



City of Fresno

2600 Fresno Street
Fresno, CA 93721
www.fresno.gov

Meeting Minutes - Final City Council

President - Oliver L. Baines, III
Vice President - Paul Caprioglio
Councilmembers:

Lee Brand, Steve Brandau, Clinton J. Olivier,
Sal Quintero, Esmeralda Z. Soria
City Manager - Bruce Rudd
City Attorney - Douglas T. Sloan
City Clerk - Yvonne Spence, CMC

Thursday, October 8, 2015

8:30 AM

Council Chambers

Regular Session

The City Council met in regular session in the Council Chamber, City Hall, on the date and time above written.

8:41 A.M. ROLL CALL

Present: 7 - President Oliver Baines III
Vice President Paul Caprioglio
Councilmember Lee Brand
Councilmember Steve Brandau
Councilmember Clinton Olivier
Councilmember Sal Quintero
Councilmember Esmeralda Soria

Invocation by Lead Pastor Kevin Foster of the Lifebridge Community Church

Pledge of Allegiance to the Flag

CEREMONIAL PRESENTATIONS

[ID#15-890](#) Proclamation of "ARTS AND HUMANITIES MONTH"

PRESENTED

[ID#15-898](#) Proclamation of "NATIONAL DAY OF WRITING"

PRESENTED

Councilmember Soria exited the Council Chamber at 9:10 A.M. and returned at 9:28 A.M.

[ID#15-895](#) PRESENTATION OF THE EMPLOYEE RECOGNITION PROGRAM - FALL QUARTER 2015

The following employees were recognized as Employees of the Fall Quarter, 2015 for providing outstanding public service to the people of the City of Fresno and for setting the standard of excellence in performance: Michael Vasquez from the City Attorney's Office; Ezequiel Valdivia from the Development and Resources Management Department; Mark Revis from the Finance Department; Robert Firestine and Alex Lencioni from the Fire Department; Sanjay Patteson from the Information Services Department; Ashley Obeso from the Parks, After School, Recreation and Community Services Department; Carrie Giannetta from the Personnel Services Department; Yvonne Sellick, Steve Taylor, Dominique Comeyne and John Mendez from the Police Department; Samuel Burciaga, Kimberly Schneider, Isador Flores and Stephen Kelly from the Department of Public Utilities; Jacqueline Hernandez, Matthew Buller, Anthony Villanueva and Richard Stolliker from the Public Works Department; Carlos Duarte, Lynn Franchi, Tracey McGhee and Dan Ruiz from the Transportation Department.

PRESENTED

APPROVE MINUTES

[ID#15-894](#) Approval of City Council minutes from September 24, 2015

On motion of Councilmember Brandau, seconded by Councilmember Quintero, the above Minutes were approved. The motion carried by the following vote:

Aye: 6 - Baines III, Caprioglio, Brand, Brandau, Olivier and Quintero

Absent: 1 - Soria

COUNCILMEMBER REPORTS AND COMMENTS

Councilmember Brandau reported that members of the public felt more time was needed to review the proposed updated to the Development Code and asked the Administration and Council President to be sensitive to those feelings. He stated that a week between the workshop and vote would not allow much time to digest the information, formulate questions and to receive responses from staff. Councilmember Brandau asked for a longer period between the workshop and the vote to allow just enough time to digest the

material.

Vice President Caprioglio encouraged people to support the Fresno State Bulldogs on Saturday against Utah State. He congratulated Preston Prince and the Fresno Housing Authority team for partnering with Fresno State to generate \$70,000 in scholarships for the most needy in the community. He reported he was the guest of Councilmember Quintero at the Big Fresno Fair on Wednesday and noted the food was excellent. He stated that the fair generated an estimated \$68 million dollars in gross proceeds to the community and encouraged all to attend. Vice President Caprioglio recalled a special moment at the fair when injured Fire Captain Pete Dern walked up to the podium to receive an award from the Fair Board. He said that Captain Dern's strides at improvement have been fantastic and our prayers for his recovery continue. Vice President Caprioglio also thanked the City Manager and his staff for their efforts to submit daily red-line changes to the Development Code for all to see.

Councilmember Brand reported that he welcomed the delegation from Kochi, Japan for a tree planting at Woodward Park on Wednesday. He also announced there would be a district meeting on October 13 at 5:30 P.M. at Kastner Intermediate School. The meeting would primarily focus on vagrancy and related crimes in the area.

Councilmember Quintero thanked President Baines, Councilmembers Caprioglio and Soria for attending opening day of the Big Fresno Fair. An estimated 600,000 to 700,000 people would be in attendance this year. He thanked all Departments that helped get the area ready for the event including, the Public Works Department, Streets Division, Code Enforcement, and the Police Department. Councilmember Quintero reminded City employees they could enter the fair free of charge for lunch between 11:00 A.M. and 2:00 P.M. by dropping off their employee ID's at the Chance Avenue entrance. Finally, Councilmember Quintero suggested following through with the Development Code in sections, like the budget, to make each piece easier to handle. Sections would also allow non-controversial portions of the update to be approved quickly.

Councilmember Soria agreed with Councilmember Quintero that dealing with the Development Code update in portions was a good idea. A recent protest from Taco Truck vendors was an indicator that more time to review the code was wise. She also noted that a resolution regarding the Taco Truck vendor issue was decided upon - a moratorium until the Development

Code was approved- but some vendors had not been made aware of the resolution. City Manager Rudd stated the City would continue to get the word out by working with the Development Department and by working with Councilmember Quintero since he had a line of communication and connections in the industry. Councilmember Soria inquired about the timeline for the Parks Master Plan. City Manager Rudd stated the RFP would be released in thirty days and it would be open for another thirty days. He anticipated the award would be made around the first of January, 2016. Councilmember Soria thanked the City Manager's Office for attending her district meeting at the new park west of Highway 99 to educate the residents about the importance of staying off the park until the ribbon cutting. She announced she and President Baines traveled to Spain to see the High Speed Rail in Madrid. The trip solidified her support for High Speed Rail in the State and she was excited for the City of Fresno and the jobs it would create.

President Baines reported on his trip to Spain to view High Speed Rail in Madrid. He noted the importance of the High Speed Rail to the City. He learned a lot from having the opportunity to speak, first hand, to the operators, builders, government entities that manage the system, and the riders. He also learned a lot from viewing the High Speed Rail stations in Madrid. He said the elected officials and residents in Fresno need to embrace the idea of the jobs that would come from High Speed Rail. He stated Fresno would be at the center of High Speed Rail for the entire country and the City should not flirt with the idea of passing that by. He noted so much work had gone into positioning Fresno to be a huge beneficiary of the High Speed Rail and the opportunity should not be wasted. He announced that he and Councilmember Soria would make a presentation to the City Council to explain the opportunities that await the City based on the concrete examples they observed in Spain.

APPROVE AGENDA

City Clerk Spence announced the following changes to the agenda: Consent Calendar item 1-F (File ID#15-837) should be listed as Council District 5, not as Council District 3; a correction is needed on the staff report of Consent Calendar item 1-N (File ID# 15-881) - under the heading "City Will" on page 2 of the staff report, the words "not to exceed \$7,100" should be removed from the second bullet point.

On motion of Vice President Caprioglio, seconded by Councilmember Brandau, the Agenda was approved as amended. The motion carried by the following vote:

Aye: 7 - Baines III, Caprioglio, Brand, Brandau, Olivier, Quintero and Soria

1. CONSENT CALENDAR

Councilmember Brandau moved Consent Calendar item 1-D (File ID#15-824) to the Contested Consent Calendar for further discussion.

Councilmember Soria moved Consent Calendar item 1-Q (File ID# 15-885) to the Contested Consent Calendar for further discussion.

APPROVAL OF THE CONSENT CALENDAR

On motion of Councilmember Soria, seconded by Councilmember Brandau, the CONSENT CALENDAR was hereby adopted by the following vote:

Aye: 7 - Baines III, Caprioglio, Brand, Brandau, Olivier, Quintero and Soria

- 1-A** [ID#15-768](#) Actions pertaining to right-of-way acquisition for the Roy Avenue and Almy Avenue street improvement project. (Council District 3)
1. Approve the acquisition of 9,164 square feet of right-of-way for public street purposes from property owned by Maria C. Magdaleno in the amount of \$36,000 for the construction of Roy Avenue and Almy Avenue street improvements near Fig Avenue.
 2. Authorize the Public Works Director, or his designee, authority to sign all documents necessary to complete the transaction.

APPROVED

The above item was approved on the Consent Calendar.

- 1-B [ID#15-777](#) Approve the acquisition of 35,046.6 square feet of easement and 48,352 square feet of temporary construction easement of property owned by Barry B. Tayian, Trustee of Barry B. Tayian Trust in the amount of \$88,400 (APN 158-181-18) for the construction of thirteen miles of 72-inch diameter pipeline that will convey river water from the Kings River to the City's new Southeast Surface Water Treatment Facility. (City Council District 5)

APPROVED

The above item was approved on the Consent Calendar.

