



1 North San Antonio Road
Los Altos, California 94022-3087

MEMORANDUM

DATE: 9/20/22

TO: Councilmembers

FROM: City Manager

SUBJECT: COUNCIL Q&A FOR SEPTEMBER 20, 2022 CITY COUNCIL REGULAR MEETING

Item 2: Solid Waste Disposal and Recycling Agreement

Question: What were the rate increases year-by-year for each year of the now expiring contract? What are the anticipated rate increases year-by-year for each year of the proposed contract? Prior to increasing our rates, does the Republic have to disclose their end-of-year financial report and breakdown of costs to justify any proposed rate increase? What is the year-by-year rate increases anticipated by our peer cities with respect to their long-term solid waste disposal agreements?

Answer: The annual rate increases were according to the Bay Area CPI, which has trended at just over 3% per year. The new contract's anticipated annual increases are according to the Water-Sewer-Trash index (WST), which trends at around 3.8% per year and more likely reflects actual disposal costs. Therefore, we do expect somewhat larger annual increases in disposal costs under the new agreement. MTWS pays Newby Island for disposal costs. The annual rate increase does not include financial reporting; it is purely an index-based rate increase to ensure stability. Among peer cities, Los Altos is the first city to renew its disposal agreement with Newby Island, so annual rate increases for their new disposal agreements are unknown at this time; however, based upon our experience, most modern agreements have been using WST.

Question: Does our contract with R3 include continued monitoring to assist the city to make sure that future rate increases are fair to both Republic and Los Altos' residents? If not, who will do that?

Answer: The current contract does not, but the new disposal agreement will be effective November 2023. The city staff will request that R3 include a scope element to cover ongoing monitoring of the disposal agreement.

Question: Could the city save money by teaming up with other cities using Newby Island to enter a joint contract?

Answer: A joint negotiation could potentially be an option; however, any cost savings above what is proposed in this extension are deemed to be unlikely.

Question: What is the expected life span of Newby Island?

Answer: The current expected life of the landfill is 16 years, and since the disposal contract begins in 2023, the 15-year length is equal to the expected life of the landfill.

Question: Is 15 years a typical length of contract for a project of this sort? Would we get a longer and more stable contract if we used the services of another landfill?

Answer: While 30-year agreements were common in the 1990s, we have not seen any modern disposal agreements that exceed 20 years in length (and in fact, many with a 10-year term length). With the option to extend the agreement with Newby Island built into the negotiated agreement before you, we believe that this lengthy agreement does provide long-term price stability for the city consistent with the life of the landfill

Item 4: Emergency Declaration Resolution:

Question: When will we be able to return to in person meetings?

Answer: The City Council can return to in-person meetings at any time. Staff would recommend the City Council place the item on the agenda to provide directions on in-person only or a hybrid model.

Item 5: Approve Amendment No. 1 to the Professional Services Agreement with Freyer & Laureta, Inc

Question: Why is this extension needed?

Answer: The original contract only covers the professional engineering services which include the preparation of the plans, specifications, and Engineer's estimate. Therefore, this extension is needed because the original contract does not include the inspection services during construction. This is a specialized inspection that is always performed by an outside inspector. The Environmental Services and Utilities Department does not have an in-house inspector to perform this specialized work.

Question: What are the consequences of not approving this extension?

Answer: Every project requires construction inspection services to ensure the contractor performs the work per the plans and specifications. The consequences of not approving this extension include but are not limited to the project construction cannot begin until the city provides an inspector for the construction inspection services; therefore, this will result in project delays. Additionally, Caltrans has been coordinating with the city on an upcoming Caltrans paving project that will start right after the city project. Thus, if the City's sewer project is delayed it will also cause a delay to the Caltrans project.

Item 6: Approve Amendment No. 11 to the Regional Water Quality Control Plant Basic Agreement

Question: What are the consequences to not approving this addendum?

Answer: Delays in the RWQCP capital program introduce various risks, primarily higher costs for both construction and treatment. The higher construction costs include additional fees and change orders that would be requested by consultants and construction contractors to cover administrative expenses of extensions to the expected construction completion dates, higher levels of inflationary pressures on bids. Separately, delays introduce additional risks of property damage from deferring replacement of capital systems, regulatory requirements to upgrade the

RWQCP for nitrogen removal, and most importantly, the potential loss of favorable project financing. Specifically, the City of Palo Alto has already secured a low-interest loan from the State Revolving Fund (i.e., 0.8%).

The City of Mountain View, the East Palo Alto Sanitary District, and Stanford University have already approved addendums for this work.

