHORIZING STAFF TO DISTRIBUTE THE REQUEST FOR PROPOSALS, DRAFT SOLID WASTE TRANSFER AND DISPOSAL SERVICES AGREEMENT, AND EVALUATION CRITERIA

* * * * *

5.0 SHRA

Public Hearing

- 5.1 Presentation of the 1998-2002 Consolidated Plan (allocation of funding available for community development benefitting low income residents or areas) (D-All)

A motion was made by Councilmember Waters, seconded by Councilmember Cohn, to continue this item to September 16, 1997 [staff]. The motion carried with a 9-0 vote.

* * * * *

6.0 CITIZENS ADDRESSING COUNCIL (MATTERS NOT ON AGENDA)

- 6.1 Don Souza, D-1 Community Activist, discussed ongoing problems at an Alkali Flat apartment complex. Absentee owners/managers, coupled with inadequate screening of tenants, fosters the proliferation of drug - related and other criminal activity. Most recently, a pit bull has created problems at the complex; Mr. Souza appealed to Council for action.

Councilmember Fargo indicated that problems have been discussed with the absentee owners in the past, as well as with the Police Department. Mayor Serna directed that Code Enforcement be apprised of the situation.

* * * * *

7.0 COUNCIL IDEAS AND QUESTIONS

- 7.1 Councilmember Waters noted that on July 2, 1997, Council passed an ordinance which levies fines to deter the playing of loud radios in cars. Mr. Waters urged that the ordinance be re-worded to include banning the playing of excessively loud radios on business parking lots; some windows are being broken from the vibration.
- 7.2 Councilmember Yee advised Council that a car show has been scheduled at Cal Expo; he requested that Mayor Serna write a letter against that type of activity.
- 7.3 Mayor Serna raised the issue of Senate Bill 318, which would result in increased rice burning. The Mayor requested that Councilmember Fargo, as Chair of Law & Legislation Committee, hold a public hearing aimed at posing a complete ban on rice burning; the smoke drifts into the City and adversely affects residents.

The Mayor suggested that an initiative be addressed by the Law and Legislative Committee. Mayor Serna cautioned that the initiative must be worded in such a way as to concurrently prohibit the increased use of herbicides and/or pesticides in lieu of rice burning.

* * * * *

8.0 RECESSED INTO CLOSED SESSION AT 4:55 P.M.

- 8.1 Pursuant to Government Code Section 54956.9 (c) to decide whether to initiate litigation: one potential case
- 8.2 Pursuant to Government Code Section 54956.9(a) for matters pertaining to pending litigation: In Re The Riverboat Delta King, Inc., etc., U. S. Bankruptcy Court, Northern District of California, Case No. 96-1-2954
- 8.3 Pursuant to Government Code Section 54957 for the purpose of conducting performance reviews for:
 - a) City Treasurer
 - b) City Clerk
- 8.4 Pursuant to Government Code Section 54956.8 for discussion with City negotiators on matters regarding an offer to purchase City property at Auburn Boulevard and Watt Avenue; APN 240-0341-002, from Public Storage Inc.

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ADJOURNMENT

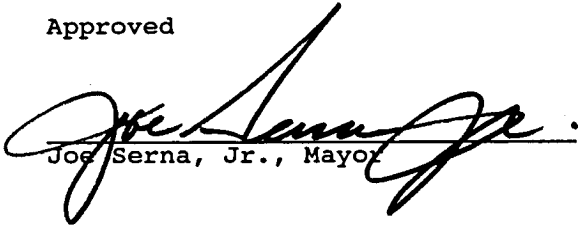
There being no further business to come before the City Council, the meeting was adjourned at the hour of 5:15 p.m.

Submitted



Valerie A. Burrowes, City Clerk

Approved



Jose Serna, Jr., Mayor