- 1-C [ID#15-810](#) Actions pertaining to the 2015 Off-Highway Vehicle (OHV) grant:
1. Authorize the Chief of Police to accept \$17,485 in grant funding for the 2015 Off-Highway Vehicle grant awarded to the Fresno Police Department from the State of California Department of Parks and Recreation
 2. Authorize the Chief of Police to execute the agreement and all related documents applicable to the 2015 OHV grant
 3. ***RESOLUTION - 13th amendment to the Annual Appropriation Resolution (AAR) No. 2015-104 appropriating \$17,500 for the Police Department's OHV grant program (Requires 5 affirmative votes)

RESOLUTION 2015-182 ADOPTED

The above item was approved on the Consent Calendar.

- 1-D [ID#15-824](#) Approve agreement with Jones and Madhavan Architecture Engineering in the amount of \$92,000 for the aquatics analysis and design of plans for designated PARCS aquatics facilities

The above item was moved to the Contested Consent Calendar for further discussion by Councilmember Brandau.

- 1-E [ID#15-836](#) Approve the Substitution of a listed Subcontractor, Dansa Construction, for emergency generator upgrade at City Hall - Project ID SC00003 - Council District 3

APPROVED

The above item was approved on the Consent Calendar.

- 1-F [ID#15-837](#) Actions pertaining to the street improvements for Campus Homesites Neighborhood, Townsend and Heaton Avenues - Bid File 3392 (Council District 5)
1. Adopt a finding of a Categorical Exemption per staff determination, pursuant to Section 15301(c) of the CEQA Guidelines for the street improvements for Campus Homesites Neighborhood, Townsend and Heaton Avenues
 2. Award a Construction Contract with AJ Excavation Inc. of Fresno, California in the amount of \$289,473 for the street improvements for Campus Homesites Neighborhood, Townsend and Heaton Avenues project

APPROVED

The above item was approved on the Consent Calendar.

- 1-G [ID#15-862](#) Adopt Resolution of Intention No. 1101-D to vacate portions of public street easement at the northwest corner of E. San Gabriel and N. Chestnut Avenues (Council District 4)

APPROVED

The above item was approved on the Consent Calendar.

- 1-H [ID#15-864](#) RESOLUTION - Approving the Final Map of Tract No. 6103 and accepting dedicated public uses offered therein-south side of E. Fancher Creek Drive, between S. Purdue Avenue and S. Bundy Avenue (Council District 5)

RESOLUTION 2015-183 ADOPTED

The above item was approved on the Consent Calendar.

- 1-I [15-886](#) Actions pertaining to the Fresno/Clovis Regional Wastewater Reclamation Facility (RWRF), new Recycled Water Pump Station for the Tertiary Treatment and Disinfection Facility (Council District 3)
1. ***RESOLUTION - 14th amendment to the Annual Appropriation Resolution (AAR) No. 2015-104 appropriating \$209,600 for the design of a new Recycled Water Pump Station for the Tertiary Treatment and Disinfection Facility (Requires 5 affirmative votes)
 2. Approve an amendment to the contract with Parsons Water and Infrastructure, Inc., a Delaware Corporation for the design of a new Recycled Water Pump Station for the Tertiary

Treatment and Disinfection Facility for a net increase of \$209,524.

RESOLUTION 2015-184 ADOPTED

The above item was approved on the Consent Calendar.

- 1-J [ID#15-868](#) Approve an Agreement with the California High Speed Rail Authority to reimburse the City for expenses related to High Speed Rail project impacts on Roeding Park (Council District 3)

APPROVED

The above item was approved on the Consent Calendar.

- 1-K [ID#15-871](#) Reject all proposals received for the 2-Megawatt Solar Energy Facility at the Fresno-Clovis Regional Wastewater Reclamation Facility (Bid File 3380) (Council District 3)

APPROVED

The above item was approved on the Consent Calendar.

- 1-L [ID#15-873](#) Actions pertaining to test hole drilling and monitoring well construction at various locations:
 1. Adopt a finding of Categorical Exemption pursuant to Article 19, Section 15306/Class 6 for Information Collection, of the California Environmental Quality Act (CEQA) Guidelines to authorize an agreement between the City of Fresno and Bradley and Sons, Inc. to drill test holes and construct monitoring wells.
 2. Approve a Requirements Contract to Bradley and Sons, Inc., in the amount of \$454,800 to drill test holes and construct monitoring wells at various locations. (Bid File 9328)(Citywide).

APPROVED

The above item was approved on the Consent Calendar.

- 1-M [ID#15-880](#) Actions pertaining to Senior Hot Meals Program:
1. Authorize renewal of Senior Hot Meals Program Site Management Contract with Fresno Madera Agency on Aging
 2. ***RESOLUTION - 17th amendment to the Annual Appropriation Resolution (AAR) No. 2015-104 appropriating \$20,000 of Older Americans Act Title III C1 Grant Funds from the Fresno Madera-Area Agency on Aging (FMAAA) for the Senior Hot Meals (SHM) Program (Requires 5 affirmative votes)

RESOLUTION 2015-185 ADOPTED

The above item was approved on the Consent Calendar.

- 1-N [ID#15-881](#) Actions pertaining to a License Agreement with California Interscholastic Federation (CIF) for use of Woodward Park for a Cross Country Special Event (District 6)
1. Authorize the Fresno/Clovis Convention and Visitors Bureau (FCCVB) to submit a proposal to California Interscholastic Federation (CIF) on behalf of the City of Fresno to host the CIF Cross Country Championships at Woodward Park for 2016-2021
 2. Authorize a six (6) year License Agreement with California Interscholastic Federation (CIF) for use of Woodward Park for a Cross Country Special Event two days per year

APPROVED AS CORRECTED

The words "not to exceed \$7,100" should be removed from page two of the staff report.

The above item was approved on the Consent Calendar as corrected.

- 1-O [ID#15-882](#) Action related to acquisition of real property to construct a well head treatment facility:
1. Adopt environmental finding as provided in Environmental Assessment No. EA-15-021 of Categorical Exemption pursuant to CEQA Guidelines Sections 15301 and 15332; and
 2. Approve acquisition of one parcel located at 6027 North Glenn Avenue (APN 407-152-07) from Daniel J. Gonzalez and Julia R. Gonzalez for the amount of \$150,000 to construct a well head treatment facility (County Island within Council District 2)

APPROVED

The above item was approved on the Consent Calendar.

- 1-P [ID#15-883](#) ***BILL NO. B-35 - (Intro. 9/24/2015) (For adoption) - Amending Sections 1-405, 1-408, 1-510, and adding Section 1-412 to the Fresno Municipal Code relating to code enforcement hearings

ORDINANCE 2015-32 ADOPTED

The above item was approved on the Consent Calendar.

- 1-Q [ID#15-885](#) ***BILL NO. B-36 - (Intro. 9/24/2015) (For adoption) - Adding Section 105.6.49 to Chapter 10, Article 5 of the Fresno Municipal Code relating to storage of tires

The above item was moved to the Contested Consent Calendar for further discussion by Councilmember Soria.

- 1-R [ID#15-886](#) ***BILL NO. B-37 - (Intro. 9/24/2015) (For adoption) - Adding Subsection (d) to Section 3-277 of the Fresno Municipal Code to Coordinate Council Assistants' Removal from City Service with the Successor Councilmembers' Assumption of Office

ORDINANCE 2015-33 ADOPTED

The above item was approved on the Consent Calendar.

CONTESTED CONSENT CALENDAR

- 1-D [ID#15-824](#) Approve agreement with Jones and Madhavan Architecture Engineering in the amount of \$92,000 for the aquatics analysis and design of plans for designated PARCS aquatics facilities

The above item was introduced to Council by Parks, After School, Recreation and Community Services ("PARCS") Department Director Mollinedo. City Manager Rudd also spoke on the item.

APPROVED

On motion of President Baines III, seconded by Vice President Caprioglio, the above item was approved. The motion carried by the following vote:

Aye: 6 - Baines III, Caprioglio, Brand, Olivier, Quintero and Soria

No: 1 - Brandau

- 1-Q [ID#15-885](#) ***BILL NO. B-36 - (Intro. 9/24/2015) (For adoption) - Adding Section 105.6.49 to Chapter 10, Article 5 of the Fresno Municipal Code relating to storage of tires

Housing and Neighborhood Revitalization Manager Estabrooke, City Attorney Sloan and Councilmember Quintero answered questions regarding this item.