Question: Resolution: The “amendment” refers to itself as an “addendum.” The resolution should be amended to use the word “addendum” instead of “amendment.”

Answer: Thank you. The resolution will be revised to use the word “addendum” instead of “amendment.”

Item 10: 330 Distel Circle Multiple Family Affordable Housing Development Project

Question: What does this excerpt from the staff report mean:

The city’s increased requirements for EV parking under the city’s adopted REACH codes are the city’s local amendment to the Building Code, but under State Density Bonus Law, a developer cannot receive a development concession for a requirement under state law; therefore, the standards under the Building Code and more specifically the mandatory measures for EV parking under the California Green Building Standards Code would still apply.

Answer: The developer can ask for a concession from locally adopted codes (here REACH codes) but must conform to State Law requirements (here Building Standards/Codes). The mandatory measures for EV parking requirements under CalGreen (California Green Building Standards) will apply to this project; as allowed by law, a developer may request the granting of a concession from local development regulations,

Question: Does the City Staff / the City Attorney concur with the conclusion in the Glaser Weil memo submitted by the applicant that the project is within one-half of a mile within a major transit stop? Why or why not?

Answer: City Staff and Attorney concur with the conclusion provided by Glaser Weil and the follow-up memo provided by Rand Paster and Nelson which was received on Sept. 15, 2022 and provided with the Agenda Item as late correspondence. The city concurs with the conclusion provided regarding its proximity to a Major Transit Stop, based on the supporting material from regional transportation agency MTC. The bus stop at the intersection of El Camino Real and Showers Drive, approximately 1,513 feet from the Project Site, constitutes a major transit stop, as VTA lines 22, 40, and Rapid 522 operate at less than 15-minute intervals between 7:00 am and 9:00 am and 4:00 pm and 6:00 pm, morning and afternoon peak commute periods; bus intervals have been provided in a table format attached to both memos submitted with application materials.

Item 11: AB 481 Military Equipment Use Policy

Question: We have had this equipment available to be used in case of an emergency and we are now establishing a City Policy in compliance with AB 481. Is this correct?

Answer: Yes, this is correct. This state law was signed by the Governor in September 2021, mandating all California law enforcement agencies to draft a policy addressing the possession, acquisition and use of equipment identified by the bill as "military use equipment." The policy must be approved by the governing body. The policy describes equipment the Los Altos Police

Department currently has in inventory. Any future equipment acquisitions must be approved by the governing body.

Item 13: City of Los Altos Non-Profit and Civic Organization Contributions Policy

Can staff include the following to the application:

Question: Does your membership require a fee?

Answer: City staff can look into this question as part of the application process.

Question: What service do you provide to those who pay a fee and those who don't?

Answer: City staff can look into this question as part of the application process.

Question: Where it states "Use of Fund" - it would be better to state "Provide a detailed explanation of the use of requested funds and how it will benefit the City.

Answer: City staff can make that adjustment to clarify that section of the application.

Question: Will the person who conducts the audit have financial expertise?

Answer: Yes, we can have our Finance Department participate in the audit review annually.

In the Resolution:

Question: item 1. Applicant Criteria, c. States current recipient may be given priority. Can this be replaced with a statement that leaves the priority choices to the City Council based on appropriate needs and review in the beginning of the year.

Answer: City Council will ultimately have the authority to approve or deny any contributions based on appropriate needs during each budget process. This section just means that Council may show preference for organizations that City Council has identified as recipients under this new policy, but this is not binding in any way for City Council to make a decision on funding requests.

Question: Item 3. Subsection c. Refers to it Council Priorities. Currently none of our city priorities refer to donations. Will the Council discuss including establishing a criteria list as to how the City Manager will determine which applications qualify.

Answer: Under this policy, the City Manager will review the applications and provide all this information to City Council with the recommended contributions for the year. City Council will receive all the information to make an informed decision on who will receive a funding contribution.

Question: Item 5. Will there be a limit on the number of years of contribution? What is the limit on multi-year contracts.

Answer: There is no limit set in place currently, but City Council would ultimately approve or deny the length of any contribution length in the review process. All multi-year contracts will still require an annual audit report.

Question: What qualifies as a "non-profit" under the proposed policy? Would a professional football league organized under IRC § 503(c)(6) qualify as a "non-profit" and potentially qualify for a donation?

Answer: Non-profit status as recognized by the IRS and applicable state designations is used to determine if an organization is a non-profit. The policy uses the term "civic organization" to

provide a broader definition for an organization the Council may want to contribute to but is not recognized as a non-profit agency in the tax code.