ORDINANCE 2015-34 ADOPTED AS AMENDED

On motion of Councilmember Soria, seconded by Councilmember Quintero, the above item was adopted as amended to remove all references of "misdemeanor" from the ordinance. The motion carried by the following vote:

Aye: 6 - Baines III, Caprioglio, Brand, Brandau, Quintero and Soria

No: 1 - Olivier

2. GENERAL ADMINISTRATION

- 2-A** [ID#15-788](#) Actions pertaining to processing of green waste materials and co-mingled recyclable materials (Citywide)
1. Negotiate and execute a Ten-Year Agreement with Mid Valley Recycling, LLC ("MVR") for co-mingled recyclable material processing as outlined in the Request for Proposal (RFP) issued by the City (Bid File 3405)
 2. Negotiate and execute a Ten-Year Agreement with Kochergen Farms Composting, Inc. of Fresno for green waste material processing as outlined in the RFP issued by the City (Bid File 3405)

The above item was introduced to Council by Public Utilities Director Esqueda. City Manager Rudd and City Attorney Sloan also spoke on the item.

The following member(s) of the public spoke on this item: Scott Ivey representing West Coast Waste; David Balakian of West Coast Waste; Dennis Balakian of West Coast Waste and; Joe Guagliardo representing Kochergen Farms Composting, Inc.

Councilmember Brandau motioned to continue the item. Councilmember Quintero seconded the motion.

Councilmember Soria stated, for the record, that it was important for transparency that the Councilmembers have all the information when making a decision on such a large contract and all future Request for Proposals ("RFP") brought to Council should include all the information

necessary to make good decisions on behalf of the tax payers.

Councilmember Brand noted, for the record, that the solid waste RFP from two years ago set a precedent for considering up front bonuses when looking at RFP's. He also clarified that the precedent did not necessarily mean the same consideration for bonuses should be used for this RFP.

Vice President Caprioglio requested clarification on the vendor's view of "net net." He also requested, when this item comes back to council, that the staff report clarify the impacts of Proposition 218 on the RFP.

Councilmember Quintero directed staff to provide every proposal to every Councilmember. Councilmember Quintero also provided the following questions to staff to be answered later: What was the whole dollar value of each of the proposals submitted including up front cash to the City? How much did Mid Valley, Kochergen, and West Coast propose as an up front cash offer? What was the criteria used to determine the best value for the City, was it just the price per ton of waste? Was the up front cash incentive part of the criteria?

Councilmember Quintero called Dennis Balakian of West Coast Waste to the podium to answer questions.

City Manager Rudd clarified, for the record, that Council was not taking action to approve any of the contract and it did not appear that the recycling contract was at issue. He further stated that, given all the variables thrown out for consideration, he would have staff go back to the vendors and ask for their "best and final" offers.

President Baines directed staff to bring Councilmember questions to the vendors for clarification. He also announced the item would be continued, by consensus of Council, to October 22 and would return under General Administration as item 2-A. City Manager Rudd noted the item would probably be ready sometime after October 22.

CONTINUED BY CONSENSUS OF COUNCIL

The following transcript of the above item was prepared by the City Attorney's Office and has been included in the minutes by request of Councilmember Soria during the October 28, 2015 City Council meeting. Begin transcript:

October 8, 2015

2-A ID#15-788

Actions pertaining to processing of green waste materials and co-mingled recyclable materials (Citywide)

- 1. Negotiate and execute a Ten-Year Agreement with Mid Valley Recycling, LLC ("MVR") for co-mingled recyclable material processing as outlined in the Request for Proposal (RFP) issued by the City (Bid File 3405)*
- 2. Negotiate and execute a Ten-Year Agreement with Kochergen Farms Composting, Inc. of Fresno for green waste material processing as outlined in the RFP issued by the City (Bid File 3405)*

Council President Baines: On our agenda item we have item 2A: Actions pertaining to processing of green waste materials and co-mingled recyclable materials if we have staff up for that.

Thomas Esqueda: Thank you council president. City Council. This item before you is a recommendation to award a recyclable materials contract to Mid-Valley Recycling, a ten-year contract, and to award a ten-year contract to Kochergen Farms for green waste recycling. When I started about fifteen months ago there were two things I was told were going to have to happen: one, we got this little water project that we've been working on, moving that forward; and solid waste. That solid waste was going to require a 218 sometime in calendar year 2015, this year that we are in, and that we would have to raise rates. And so we were set upon a mission to look at every opportunity we had within the solid waste utility to reduce the cost of that program to see if we could defer the need for a solid waste increase. The first thing we did was we renegotiated the contract with Fresno County to reduce the tipping fee at the landfill. Next thing on board was we had the opportunity to then assign a recycling material contract to another vendor from Sunset and in that we saved \$18 a ton for processing. The next opportunity we had was to renegotiate the contract for our transfer station operations and we reduced the cost of the solid waste utility at that point. And then in February when we did the rate plan, one of the conditions of the motion of approving the rate plan was that we had to actually hold the solid waste utility rate at its' current level through June 30 of 2019. So we really looked at accelerating all the things we needed to do to get the cost down for the solid waste utility and continue to look at some operational improvements; and the two other items on that we're looking at a recycling

contract that we had that we are not making any revenue, generating any revenue on the recyclable materials so we saw an opportunity there, and based on some market research we had conducted we identified that the cost of our green waste processing at the time was in the twenty-three to twenty-four dollar a ton range and it could be reduced from that based on market conditions as they currently existed. So we issued an RFP, and we issued an RFP for comingled recycling to see if we, what opportunities were to generate revenue. And we issued the same RFP had in it an opportunity for green waste recycling to see if we could find where the market price, the new market price was for green waste recycling. So that RFP was issued in May and we wound up receiving the proposals at the end of June and through a lot of things going on we wound up receiving the proposals and doing the evaluations and we are before you today with the recommendation for Mid Valley Recycling for the recyclable material contract and Kochergen Farms for the Green Waste Recycling Contract. We were in receipt of the, we are in receipt of the letter from last night from one of the vendors. We had processed some of that information related to the \$500,000 signing bonus based on the current rate of solid, excuse me, green waste that we currently receive now, the addition of \$500,000 to that vendors' proposal still left them about half a million dollars more expensive then the recommended firm, Kochergen Farms. We currently receive about our average the last ten years on green waste has been about 81,000 tons per year and at that rate the delta between the two vendors, including the \$500,000 signing bonus was about half a million dollars. So we have, that was considered. The other question related to the idea that by authorizing a higher rate to the other vendor that it would make material available to the City through some other departments, we considered that but as we all recall we got a refresher course on Proposition 218 during the water rate and that we have to charge cost of service based on what does it cost to deliver service to individual communities I mean to individual properties. The other element of 218 that we learned, that we relearned through the water rate plan was that we couldn't take money from one group of people and then assign the benefit of that extra money to other parties somewhere else, that's just not something we can do. That we actually, if it costs a certain amount of dollar to deliver a service then we had to charge that dollar for that service for that particular property. So while we thought it was a very gracious offer it's just not something we can do to ask the residents, the 100,000 single family residents that pay for the solid waste utility to pay a higher rate and the City would take that delta and use that money for a benefit of other parties. It's just...

Again we've been through that process on the 218 and we were reminded, we had the we had the Howard Jarvis folks participate closely with us in developing our rate plan for the rate, and they continuously reminded us cost of service cost of service lowest common denominator benefitting parties have to receive a proportionate share of the benefit based on the money that they pay. So that was where we are right now with the recommendation for Kochergen Farms, it is at \$16.75 the lowest cost we can offer to the residents of the Citizens of Fresno. Again to require them to pay \$18 a ton so that the City can take that delta and distribute that benefit to others in the City is just not something we are comfortable doing and again we learned through the 218 that it's not possible with the way that particular program is structured. So with that we are available for any questions and be happy to talk some more.

Bruce Rudd: And before we start Tommy, and I apologize if you went over this but could you again for everyone listening and in the audience, quickly compare the current rate, what we're paying now and what we're receiving for both the green waste, as well as the recyclables, and the net benefit that that presents to us in the overall goal of maintaining all of our utility rates at the current, or not to increase our utility rates over the next 3 to 4 years.

Esqueda: Right, so this particular set of contracts equates to about a \$1.2--\$1.3 million savings to the solid waste utility every year for the next few years and that's the advantage we're going to take to extend that rate out to June 30, 2019. Again the original plan when we arrived was we're going to have a rate increase this year and we've been doing everything we can to push it out push it out, and then as we did the water rate, the direction was given. You know the condition of approving the water rate was you gotta hold the sewer rate and you gotta hold the solid waste rate and that's what we've been doing. We've been chasing dollars ever since that day, we've been always chasing dollars but we've amped up our chasing of dollars to try and keep those two rates stable through June 30, 2019.

Baines: Alright, thank you Tommy, we'll now take the item out to the public. I have a couple cards up here so I'll call the cards first and then anyone who wants to come down to the lectern is welcome. First up we have Scott Ivy.

Scott Ivy: Thank you, Mr. President and Councilmembers. My name is Scott Ivy and I'm here representing West Coast Waste one of the proposers on this green waste portion of the bid. I'll be brief and I'll try to stick to some of the responses we received from staff. Uh, when I read the staff

determination and recommendation, my first question was well, to my clients, what's the problem? It looks to me like an apples to apples comparison as far as the value and cost to the city, they came in a little under you. Then I read the proposals and it wasn't an apples to apples comparison. There are items in our proposal which are not mentioned in the staff report. We would have been happy to discuss them, happy to address some of the issues that were raised this morning. There not even in there. That worries me as both a representative of West Coast Waste and as the rate payer and taxpayer. There was no additional benefits offered by Kochergen 1675. We keep saying West Coast bid is 18, that's the number. That's not really the number. What the numbers said in our bid was 18* plus our bonus. It's not a gift basket. It's \$500,000 now in the bank, not a buck and a quarter depending on how tonnage may or may not go over the next 7 to 10 years. It's \$18 plus \$500,000 right now. That could have been factored into the number. That's what an asterisk is. That's what an evaluation is. So that brings it down right there and then you get to this give back. The City is currently paying about \$20-\$25 a yard for finished product, for all drought relief medians. That's important work, it's going to increase. In addition to the \$500,000 which brings down the \$18, their offering 10,000 yards a year of finished product; product for which the City currently pays \$20-\$25 for free, for the entire deal of the contract. Under any reasonable and considered definition of the term "best value and least cost to the City," I cannot see how these two offers even compare and that's before you get to the fact, this isn't an unknown quantity. For all these additional benefits, you're getting the company that has provided this service without interruption, problem or price increase for the last 13 years. It's not someone trying to break in and throw some money at you. It's a known quantity that values the taxpayers and saves them money and is the best value. We would request, on the behalf of West Coast and as a taxpayer that the Council award the green waste portion of the contract to West Coast. Give them another 10 years to keep providing services and immediately reap the significant cash benefits to the City, value going forward that aren't dependent on future tonnage. You have any questions? Thank you

Baines: Thank you. Next up, we have David Balakian. If you could state your name and address for the record. You have three minutes.

David Balakian: Hello everyone. Some of it will be redundant but for the last...

Baines: Can you step a little closer.

Balakian: During the last two awards, the uh, Council has split the green waste to two vendors. The two prior Council have thought that that would be the most appropriate to split the contract between two vendors. West Coast Waste was fortunate to be one of the vendors during that time. The RFP, uh, states that the committee reserves the right to negotiate terms and conditions. I respectfully disagree. It's not a half a million dollar difference. The West Coast Waste bid is substantially better than the other bid and it's not half a million dollars. I believe the value of money is powerful. Half a million dollars today is worth more than a slower benefit during time. Ten years the value of money is maybe worth less. A seven year contract of half a million dollars is worth more. We're offering half a million dollars right now to put into this program plus 10,000 yards a year of material. We talked today about trees and parks. That's what this material is for. It goes to about \$20-\$25. That's about \$200,000 a year of material. Over 10 years, that's \$2 million dollars. So, we're offering that for the parks, free, for the City, for the community, for the household, the parks and recreation. Also, Operation Clean Up is a 10,000, I believe, uh tons a year that is not included in the 73,000 tons. We have offered to accept that free. So these are all the items that were put in the package to give to the staff to look at and I believe that Council needs all the information. The best decision is one that is given, provided all the information to the heads of our people to look at. Uh, the last contract was pre 9/11. After that gas prices skyrocketed. We never asked for a price increase. Um, after uh, we kept, we just sucked it up and by the way I'm Dennis's brother of West Coast Waste. During this uh, last phase, there was a two year extension on this contract today. We offered to drop our rate, presently and during the next two years to work with the City of Fresno so the City of Fresno would not raise their rate. We are a team player. We offered to do that. We drop the rates for two years. In fact, we would even drop it now. I believe that's very important. Also, with drought and the City of Fresno orders this material. They want material. They say they wish we could get more of it for Parks but you know because of budgetary reasons, we cannot do that. Thank you.

Baines: Thank you.

Baines: We'll now take this item out to the public, if we have any members of the public come on down and state your name and address for the record.

Joe Guagliardo: Good morning President Baines, members of the Council, my name is Joe Guagliardo representing Kochergen Farms Composting.

Pleased to be here today, directly or indirectly Kochergen Farms Composting has been providing green waste recycling services to the City of Fresno for approximately twenty years. When the contract went out previously one of the winning bidders was Cinigro uh and what Cinigro did is they immediately contracted with Kochergen Farms to handle their material and they really actually never processed green waste for the City. So Kochergen Farms has been handling green waste for the past ten years. It's interesting the representations of the Kochergen Farms contract, the difference between the Kochergen Farms contract and the next bid which was West Coast Waste is approximately, represents a savings of approximately \$96,000 a year. If you spread that out over the ten years of the contract that's approximately a \$960,000 difference. Even as the previous speaker said if they put \$500,000 on the table plus approximately \$25,000 of material on the table, that still makes a difference of \$210,000 over the life of the contract, that the City would save by contracting with Kochergen Farms Composting. It's interesting to note that Kochergen Farms Composting has been able to provide services indirectly to the City of Fresno for a rate of approximately \$18, uh \$18.10 a ton for the previous ten years while the City as pointed out by your Utilities Director has been paying \$23+ a ton for the intervening ten years. So there has been a spread over the period of this existing contract, so I believe the opportunity for the City to recoup or make savings in the future that can keep them from having to raise rates is clearly before you today. The Kochergen Farms Composting bid was a responsible bid, they have provided this services for a considerable amount of time. They have, not only their local facility here in Fresno that can receive material, they also have a second facility in Avenal that can receive material so they have no problem being able to receive all the material provided by the City of Fresno and meet the City's needs today and in the future for the next ten years. We appreciate the opportunity to make the proposal to you and again just want to reiterate notwithstanding what's been presented today, accepting the Kochergen Farms Composting bid will represent a savings based on this information the City has provided of \$210,000 over the ten year life of the contract. I appreciate it very much, thank you for your time and I'd be happy to answer any questions you may have.

*Baines: Thank you. Do we have any other members of the public wishing to comment on this item? Seeing none, I'll bring it back to the dais.
Councilmember Brandau.*

Steve Brandau: Thank you Council President. Alright a lot of my questions

were answered, yeah, might as well but, but you answered already a lot of them in your first presentation. And then hearing from both West Coast Waste and Kochergen Farms I kind of got their take on it. When I got this letter about the concerns from West Coast Waste, I asked our City Manager a quick question about it. And so, Tommy, you've seen this letter (audience "yeah") it's your position that we just, in the process officially we don't get to count the \$500,000 offer, is, we don't get to count that right?

Esqueda: No so we can, if we count the \$500,000 offer, the delta, there's still a delta exists between the two proposals favoring Kochergen. Kochergen still is the low bidder. You know there has been a lot of information about the, about the waste quantities varying. The lowest in the last ten years is 73,000 tons, the highest in the last ten years is 85,000 tons, average is 81. Where we are right now with the drought we're seeing some adjustments so that's why we're still kind of, what will the number be going forward. But, it's gonna, it's never been lower than 70,000.

Brandau: ok, but so what you just, telling me is even with the \$500,000 up front bonus there's still a difference?

Esqueda: Still a delta.

Brandau: There's still a delta. Ok, alright, was it just these two companies that responded to our RFP process?

Esqueda: No uh, our friend Mr. Kalpecoff also submitted a proposal for green waste.

Brandau: Yes I wondered why he was here. (laughing)

Esqueda: He's on the recycled material side.

Brandau: Alright then, were we provided at Council a breakdown of the RFP responses? I never saw one, but that could be all my fault.

Esqueda: No, no, so we did not put copies of all the proposals in your bid, we just gave you the summary table of what the pricing offers were. That's what was in your, that was in the Council packet as one of the, Exhibits 1, I believe to the addenda.

Brandau: Right, and I saw that.

Rudd: And Councilmember, that is standard operating procedure, every time we award a contract, we don't list everyone else who submitted bids. Whether it's Public Works or...

Brandau: Say that again Bruce.

Rudd: We do not as a practice provide you with a list of all the other bid submissions and the costs. Whether it's a Public Works project or it's this project or this contract, as a practice we just award, or make a recommendation based on what we believe is the best recommendation to present to Council.

Brandau: Ok, but we, ok, so when, all really Council sees is the price, the bottom line?

Esqueda: Summary tables of the prices offered.

Brandau: Yeah summary tables, right, and I did see that, but I didn't see the, the guts of the proposal. So I want to go into that in a second but, Council, Council does not have to choose the lowest bid, we're not bound to choose the lowest bid?

Esqueda: I'm going to, I guess I, I would say that the way our, the solid waste utility, the way we set the rates in that utility, has to be governed by the Proposition 218. So we have to demonstrate to the community that we are providing them a service that, if it costs a dollar, you get a dollars' worth of service. That they, at their property, will get that ...

Brandau: Right.

Esqueda:... value. So in this instance we have a proposal at \$16.75 to provide that service at their property, we have another one at eighteen, to provide that service at that property. The suggestion would be, take that ext-, part of that delta, and use it to buy mulch for the parks and the streets. We just, I can't take utility money and distribute it to the rest of the general fund, it's just not ...