Without discussing a distinction between non-profit status and tax-exempt status, the purpose of the policy is to allow organizations that provide public benefits to request funds from the City. In the example of a professional football league requesting funds from Los Altos under this policy, if the City Council found there was public benefit, and determined it was an appropriate use of funds, yes, the City Council could provide funds under this policy to the professional football league.

Question: If the city is going to enter into an “agreement” with the non-profit, what is the consideration that the recipient is giving to the city?

Answer: The consideration would be outlined in the specific request but would likely be different based on the organization. As an example, the City provided funds to Womens SV and CSA in the current budget. The agencies used the funds to meet different purposes, but the Council found both had public benefit. Because no policy currently exists, agencies are not required to show they expended the funds for the purpose they requested them for.

Question: How does this policy modify our existing practice other than to require an “agreement” and financial information?

Answer: There is no existing policy or practice in place in Los Altos. The approval of funds, and how funding requests are presented, have not been consistent. Funds are provided, or not, based on individual requests, which are often received informally, through conversations, by email, or through individual Councilmembers. These requests are sometimes budgeted as a line item, sometimes brought forward for a Council decision, and sometimes approved in the budget without an appropriate description.

Additionally, there is no mechanism to determine if funds will be used in an appropriate manner or used for the purpose they were requested for. This policy will provide transparency, ensure funds are spent appropriately, and make a distinction between how funds are allocated for joint powers agreements and contracts (non-discretionary) or non-profit/civic organization requests (discretionary).

Item 14: Updated License Agreement with SFPUC for Hetch Hetchy Trail in Los Altos

Question: Can we continue this agenda item till a future meeting to allow people to properly review the documents and so that we can have a proper outreach meeting along with a SFPUC representative?

Answer: The City has conducted appropriate outreach. In addition to the community meeting held last week, and noticed at all entry points of the trail, city staff has met and talked with residents on several occasions, including on the trail, in person offsite, over the phone, and by email. The license agreement is standard and has been available for public review. The addendum was added at the request of residents at the community meeting. The City Council should only continue this item if there are unresolved policy questions around access to the trail or if there are legal questions with the draft license that cannot be answered at the meeting.

Question: Would the SFPUC allow a community garden to be established on any of the additional parcels they want to include in the agreement?

Answer: A community garden could be established on the current parcel or the parcels that would be added under the proposed license agreement. The garden would have to comply with SFPUC maintenance standards but given the types of vegetation typically found in a community garden, the use could be accommodated.

Item 16: Informational memo establishing a policy and process for formal outreach and engagement by City Commissioners and Committee Members

Question: How does this policy modify our current practice of helping commissions to reach out to the broader community?

Answer: There is no current practice or standard for community outreach. Each Commission and the subcommittees have completed outreach in their own manner. Additionally, staff has not had a formal, consistent role in outreach.

Subcommittees and Commissions have declined assistance from staff or completed outreach without staff involvement. This policy will ensure a consistent process, while also giving the City Manager final authority for how outreach is completed.

Item 17: Tentative Council Calendar

Question: Please provide the City's Brand guidelines.

Answer: City staff are currently working to develop the City's brand guidelines and will provide the guidelines to City Council once they are completed. As of right now, commissions and committees can connect directly with the Public Information Officer to ensure that the brand is being utilized correctly in their outreach.

Question: How do we make sure that the Council is aware that surveys are going out and that we missing not missing opportunities to be inclusive of all potential impacts?

Answer: The City Council approves the workplan of City Commissions. The work plan is implemented by City Commissions with support and work from staff. The City Council has a liaison for each City Commission. The liaison should be aware of all surveys that are planned and can work with the City Manager if there are concerns. The completion of surveys is implementation of the work plan and is not a policy issue.

Question: Would it be possible to have the policy include further review by the City Manager or his/her designee? (E.g. - City attorney or Directors)

Answer: The policy requires approval by City staff under a formal review, which would include the City Manager or their designee.

Minutes

- Agenda Item 7 (minutes from 8/23) and Item 9 (minutes from 9/6) both say that the two Guy children led the pledge, but they only did that at one of those meetings, although I don't recall which one.
- More on Item 9:
 - The minutes regarding the public hearing on the development project at 4350 El Camino list applicant David Kornfield twice, "David Kornfield, and David Cornfield" rather than the third applicant (I don't recall his name).
 - On this same item, it should be VM Meadows, not "Vice Mayor Enander disclosed that she saw this first at a Planning Commission 4 years ago."
- Corrections sent via attachment

Answer:
Noted.