Brandau: Understood.

Esqueda: It's inconsistent with how we set the rates.

Rudd: And let me add, I appreciate the half a million dollars, but its included in that rate. They'll recover the half a million dollars over the life of the contract.

Brandau: Ok.. yeah..

Rudd: Because of the higher rate.

Brandau: In a price difference.

Rudd: Right.

Brandau: Got it, got it, got it. Ok. Let's see. Earlier today inside of the consent calendar, I didn't bring it up because it wasn't a big deal but, we are ending up going back out to RFP for a solar energy facility. And really-- that was item 1K from our consent calendar-- And that all happened because of questions that Council was able to tackle about the RFP process a couple months ago.

Esqueda: Right, so the questions on that one prompted us to for us to reconsider and hit the reset on that was we only got one bidder.

Brandau: Right.

Esqueda: This one we got multiple bidders. We got markets. And the other indication in that one was that the price was probably outside of what the market really is for that. Here, today, we're paying about \$24 a ton for green waste recycling. These prices are all less than that. \$16.75, \$18, so we don't have a question about, 'are we overpaying the market price for green waste,' we're getting the market price at \$16.75. So those are the two things that prompted us to revisit the solar, and we're going to do that. This one, there are some questions, but it's not because we didn't get enough bidders or we have pricing inconsistent with where we think the market is.

Brandau: Right, but still for me, Tommy, I think I want to have a meeting with you and tear into the guts of the responses a little bit. I don't know if my council colleagues are interested in that, but for sure I am. This is a big deal, and we saw in our contract with American earlier, that we had to tackle early this spring, that sometimes it's best if we take that extra bit of time and ask those tough questions. So for me, I'm going to make a motion that we

continue this item. I don't know when our next council meeting is. It's not to continue it – we need to make a decision relatively quickly. Somebody asked, my concerns are mostly on the green waste part in response to this letter, and some other stuff. And somebody asked if I was just going to separate the two, but that's not quite fair for me, so I want to just continue both halves of the item, although I'm really not too worried about the first part of this proposal. But I'd like to continue this item to our next council meeting. I'm done Council President. Thank you.

Baines: Councilmember Soria. Oh, quick question, did you have a date that you wanted to continue that to Councilmember Brandau?

Esqueda: 10/22 I think is the next one.

Baines: The 22nd. I don't think we need to time it, do we? You want to time it at 10:30? 9:00?

Doug Sloan: You can either time it or it can be the first item on general admin.

Baines: Ok we'll keep it consistent like it was today. So we'll continue this to 10/22. Did I get hear that right? 10/22 and it will be item 2A. Councilmember Soria.

Soria: Thank you. So I appreciate the questions raised by my colleague. I share some of the same concerns. I will say that, to me, I'm just gonna make a few comments. I know the summary of proposals was submitted. Bruce you mentioned that it's not typical that Council receives the detail of proposals, correct?

Rudd: For RFP and consulting contracts, that is correct. And so when we do major projects

Soria: While it may not be typical, at least for me, I think that given how big this contract is, for me it would be important to have those details. I will point out very honestly that we didn't even get the summary of proposals submitted until after we got the letter from the attorney. So to me that kind of smells, and its concerning, as a taxpayer, as a council representative, where we need to show transparency, I think it was very appropriate for council to know the different bids, at minimum, and the summary doesn't even say, even though we didn't take into account the half a million dollars, but we

didn't even get any of those details. We did not have those details until an attorney that represents one of the bidders pointed that out to us. And so to me, I cannot make a decision on such a large contract when we're not given the entire information until a later date. So I do believe that's very important in terms of transparency for our community so that our taxpayers know, myself to be informed, and so I just wanted to put that on the record so that we know and that for future RFPs we do have the information that we can take into account so that we make the best decision on behalf of our taxpayers. So that was one of the comments that I wanted to make. I have more questions I guess in terms of just general contracts for solid waste agreements. Are they typically this long?

Esqueda: Yeah, some of them are even longer. So this one we're trying to actually ratchet back. We have some fifteen, twenty year contracts that I wish had a different term on them so this one we're reining in to about ten years.

Soria: And would anything preclude us from awarding two agreements? I know that we look at our history and in the past we had two agreements with two separate entities. Would we be precluded from-- the way the RFP was written, does it allow for the City of Fresno to do maybe two agreements?

Esqueda: And so we did put that in the proposal, that the City reserves the right, depending on how the proposals came in, to enter into contracts with two vendors if that's how it turned out. So it is possible, we did anticipate that. My only concern would be that if we award one at \$18, and we awarded one at \$16.75, the market price is \$16.75 so we would be overpaying a buck twenty-five, so we just need to show that the contracts were equal or comparable in that respect. We wouldn't want to charge the residents more than they needed to pay.

Soria: And so previously when we had awarded those two contracts, the previous contracts to the two different entities, the price was the same?

Esqueda: No, I don't know how those got negotiated but they were like within \$0.45 of each other.

Soria: So they were not exactly the same.

Esqueda: They were not exactly the same.

Soria: Ok. So then we could potentially do the same. The other question that I wanted to ask, I know that we mentioned Prop 218 and the impacts that, kind of the restrictions because of Prop 218 we can't account for the 10,000 yards that were being offered.

Esqueda: Subsidy to the general fund, yeah.

Soria: So would we have been precluded from talking to the bidder and figuring out if that asterisk, they were willing to, I think one of the, I think Dennis mentioned that they would have considered lowering the price to take those savings into account? Would we have been precluded from doing that during the process?

Rudd: Yes. There is actually—and if the decision is, and it sounds like that's where you're going to go, to table the item until the 22nd, the no contact rule still applies. Council is precluded from meeting with any vendors with regards to their proposal. And a lot of ways try to mitigate some of what appears to be going on right now where we're trying to negotiate again another rate, which is not consistent with our procurement practices.

Esqueda: I think Mr. Balakian hit it perfect when he said, "you know, I had this eighteen dollars, five hundred thousand brings it down probably should have just translated that into a different dollar per ton in the ten thousand dollars per ton he said you know those probably should have been calculated and put into the bid at sixteen dollars. I'm just making up some other number than eighteen when the eighteen came in.

Soria: So did the the bidder have to do that or could the City in analyzing it have calculated it and said we can do an agreement with them because those would be the savings so this is what the rate would have come out to.

Esqueda: So we did the calculation for the five hundred thousand and then there was still a delta there. There was still the high bidder they were still high bidder than the low bidder. We did not do a calculation on the two hundred thousand tons because we couldn't accept that material and give it to the General Fund with money we were taking from the Solid Waste ratepayer so asking Solid Waste ratepayers to pay a dollar twenty five more so I can give money to the General Fund, we didn't ask that question because we couldn't do that.

Soria: Okay. So if it would have not been for that specific item, if it would have been another two hundred thousand dollars in savings just generally then we could ...

Esqueda: Just take it off the number. Just take it off the eighteen dollars

Soria: but because they specifically said for that purpose.

Esqueda: Parts, meetings, streets all these things that because the Solid Waste Department we don't buy mulch. We don't buy mulch on behalf of the Citizens for any purpose so it would be a purpose that isn't currently part of the rate plan or the rate structure.

Soria: Okay. Yeah, and so those were most of my questions. I would support continuing this because I may have other things. And I and I know that I did request the actual proposals because I would like to, myself, actually kind of go through them. So I do appreciate you guys sending those to me. I know that it may not be typical but I think given how big this contract is, you know, I would, I would like to have the time to go through the proposals. Thank you.

Baines: Councilmember Brand?

Councilmember Brand: Good morning.

Esqueda: Good morning.

Brand: First question is really and I'm okay with the continuation, but should we - the controversy is really on the green waste not the recycles. Should we bifurcate the amendment if everybody is okay let the, because it doesn't seem to be no controversy on the recycling unless everybody wants to continue that.

Baines: I'm not exactly sure that that's the case.

Brand: Okay.

Baines: Councilmember Soria raised some questions on the green waste?

Brand: It's just a question then.

Baines: Yeah.

Brand: to consider

Baines: And I have some questions on that one as well.

Brand: Okay, okay.

Baines: and Councilmember Caprioglio still punched up but I don't know if he questions but

Brand: Okay. And I've listened to the, your answers which were good and my colleagues questions which were similar to mine. How many tons per year do we do, Tommy?

Esqueda: So is the last ten years the average is 81,000 tons a year. That's been the average. Low in that ten year period is seventy-three. And the high was like eighty five. So it's in that seventy to eighty five range depending on if we got water to irrigate or if we don't and how that's so it's related.

Brand: But given about a two percent growth rate it would be safe to assume that over the next ten years that's probably going to increase, right?

Esqueda: Oh, yeah.

Brand: Yeah, okay.

Esqueda: Soon as we get out the drought then you start getting back to a little more normal

Brand: Right some of these factors then will be, you know, impacted by the growth of the City of Fresno.

Esqueda: Correct.

Brand: Okay, and just for a little history, I know you said earlier that the RFP we didn't evaluate the bonuses and some of the other things because it should have been factored according to you into the bid itself but remind you and you weren't here when this happened but two or three years ago we had proposals on commercial solid waste and actually residential solid

waste that we did accept and factor in bonuses up front. So there is a precedent within the City for factoring bonuses. Not that it should or should not apply here but just for the record there have been bonuses. And based on what I've, you know, the presentations I've heard there's roughly about as it currently stands about a \$470,000 per year savings on recycling to the ratepayers and about \$300,000 savings on green waste, correct? So that's still the good news is that's \$300,000.

Esqueda: Um, yeah.

Brand: . . . This doesn't even count that last year Sunset was bought out by our other vendor that .. that he voluntarily did not charge us

Esqueda: Drop the processing fee.

Brand: brought the recyclables in at no cost ... and pursuant to the contract, could have charged us something to the equivalent of half a million dollars? Is that \$300,000

Rudd: It was actually a condition of an assignment

Brand: right... well either way – we benefitted.

Rudd: Oh yeah.

Brand: The City of Fresno-- the ratepayers— just to bring up the history, okay. So if we look at that, this current proposal, really between the two, top two, there is roughly \$96,000 a year. Based on the average tons you talked about; and to take away the \$500,000, and say a value of \$200,000 on the other items, that's still a saving net savings of \$360,000. Correct?

Esqueda: Correct.

Brand: But, if you calculate present value-future value, well, I'll just use 5%. 5% of \$500,000 a day is \$814,000 ten years from now. If we take our turn on investment, which our pension board, I believe is 7¾? I'll just use 7½ percent...we've been very successful in investing money. At 7½ percent the future value of \$500,000 over ten years is over \$1 Million. It's a \$1 Million, 30. So there is ... again that's speculative on how we're trying to factor out value-future value. But, it can make a difference, almost to the point where actually one offer could exceed the other offer.

Esqueda Pending on assumptions.

Brand: Based on assumptions. Now the other factor is qualitative. You know, so we put the major thrust on the pricing. In your opinion, did your staff fully evaluate the qualitative factor?

Esqueda: So we're talking about the quality of the service to be provided by the vendor?

Brand: Yes.

Esqueda: Yes. Yes. Kochergen is well known to us, as they indicated, they are an indirect service provider. There's a middle man in there and fortunately through this contract we can get rid of the middle person and go directly them and have that done. And the ...West Coast Waste has been a great partner. So this is not about... this is quality of service because we figured, thought they were equal – we're chasing dollars. The two that we came down to were all qualified candidates and we took the sixteen seventy-five.

Brand: Being here seven years I have seen contractors come up here and ask for adjustments on the price. And some cases we give them. So to have one who for a ten years, never ask.... And also directly related to that is our relationship to the vendors and the message the City sends out – we're all talking about doing business in the City of Fresno; we want to have more business; attract more business, we want existing businesses to flourish we have a responsibility too to send out a message that we value these relationships. Not everything is always measured in exactly in dollars and cents. Just my thoughts, as we move this thing forward and I appreciate, all the time, and I know it's been a long time coming to this point, and what is it – October 22nd.that we can find a resolution and in the end we want to make what's best for the ratepayers of the City of Fresno. Thank you Tommy and the people that showed up today and their points of view.

Esqueda: Thank you.

[2:08:55-2:09:39 Council President welcomes Japanese delegation]

Baines: Councilmember Caprioglio.

Paul Caprioglio: Thank you Council President. First I want to thank the vendors for the quality of service that you've provided over the last thirteen or fourteen years. It's really well appreciated by the City of Fresno. Second, the competitive bidding process, I love it. I love it. This is what America is all about, and this puts us in the best light possible for the rate payers and taxpayers of our community. So this is a great day and really exciting for me to see how this works and how we're going to reach a conclusion eventually. But it's marvelous. I love it.

Next, I don't know if West Coast a net-net fee determined based upon what their calculations are and the things they addressed today but that would be important to include I believe. Their view on what is net-net, maybe our view might be different, or the other vendor might be different, I don't know, but if we can get all those on the table that would be most helpful, and then we could make some good decisions. And then the question I had for you Tommy or Bruce is, as per the contract, is the rate locked in? Locked in for ten years?

Esqueda: Right, that's the final negotiation is locking in the rate, and then we've got to get the operational things put into the contract. Hours of operation, place of disposal, turn-around time, so we've got to get all those details. But the plan is, the proposal was based on those are locked in rates.

Caprioglio: Is there a provision in the contract that actually secures that locked in rate for that period of time?

Esqueda: That would be the next thing we would work with the City Attorney's Office to get all those final T's and C's nailed down and drafted into the contract.

Caprioglio: And then if through the analysis and what we're going to see is on the 22nd... I'm still a little bit confused about 218 so if we could address that some way that would really be helpful because it seems like there's a split of opinion, at least to my ears, and if we could address that in a little more detail that would be excellent as well. So thank you all for your presentations today and again this competitive bidding is fantastic and we're going to reach a great decision. Whatever it is, its going to be the best decision for the City of Fresno.

Esqueda: We're going to reduce the cost, absolutely.

Caprioglio: Thank you.

Baines: Councilmember Quintero.

Sal Quintero: Thank you Mr. President. Tommy, the information that was requested by Councilmember Soria, can you get that to all of us?

Esqueda: I think that's a good idea. I think we'll get it all to you. All of the proposals... the full... so she didn't get the summary, she got the full proposals from each of the vendors. So we'll send that out to all—

Quintero: I think that's a good idea you're agreeing to that. Tommy I had four questions that I was going to ask and I'm going to present them to you, and after hearing the discussion from some of my colleagues, I may have some more, probably will meet with you later. But just to let you know where I'm going with it is, the questions that I was going to ask, and maybe they'll show up in the RFP here, we can talk about them. What was the whole dollar of each of the proposals submitted including up-front cash to the City; How much did Mid Valley, Kochergen, and West Coast offer as an up-front cash offer; what was the criteria used to determine the best value for the City, and was it just the price per ton of waste; and finally, was the up-front cash incentives to the City part of the criteria as determined. So I want you to be mulling those for us when we meet and like I said I'll probably have some additional questions. And I've got a question for Dennis.. Dennis, if the contract was given to the other company, how many employees would be affected?

Dennis: Our entire company we have servicing this contract... thirty five plus employees would be affected by this contract. With trucking, processing, clerical, thirty-five plus employees would be affected.

Quintero: Ok so, if we continue with you, you're already set up to get going, you're just going to follow through and make improvements in your company?

Dennis: Absolutely. We'd just continue like no change, just a brand new day. The one thing, if I can get off the question, I appreciate the efforts of the department. Definitely these are some very difficult trying times for the City with the water issue, trying to reduce the rates. Tommy I think did a great job in explaining to us anyway the significance of trying to give it your

best shot. Give it your best number because these are very critical times and we took that very seriously in preparing this number. I believe others as well took that same concern and gave it their best shot. We bid significantly lower. I think our rates are probably one of the lowest in the state. We're that low. Its great then to take the best number, whichever contractor it might be, the lowest number, and then take that number, and live with it. The issue is when you're getting down to these territories, these levels, if something goes sideways, it would not be the first time in the world. In fact, one of the contractors servicing this contract had filed for reorganization, and again, triggered the phone call to our office, 'would you be interested in accepting all the material,' in fact, which we have. I have to also mention that as well. There have been times throughout the last ten years when we had to receive all the material because the other site couldn't accommodate it. My point is there is benefit to, and comfort to, a city to have multiple parties supplying, servicing a contract. This is a material that has spontaneous combustion, it could ignite—I just want to express the significance. You may have the best number in the world, that's great, but what if something goes sideways, for ten years. And again one other final point, I have to mention, again very important, is that it was a seven to ten year proposal. We are going based upon the information given to us. In the pre-bid it was mentioned it would be a seven year contract. When you use a seven year contract and you do the matrix again, all the math, you're going to find that our number is significantly the better number. Thank you.

Quintero: Thank you. Mr. Kochergen and Mr. Guagliardo, I really believe that the fact that we're asking for a delay on this is really going to be helpful for us in making the best informed decision on where we're going with this in terms of what's best for the City. So thank you both for being here and for your presentation. I really appreciate it.

And Tommy, one of the questions or responses that you had, Councilmember Soria said that we're not bound to choose the lowest bid but it's what you're recommending.

Esqueda: Yes, we're chasing dollars. We're chasing dollars. Pretty focused.

Quintero: Ok, just wanted to clarify. Thank you. Recommended. Thank you.

Baines: Ok, those are all the councilmembers I have punched up, I think.

And so then, as always, I'll make the final, or what will potentially be the final comments on this item today. And I'll just start out by saying I certainly whole-heartedly support the continuation for really all of the reasons mentioned, Tommy. I shared some of that with Bruce this morning to let him know what some of my reservations were. Some of them have been addressed by my colleagues, so I'll start off my remarks with a little bit of commentary then I certainly do have a few questions. And I think what probably disturbed me the most was not really feeling like in the staff report I could make an informed decision based on the summary. I would have loved more detail on the summary of the proposals.

Esqueda: The Exhibit 1 document.

Baines: Yeah. What were you really contrasting. What was really happening. What were they really proposing. In the staff report we mention that obviously we're taking price into consideration but we're also taking value into consideration. Well, it's my opinion that we as the Council are the ones that determine really what the value is. That's really our role as policymakers to determine because we kind of look at a broader angle and have to determine what is the best value for the City overall, notwithstanding I hear you mention 218 process, but it seemed to me as though some of the value added portions of at least the West Coast proposal were withheld from us – not intentionally, I don't believe that – but it was.

Esqueda: Right.

Baines: And we weren't able to really evaluate what value was. We just took your word for it that this was the price and the lowest price, and just obviously through a little bit of Q&A today we realized that actually \$18 a ton wasn't the real rate, it would have been something less than that. So here we are kind of like, what are we really looking at. And so I just wanted to put that out there that, if I was forced to vote on this today, I would have voted no on everything. Because I just didn't have enough information to say that this was the best deal that we were getting.

Which leads me into some of my questions, based off of some of the comments I've heard today. And I'm going to start with a question that Councilmember Soria had that I followed all the way out in my mind and I'm not exactly sure she fully answered. I know Bruce tried to answer it but, I'm going to lob it back out there. The ten thousand yards a year that they were going to contribute to us for our drought relief etc., what is the value of that?

Esqueda: So, there's price versus cost. They've identified that we currently pay \$20-25 a ton, the Department of Solid Waste Division doesn't buy any, so I can't tell you if that's a market number or just a number that's out there available, so.. they do make sales, so, I'm sure that they crossed the scale, do a weigh ticket, and they're probably charging \$20-25 a ton, so they are charging \$20-25 a ton. I think that's the market price they charge.

Baines: So, if nothing else, we will assign the value of \$250,000 because we don't have anything to dispute that. So my question was, and I totally understand to some degree, almost, that we can't necessarily subsidize the rest of the city through ratepayer functions. I get that argument. However, what I did not hear, and that I'm almost certain that we can do, is, if there in fact is a market value to that "bonus," that we're going to call it, did we ask them to say, 'hey, we can't let you do that, but what is the value of that, and can that be factored into your rate or included in a bonus.' We could have done that, right?

Esqueda: We did not ask that.

Baines: Ok. So that's kind of where I really wanted to hear the answer to Councilmember Soria's question is, why didn't we take that conversation just to the next step and say 'well guys look, we can't accept the, you know-'

Esqueda: \$18 in free mulch

Baines: Yeah, we can't accept free mulch, but, if you want to take out the free mulch, and since you were already going to pay for that in some kind of way, there's a market value, why don't you roll that into your rate, and let's see where we're at, right? We didn't even do that.

Esqueda: We did not do that.

Baines: And so, when you now factor in.. I was actually, before my good friend Lee Brand did the time value of money, I was thinking about that very same thing too, but \$500,000 today – and you're right Bruce, they do recover it – but in ten years.

Rudd: Well, you'd have to assume that that \$500,000 is going to get parked somewhere and earn 7.5% over the next ten years.

Baines: Well that's what we assume all the time in this building. We base every budget we do off of assumptions someplace, unfortunately.

Esqueda: I can tell you in the Solid Waste Division, Water Division, we are currently budgeting 1% on pooled resources like that, that's what we're--

Baines: Yeah, so the bottom line is the value of \$500,000 today, unless we believe that the dollar would have lost value over ten years, would have been more than it is today. And we can debate over whether its 1%, 2%, 3%, 6%, 4%, but what we can say is \$500,000 today is more than likely, all things being considered, more in value ten years from now. And if we would have included the \$250,000 on top of that, we're talking about a different contract.

Esqueda: A different number.

Baines: A lot of different numbers. We're talking about a different number, right? A different number that's represented to us. A different number that we look at when we evaluate this. And so these are kind of, you know, when I was... even before I received the letter from West Coast there were things that jumped out to me that.. like I saw.. so when we move to the recyclables, because we haven't talked a lot about the combined recyclables, maybe people don't have any questions about that, but I do. Like I don't understand when I see, and especially after this discussion, Mid Valley Recycling as \$10 plus a \$3 bonus. What is that?

Esqueda: So, all the vendors had to put their number on a bid form and sign the bid form. So that was their official submittal. What Mid Valley did was – and there were two parts of the bid form, top part was recyclable materials, put your bid number in for that, bottom part was green waste recycling. So they filled out – and if you didn't bid the recyclable materials, you put 'no bid.' And if you didn't bid the green waste you put 'no bid.' So Mid Valley filled in both sections, and in those sections, when the green waste came up, they said that they would give us a – they were at \$19.50 a ton for green waste, and then they would give us a \$3 per ton credit on recyclable materials, so they were crossing the two commodities, so instead of \$10 a ton they'd pay us \$13 a ton if we gave them 40,000 tons of green waste. So they wanted also part of the green waste as well. And we ran the numbers, and it still was better to go Kochergen at \$16.75 and Mid Valley just do the \$10, they were the low price on that. So we did look at putting \$40,000 into Mid Valley's contract, what's the value of the \$3 credit that they were going to

give – bonus they were going to give on top of recycling, and they still couldn't close the gap. Kochergen was still the low price. ...It was interesting, I've seen it, it's a strategy that's typically done. They were the only vendor that attempted that here.

Baines: So, are we going to give Mid Valley \$40,000? 40,000 tons?

Esqueda: No, no. They're just strictly a commingled recycler, that's all they do.

Baines: So then the \$3 bonus doesn't apply.

Esqueda: So it's only \$10. Their math is based on \$10.

Baines: Right, so. We're kind of, so on this right here, you just explained to me that there is no \$3 bonus for Mid Valley so, if I'm looking at this, again with not any background, it looks like I have a \$10 plus a \$3 bonus and I have CARTS which just has \$7.50 a ton, Allen Co. which is minus \$25 a ton, they didn't want to charge us.. so obviously we're not going to entertain that. So really the difference between CARTS and Mid Valley was \$2.50 a ton. But looking at that, just so you know, that would not have come across to me.

Esqueda: It's not clear.

Baines: It's not clear.

Esqueda: Understand.

Baines: And also, did anyone else offer any bonuses? Obviously West Coast offered a bonus that's not represented in here but Mid Valley's bonus is represented in here. Maybe it was because of the way they filled out the sheet. Did anyone else offer bonuses?

Esqueda: No. Those were the two vendors that offered above and beyond the base form that we have.

Baines: Ok so then why wasn't West Coast's bonuses represented in the summary?

Esqueda: So that was just an error in putting in the \$500,000. We weren't

going to put in the 10,000 tons cuz again we weren't in a position to subsidize the general fund with green waste by allowing an \$80 dump price when we had a \$16.75 on the table.

Baines: Ok. So for me, certainly you know, I would want to see the full proposals and kind of evaluate those proposals in light of this because there's information on here that can be construed – can be read a little differently. The other question I had, and you kind of touched on it but I don't want to – you may not know the history of this Tommy, and I can't remember if it was Sal or Esmeralda that asked, why didn't we split the two contracts. I know that, Bruce, you may want to jump in on this since you have a lot of history on our solid waste contracts, but in the past, even with our commercial solid waste, we have used more than one vendor sometimes when we're close. And it seems like now evaluating just from the dais and brand new information coming to me that West Coast and Kochergen Farms may not in fact be that far off in their pricing. Was there ever any idea of splitting these contracts like had been done in the past?

Rudd: Well, again, the reason we did this in the past, and we did it with the commercial solid waste, was to do the logistical cost. Which is why we split the community north—well, not north/south, but more east and west. Because you don't want to be in a situation where one part of town was paying a different rate. This is a little bit different because we deliver the product or the material to one site. So there isn't the logistical cost that are being borne in this contract like in the past. And so it really comes down to—

Baines: But in the past this contract has been split, right?

Rudd: Yeah, but what happened as a result of that was the rates were comparable. At least initially. So in this case there's such a spread, as Tommy pointed out, we'd end up having to, I guess, blend the rates between the two and how much got sent to this site and how much got sent to the other place which is going to drive their rates because the amount of product -- the amount of material that's being processed, which is driving their per ton cost. It literally comes down to how much is coming in the door which is what they use to calculate their future cost and what they can bid this at. Real quick, because it appears that council needs more time to deliberate, but City Attorney, I asked you a question and for the record I want you to clarify. This is an RFP and council is not taking any action to approve any of the contracts. It doesn't sound like our recycling contract is at issue. And

because we haven't gotten to the point, and council wants to take additional time, and given all the variables that suddenly get thrown out at us for consideration, we have the ability as staff to go back and sit down with both the vendors and basically ask for what's your, you know-

Esqueda: Best and final.

Rudd: Best and final. And then we can come back in two weeks, and if someone decides that well maybe the bonus isn't as good and I'll put this into my rate and given that we're not interested in – or someone might be interested in giving us free compost— we'll sit down with the two vendors and come back with a number that may even be better than what we have before you today.

Baines: Well I would be happy with that and in light of that I'll end my questioning with that but I would like that done with both contracts. I would like that done with the combined recycling –

Rudd: We will provide you—Once we get done with that, we'll provide you all the detail that went into staff's recommendation after we conclude that part of the process.

Baines: And I want that, and just so we're clear on what I'm expecting out of this is that staff will go back and talk to—have that conversation with our applicants and bring us something back, I think I would feel more satisfied, given what you just said, that that effort is made, but in the meantime I certainly would like to see the proposals and I may have further questions that I want to pass on to staff to have you all – because we are precluded from contacting the vendors, we understand that. But I certainly would like to have my questions routed through you to them prior to it coming back to council on the 22nd. Ok. I have a couple other councilmembers that have punched up so –

Rudd: So with that I'm probably going to forewarn that we will not—we probably will not be back on the 22nd.

Baines: I'm fine with that.

Rudd: Ok.

Baines: Councilmember Soria.

Soria: Just for clarification, I know we've talked about Prop 218 but I'd like just some clarification from our attorney again regarding these 10,000 yards. I know that we keep talking about Prop 218 and how we're precluded from counting those for purposes—or because of the restrictions of Prop 218. So I just really want to get more clarification as to that. I'm not sure if I'm really getting if that's what Prop 218 intends—its intent.

Sloan: Yes, under Prop 218, the City would want to simply choose the best value for the customers to keep the rates low. So that's the goal. There's nothing specific about what we're talking about here.

Soria: So is it your opinion that in this instance the 10,000 yards, the value of the 10,000 yards wouldn't be precluded from being considered, or some value being given to it as part of the contract for Prop 218?

Sloan: I don't know the value of that. I think you'd want to look at the whole picture and see if the best value is being provided for the rate payers.

Soria: So we could potentially consider the 10,000 yards as part of the bigger picture? We're not precluded by Prop 218?

Sloan: Not that I'm aware of.

Soria: Thank you.

Baines: Councilmember Caprioglio. And what I'll say is, really quick colleagues, let's try to wind it up since we know we're not voting on this today. But go ahead Cap.

Caprioglio: You're saying that to Mr. Brevity? Anyway, Bruce, you mentioned giving us the details. We're not going to get four inches of detail, are we? I mean, I don't expect this kind of detail. To me, a summary of each of the parties, vendors, opinions and conclusions and support thereof would be enough. So I hope we don't get into the four inch... we'll never be able to.. it's bad enough with the Development Code at 536 pages to try to comprehend that thing.

Rudd: I will leave that up to your discretion. Again, we will present to you all the information that we've used thus far, and again, what may happen in the next week is the proposals we end up finally coming to conclusion as far as

the negotiations may be completely different. As I said, you may have one vendor decide to not—to include a bonus, and another vendor decide to add to offer us 10,000 tons of mulch at X number dollars. So we will provide the follow up material as to how we came to the conclusion and the recommendation and then when we present the material to council in open session we will go over in very fine detail how we reached the conclusion, the recommendation, that we did.

Caprioglio: Thank you.

Baines: Alright, thank you. Thanks Tommy.

Esqueda: Thank you.

End transcript.

5. SCHEDULED COUNCIL HEARINGS AND MATTERS

10:30 A.M.

[ID#15-818](#) Welcome Kochi Sister City Delegation to Fresno on the Occasion of the 50th Anniversary of the Sister City Relationship Between Fresno and Kochi, Japan

PRESENTED

2. GENERAL ADMINISTRATION CONTINUED

- 2-E [ID#15-877](#) Actions pertaining to funding and construction of the Commercial West Ramp Reconstruction project at Fresno Yosemite International Airport (Council District 4)
1. ***RESOLUTION - 7th amendment to the Annual Appropriations Resolution (AAR) No. 2015-104 appropriating \$6,041,100 for the Commercial West Ramp Reconstruction project at Fresno Yosemite International Airport (Requires 5 affirmative votes)
 2. Award a construction contract to A. Teichert & Son, Inc., dba Teichert Construction, of Sacramento, California, for the Commercial West Ramp Reconstruction project at Fresno Yosemite International Airport in the amount of \$10,091,945 (Bid File 3402)
 3. Approve a consulting agreement with BSK Associates, of Fresno, California, to provide geotechnical quality assurance

testing and inspection services for the Commercial West Ramp Reconstruction project at Fresno Yosemite International Airport in the amount of \$297,194

The above item was introduced to Council by Aviation Director Meikle.

RESOLUTION 2015-186 ADOPTED

On motion of Vice President Caprioglio, seconded by Councilmember Olivier, the above item was approved. The motion carried by the following vote:

Aye: 7 - Baines III, Caprioglio, Brand, Brandau, Olivier, Quintero and Soria

- 2-B** [ID#15-838](#) Award a purchase contract in the amount of \$2,298,049.65 to Clean Energy for the purchase of liquid natural gas (LNG) fuel - Bid File 9294

The above item was introduced to Council by Transportation Department Senior Management Analyst Olday.

APPROVED

On motion of President Baines III, seconded by Councilmember Brand, the above item was approved. The motion carried by the following vote:

Aye: 7 - Baines III, Caprioglio, Brand, Brandau, Olivier, Quintero and Soria

- 2-C** [ID#15-843](#) Approve the Fourth Amendment, in substantially the form presented, to the Measure "C" Cooperative Agreement with Fresno County Transportation Authority (FCTA) for Short-Term Regional Transportation Program Project N-1 Urban, Veterans Boulevard SR-99 Interchange and Grade Separation and authorize the Public Works Director or his designee to execute the amendment on behalf of the City.

The above item was introduced to Council by Public Works Director Mozier.

APPROVED

On motion of Councilmember Brandau, seconded by Councilmember Brand, the above item was approved. The motion carried by the following vote:

Aye: 7 - Baines III, Caprioglio, Brand, Brandau, Olivier, Quintero and Soria

- 2-D** [ID#15-849](#) Actions pertaining to Santa Fe Avenue Widening from Palo Alto Avenue to Blythe Avenue, Bid File No. 3323 (Council District 2)
1. Approve the addendum to Environmental Assessment No. EA-13-003;
 2. Award a construction contract to Emmett's Excavation, Inc. of Clovis, California in the amount of \$1,038,423.

The above item was introduced to Council by Public Works Manager Bell.

APPROVED

On motion of Councilmember Brandau, seconded by President Baines III, the above item was approved. The motion carried by the following vote:

Aye: 7 - Baines III, Caprioglio, Brand, Brandau, Olivier, Quintero and Soria

5. SCHEDULED COUNCIL HEARINGS AND MATTERS **CONTINUED**

11:00 A.M. SCHEDULED COMMUNICATION

[ID#15-865](#) Appearance by Sean Sanchez to discuss the process and the authority of Code Enforcement issuing assessments on property

APPEARED

Councilmember Olivier exited the Council Chamber at 11:49 A.M.

3. CITY COUNCIL

3-A [ID#15-887](#) BILL - (For Introduction) Amending Subsection 10(c) of Section 6-205 of the Fresno Municipal Code relating to Container in View Requirements for trash containers

The above item was introduced to Council by District Three Chief of Staff Barfield.

BILL B-38 INTRODUCED AND LAID OVER

On motion of President Baines III, seconded by Councilmember Brandau, the above Bill was introduced and laid over. The motion carried by the following vote:

Aye: 6 - Baines III, Caprioglio, Brand, Brandau, Quintero and Soria

Absent: 1 - Olivier

UNSCHEDULED COMMUNICATION

The following member(s) of the public addressed Council during Unscheduled Communication:

Joel Murillo - discussed the California Latino Leadership Education summit taking place at California State University Fresno.

Jose Mendoza - discussed hateful comments by Donald Trump toward

immigrants and asked the City Council to take action such as passing a resolution to "Dump Trump." Handout received.

[ID#15-932](#) Document Received - Jose Mendoza

4. CLOSED SESSION

The City Council met in closed session in Room 2125 from 12:05 P.M. to 12:41 P.M. to discuss the following:

[ID#15-892](#) CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION - Government Code Section 54956.9, subdivision (d)(1)
1. Citizens for the Restoration of L Street v. City of Fresno; Fresno County Superior Court Case No. 11CECG04172

The above item was discussed during Closed Session. No open session announcement was made regarding this item.

ADJOURNMENT

Adjourned from Closed Session at 12:41 P.M.

These minutes were approved by unanimous vote of the City Council during the October 22, 2015 Council meeting.